

Town of North Harmony

ZONING LAW



TOWN OF NORTH HARMONY
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NEW YORK

ADOPTED - 1989 LOCAL LAW #1

AMENDED – 2001 LOCAL LAW #1 (Sections 619, 637, 202 Definition “Funneling”)

AMENDED – 2007 LOCAL LAW#1 (Sections 703, 401, 402, 403, 404, 405, 406, 407, 409, 629, 202 Definitions “Junk Vehicle, Mobile Home and Motorized Vehicle” and 624)

AMENDED – 2009 LOCAL LAW #2 Wind Energy (Sec. 690) and LOCAL LAW #3 Adult Entertainment (Sec. 638)

AMENDED – 2010 LOCAL LAW #1 NYS DOH & Chaut. Co. DOH “any lot shall be at least 40,000 sq. ft. in size to maintain a private well and septic system” (Sec. 401, 402, 403, 404, 405 E. Area Standards; *Minimum lot size 40,000 sq. ft.*)

AMENDED - 2011 LOCAL LAW #1 – Modifications to SEC. 202 Definitions 1) Accessory Building or Use to (*Accessory Structure or Use*) 2) Garages Private 3) Lot 4) Storage Structure 5) Yard Front SECTION 401, 402, 403, 404, 405 “Uses By Right” – remove “Storage Structure (over 140 sq. ft.); Section 401, 402, 403, 404, 405, 406, 407 -“Uses Requiring No Permit” – remove Storage Structure (over 140 sq. ft.) replace with “*Storage Structure (under 150 sq. ft.)*”; Section 401, 402, 403, 404, 405 - “Area Standards” – Remove “Feet from street edge” from chart titles

AMENDED – 2012 LOCAL LAW #3 – Encompass the modification of the existing Zoning Map District boundaries for Article IV; TC Definitions and Creation of Section 411 – Tourist Commercial District (TC); Article IV; Creation of a New Section 412 – Conservation District (C); and an addition to Article VI; Section 640 – Boat Livery – Supplemental Regulation

AMENDED – 2012 LOCAL LAW #4 – Addition Section 202 - Definitions: Privy and Portable Toilet; Addition; Article VI - Section 639 Portable Toilet and Privy Management

AMENDED – 2013 LOCAL LAW #3 – Site Plan Review (Section 1004) and Stormwater and Erosion (Section 641)

**TOWN OF NORTH HARMONY - ZONING LAW
JULY 2014**

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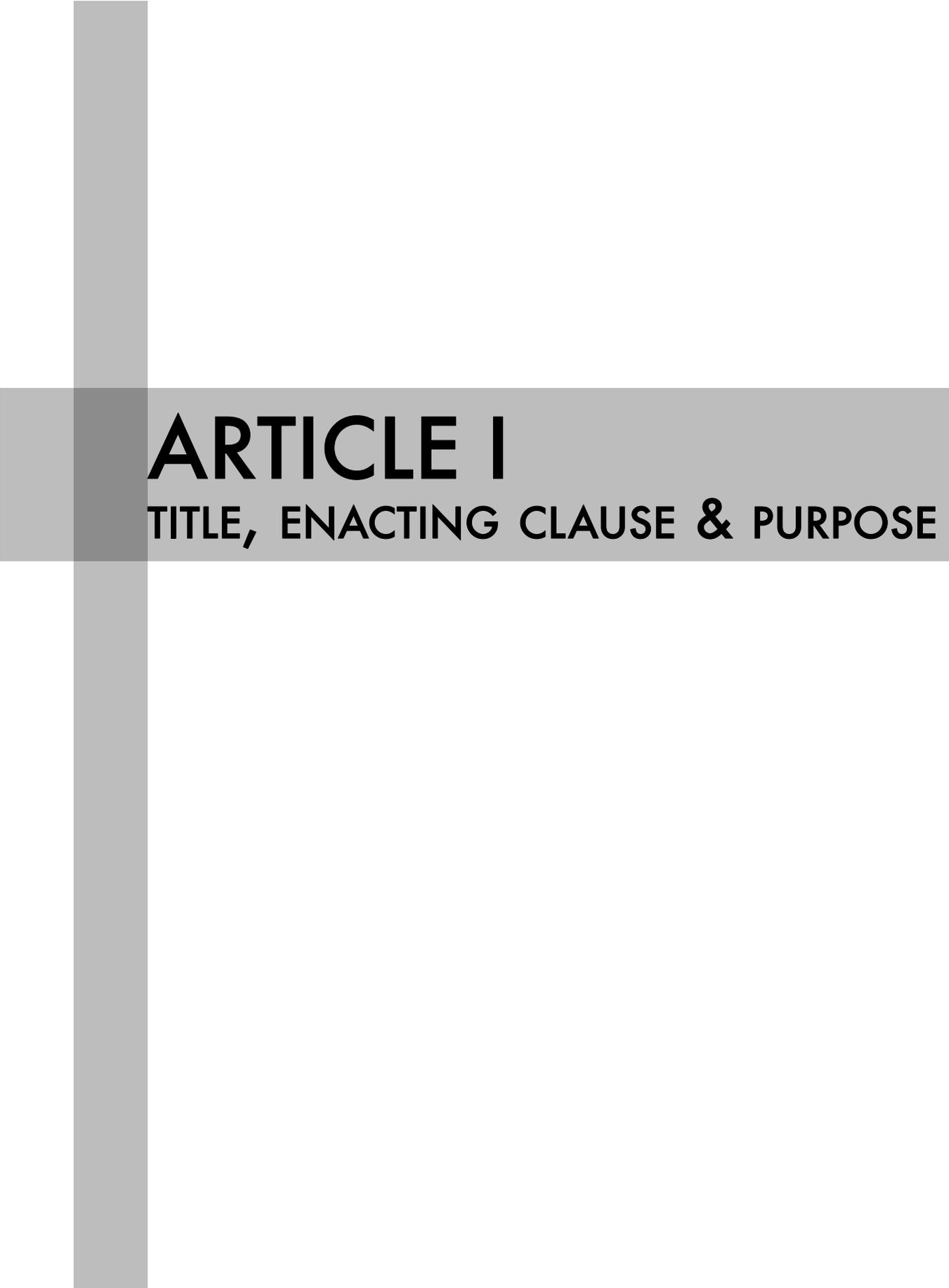
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ARTICLE I

TITLE, ENACTING CLAUSE & PURPOSE

ARTICLE I - TITLE, ENACTING CLAUSE, PURPOSE

Section 101 – Title

This Local Law shall be known and may be cited as the “Town of North Harmony Zoning Law.”

Section 102 –Scope

This local law regulates the location, design, construction, alteration, occupancy, and use of buildings, structures, and the use of land in The Town of North Harmony, County of Chautauqua, State of New York and for said dividing the Town into land use districts.

Section 103 - Enacting Clause

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, Section 10 and the Consolidated Laws of the State of New York, Chapter 62, Article 16. This Local Law is enacted in accordance with a well-considered comprehensive plan for the community in order to protect and promote public health, general welfare, safety, comfort, convenience, economy, ecological and natural resources, aesthetic, agricultural, and cultural resources.

Section 104 - Purpose and Objectives

- A. Comprehensive Plan** - The zoning regulations and districts set forth, and the districts as outlined upon the zoning map, are made in accordance with a comprehensive plan for the municipality. The enactment of the Zoning Law brings benefits to the community which may not be highly or immediately visible, however, the resulting conditions will enhance and preserve the quality of living, health, and safety for the municipality.
- B.** The provisions of this section shall be held to be the minimum requirements adopted to promote the health, safety and general welfare of the Town of North Harmony. These regulations are intended to achieve the following purposes:
1. Promotes health, convenience, economics, and general welfare of the community;
 2. To encourage the most appropriate use of the land;
 3. To balance the rights of the public-at-large, private landowners, and other various interest groups;
 4. To encourage the beneficial shaping of the future and the long-range benefits associated with zoning laws;
 5. To allow for the maintenance of an equitable assessment role;
 6. To protect property values and individual investments by encouraging development appropriate to each zoning district type;
 7. The zoning law is controlled locally and may be amended to meet changing needs for unique situations.
 8. To secure safety from fire, flood and other dangers by controlling building heights and separation of structures and through other beneficial regulations;
 9. To optimally utilize existing roadways and to discourage the construction of new roads, except as needed;
 10. To insure that floodplains are reasonably controlled with respect to types of allowed uses and the densities of allowed uses;
 11. To prevent the overcrowding and undue concentration of people;
 12. To maintain a rural atmosphere in selected or unique areas;

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13. To protect property values and individual investment by encouraging development and renovation appropriate to each zoning district type;
 14. To provide adequate light, air, privacy and open space;
 15. To maintain the character of residential neighborhoods so as to promote residential family life through the appropriate designation of uses within zoning districts;
 16. To facilitate the adequate provisions for public utilities and public facilities;
 17. To encourage the retention of prime agricultural, residential, commercial and industrial properties in those uses for which they are best suited;
 18. To encourage the largest tax base possible through controlled and appropriate development.
 19. To regulate the location, use and occupancy of buildings and the use of land for commercial, industrial, residential and other uses;
 20. To regulate and determine the physical dimensions of buildings and other structures;
 21. To regulate and determine the area of yards and other open spaces;
 22. To protect the aesthetic nature of property;
 23. To reinforce and promote health standards, particularly with respect to sewage and water-related issues;
 24. To provide for the enforcement and administration of this section and penalties for the violation of its provisions.

Section 105 - 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 erected or altered which will substantially limit the usefulness or depreciate the value of the surrounding properties.

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 land or structures.

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.
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 Zoning Regulations 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 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 Environmental Quality Review Act. *(Please refer to Article 8 of the Environmental Conservation Law)*
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 feet of State designated wetlands require a DEC 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 for the State of New York. All contractors should then notify all “operators” 2 to 10 days prior to commencing excavation.

Section 106 – Interpretation

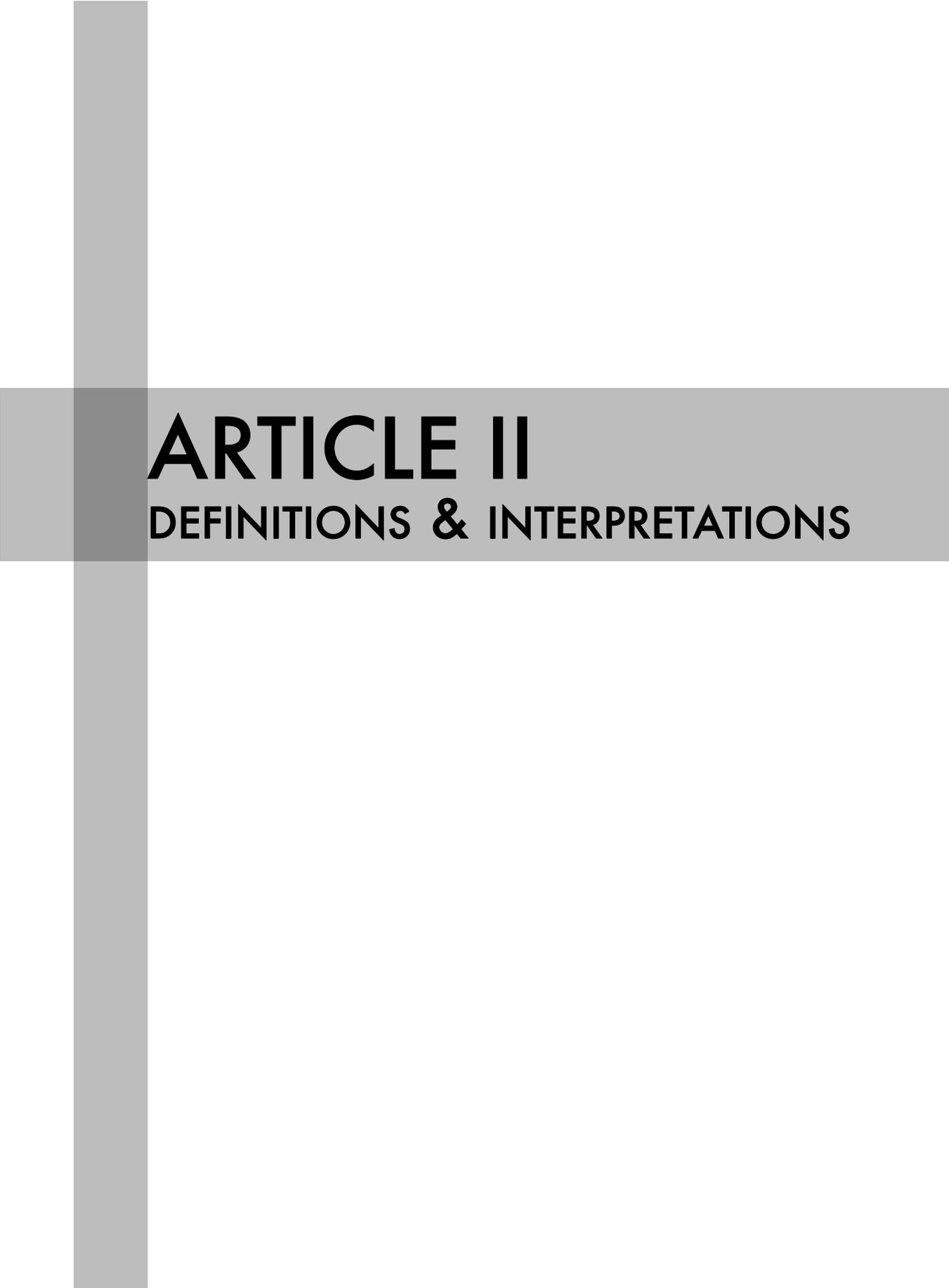
The provisions of this Local Law, in their interpretation and application, shall be considered the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare

Section 107 – Conflict

This Local Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different from any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control, unless this Local Law specifically states otherwise. This Local Law, however, shall repeal and replace in its entirety the existing Town of North Harmony Zoning Law.

Section 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.



ARTICLE II

DEFINITIONS & INTERPRETATIONS

ARTICLE II - DEFINITIONS LIST

SECTION 200 - LISTING OF DEFINITION TERMS

ACCESSORY STRUCTURE OR USE	DRIVE-IN
ADULT USES (Refer to Section 638)	DRY HYDRANT
ADVERSE IMPACT	DUPLEX
AGRICULTURAL ACTIVITY	DWELLING UNIT
ALTERATION, STRUCTURAL	EASEMENT
ANIMAL HOSPITAL	EATING AND DRINKING ESTABLISHMENTS
APARTMENT HOUSE	ENFORCEMENT OFFICER
APPLICANT	EPA
AREA OF SPECIAL FLOOD HAZARD	EROSION
ARTIST/ARTISAN	EROSION CONTROL
ART & CRAFT STUDIO	EROSION CONTROL MANUAL
ARTISAN SHOP	ESSENTIAL SERVICES
BASE FLOOD	EXCAVATION
BOARDING HOUSE	FAMILY
BOAT LIVERY	FARM
BORROW AREA	FARMER'S MARKET
BUFFER	FAST FOOD RESTAURANT
BUILDING	FEED & SEED SHOP
BUILDING AREA	FENCE
BUILDING LINE	FENCE, BARRIER
BUILDING PERMIT	FENCE, FARM
BUILDING SETBACK LINE	FENCE, NONBARRIER
BUSINESS/ INDUSTRY, LIMITED	FILLING
BY RIGHT	FINAL STABILIZATION
CAMP	FIRE RESISTANT
CERTIFIED PROFESSIONAL	FLAMMABLE
CHANNEL	FLOATING DISTRICT
CLEARING	FLOOD
CLUB	FLOODPLAIN
CLUSTER DEVELOPMENT	FLOOR SPACE
COMMON PLAN OF DEVELOPMT. OR SALE	FUNNELING
CONCENTRATED FLOW	GARAGES, PRIVATE
CONVENIENCE STORE	GARAGES, PUBLIC
CONVENTIONAL DWELLING UNIT	GAS COMPRESSOR
DAY CARE CENTER	GAS STATION
DEC	GENERAL REPAIR BUSINESS
DECK	GENERAL SERVICE BUSINESS
DEDICATION	GENERAL WHOLESALE BUSINESS
DESIGN/ARCHITECTURL STANDARDS	GRADING
DESIGN MANUAL	GRAVEL PIT / QUARRY/ SAND PIT
DETENTION	GRAVEL PIT, SMALL
DEVELOPER	HARDWARE STORE
DEVELOPMENT	HEALTH CLUB
DOMESTIC ANIMAL	HEAVY VEHICLES
DRAINAGE	HEIGHT
DRAINAGE AREA	

HOME FOR AGED
HOME OCCUPATION
HORTICULTURE, PRIVATE
HOUSEHOLD SALE
HOUSING, ELDERLY
HUNTING CAMP
IMPERVIOUS AREA, DISCONNECTED
IMPERVIOUS SURFACE
IMPERVIOUS SURFACE, CONNECTED
IMPERVIOUS SURFACE COVERAGE
INDUSTRIAL STORMWATER PERMIT
INDUSTRY, GENERAL
INFILTRATION
JUNK VEHICLE
JUNK YARD
KENNEL
LAND DEVELOPMENT ACTIVITY
LAND DISTURBANCE, AREA OF
LANDOWNER
LARGE GROUP
LICENSED PROFESSIONAL
LOADING SPACE
LOT
LOT, COVERAGE
LOT, SIZE
LOT LINE
LOT WIDTH
MANUFACTURED HOME
MASSAGE ESTABLISHMENT
MINI-MART
MOBILE DWELLING UNIT
MOBILE HOME
MOBILE HOME PARK
MODULAR DWELLING UNIT
MOTOR HOMES
MOTORIZED VEHICLE
MOTOR VEHICLE SERVICE STATION
MULTIPLE DWELLING
MULTIPLE USE BUSINESS
MULTI-TENANT PLAZA
MUNICIPALITY
NONCONFORMING USE
NUISANCE
NURSING HOME
NURSERY
OFFICE
OPEN SPACE
OPERATOR

PANELIZED
PARKING SPACE
PERSON
PERSONAL SERVICES
PHARMACY
PHASING
PLANNING BOARD
POLLUTANT OF CONCERN
POND
PORCH
PORTABLE TOILET
PRECUT
PREEXISTING USE
PREFABRICATED DWELLING UNIT
PRINCIPAL USE
PRIVATE CAMP
PRIVY
PROFESSIONAL
PROFESSIONAL OFFICE
PROJECT
PROJECT SITE
PUBLIC
PUBLIC, QUASI
QUALIFIED PROFESSIONAL
RECHARGE
RECREATION, COMMERCIAL
RECREATIONAL VEHICLE
REDEVELOPMENT
RESIDENCE, SINGLE-FAMILY DETACHED
RESIDENCE, TWO-FAMILY
RESIDENCE, MULTI-FAMILY
REST HOME
RETAIL BUSINESS, GENERAL
RETENTION
RIDING ACADEMY
ROADSIDE STAND
SAWMILL
SCRAP YARD
SECTION
SEDIMENT
SEDIMENT CONTROL
SEMI-PUBLIC
SENSITIVE AREAS
SEPTIC SYSTEM
SETBACK
SERVICE BUSINESS, GENERAL
SHOOTING RANGE
SHOPPING CENTER

ARTICLE II: DEFINITIONS LIST

SIGN
SIGN, AREA
SIGN, ADVERTISING
SIGN, BILLBOARD
SIGN, BUSINESS
SIGN, DIRECTIONAL
SIGN, IDENTIFICATION
SIGN, INSTRUCTIONAL
SIGN, NAMEPLATE
SIGN, PUBLIC
SIGN, TEMPORARY
SILVICULTURAL ACTIVITY
SLOPE(S)
SOLAR STRUCTURE
SOURCE MATERIAL
SPECIALTY STORE, HOME IMPROVEMENT
SPECIAL USE PERMIT
STABILIZATION
STATE POLLUTANT DISCHARGE ELIMINATION
SYSTEM (SPDES)
STOP WORK ORDER
STORAGE STRUCTURE
STOREFRONT AREA
STORMWATER
STORMWATER HOTSPOT
STORMWATER MANAGEMENT
STORMWATER MANAGEMENT FACILITY
STORMWATER POLLUTION PREVENTION PLAN
(SWPPP)
SWPPP, BASIC
SWPPP, FULL
SWPPP, SIMPLE
STORMWATER RUNOFF
STORY
STORY, HALF
STREAM CORRIDOR
STREET EDGE
STRUCTURE
SWIMMING POOL
TEMPORARY DWELLING UNIT (MOBILE
TEMPORARY USE
TOWER
TOWN HOUSE
TRACT
TRASH
TRAVEL TRAILER/CAMPER
TRAVEL TRAILER CAMP / COMMERCIAL
CAMPGROUND
TRIPLEX
USE
VARIANCE
VEHICLE DISMANTLING YARD
VEHICLE REPAIR SHOP
WATERBODY
WATERCOURSE
WATERSHED
WETLAND
WETLAND DELINEATION
WHOLESALE
WHOLESALE BUSINESS, GENERAL
WHOLESALE, LIMITED
WINE TASTING ROOM
YARD, FRONT
YARD, REAR
YARD, SIDE
ZONING BOARD OF APPEALS
ZONING PERMIT

ARTICLE II - INTERPRETATION & DEFINITIONS (continued)

Section 201 - Language and Interpretations

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular include the plural, and words used in the plural include the singular, unless the context clearly indicates the contrary. The word "shall" is always mandatory. The word "may" is permissive. Building or structure includes any part thereof. The word "lot" includes the word "plot" or "parcel." The word "person" includes an individual person, a firm, a corporation, or a partnership. The word "he" shall include she or they. The phrase "used for" or "occupied for" as applied to any land or building shall be construed to include the phrases "arranged for, designed for, intended for, maintained for, and occupied for."

Wherever a use may fit within both a general and a specific definition, the use shall be deemed to be described by the more specific definition.

Section 202 Definitions

Certain words and terms used in the Local Law are defined as follows:

ACCESSORY STRUCTURE OR USE – A use or structure which is subordinate and accessory to the principal structure on the same lot and is used for purposes customarily incidental to those of the principal use or structure. No accessory structure shall be altered or otherwise modified in a manner that would make it a dwelling unit, as defined by the North Harmony Zoning Law, and is not allowed to be located in a "front yard".

ADVERSE IMPACT – A negative impact on land or waters resulting from a land development activity. The negative impact may include impairment to human or natural uses (such as increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, impaired recreational use, impacts on aquatic organisms or other resources, or threats to public health).

AGRICULTURAL ACTIVITY – the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

ALTERATION, STRUCTURAL - To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; or the exit facilities of a structure; or the relocation of a building from one location to another.

ANIMAL HOSPITAL – Any facility maintained by a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets. Use as a kennel shall be incidental to such hospital use and limited to cases in which the stay is medically necessary in the medical treatment of the animal.

APARTMENT HOUSE - A building arrangement intended or designed to be occupied by 4 or more families living independently of each other. Condominiums and townhouses shall be considered to be apartments.

APPLICANT – A property owner or agent of a property owner who has filed an application for a land development activity.

AREA OF SPECIAL FLOOD HAZARD - Means the land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year.

ARTIST/ARTISAN – One skilled in an applied art, or the practice of an artistic discipline.

ART & CRAFT STUDIO– Work space designed to be used an artist, artisan or craftsman to undertake the development, creation and/or teaching of their craft.

ARTISAN SHOP – A building or portion thereof used for the creation and/or sale of original handmade works of art or craft items as either a principal or accessory use.

BASE FLOOD - Means the flood having a 1% chance of being equaled or exceeded in any given year.

BOARDING HOUSE - Any single-family dwelling unit lived in by a family where, for compensation, guestroom lodging is provided with or without meals for up to 2 individuals. The term "Boarding Home-" shall include, "Rooming House", "Lodging House" and other similar terms.

BOAT LIVERY – A commercial establishment providing enclosed dry storage space, rental or sale of boats and boat motors, and repair and maintenance of boats and boat motors.

BORROW AREA – An area from which soil, sand, gravel, or other similar material is excavated.

BUFFER - A strip of land, fence or border of trees, etc., between 1 use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart 1 use area from another. An appropriate buffer may vary depending on uses, districts, size, etc., and shall be determined by the Permitting Board.

BUILDING – Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property.

BUILDING AREA - 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 porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

BUILDING LINE - A line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

BUILDING PERMIT - See [Zoning Permit](#).

BUILDING SETBACK LINE - An established line within a property defining the minimum required distance between the face of any structure to be erected and the edge of the road of an adjacent highway.

BUSINESS/ INDUSTRY, LIMITED - A commercial venture which is the primary or major occupant of a structure and possesses the following characteristics: utilizes a maximum of 2,000 square feet of floor space, employs less than 5 employees, does not generate over 100 vehicles of business per 24-hour period, does not have a substantial effect on the character of the neighborhood, and generates no nuisances (smoke, odor, noise, etc.).

BY RIGHT - Refers to uses requiring a permit but with no public hearing required.

CAMP - Any area of land and/or water on which is located a cabin, tent, travel trailer, motor home, or other type of shelter suitable and intended for use in a temporary-seasonal manner. For the purposes of this Law, no minimum floor space shall be required for a camp structure.

CERTIFIED PROFESSIONAL – A Certified Professional in Erosion and Sediment Control (CPESC) or Certified Professional in Stormwater Quality (CPSWQ), as appropriate for the task at hand, whose qualifications are approved by either the DEC or the Town Board.

CHANNEL – A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING – Any activity that removes the vegetative surface cover.

CLUB - An organization catering exclusively to members and their guests including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required generally for the convenience of the membership and purposes of such club.

CLUSTER DEVELOPMENT - A development of five acres or more where a developer may elect, after Board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of the development remains approximately the same as required by the district t area requirements.

COMMON PLAN OF DEVELOPMENT OR SALE – A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name. The term also includes phased construction activity by a single entity for its own use. For discrete construction projects that are located within a larger common plan of development or sale that are at least ¼ mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed.

CONCENTRATED FLOW – Runoff that accumulates or converges into well-defined channels, whether man-made or formed naturally by erosion. The opposite of concentrated flow is sheet flow, where flowing water is distributed evenly over the ground surface. Over distance on natural surfaces, sheet flow tends to become concentrated flow due to erosion. To convert concentrated flow into sheet flow, use of an engineered structure, such as a flow spreader, is generally required.

CONVENIENCE STORE - A small-scale retail store, with a floor area of less than 3,500 square feet in size. Such stores may have on-site service of food or drink for immediate consumption, carry for sale general food items, as well household items intended for the convenience of residents of the surrounding area and the traveling public, such as, but not limited to, medicines, cosmetics, limited apparel, limited sporting goods and limited beer and wine items and may also sell gasoline. Hours of operation of such stores may also be extended over other types of food stores.

CONVENTIONAL DWELLING UNIT - See [Dwelling Unit](#).

DAY CARE CENTER - A structure, together with its lot operated on a regular basis, for the purpose of providing daytime care for 5 or more children or adults. Similar uses going under names such as Day Nurseries; shall for the purpose of this Law be considered to be Day Care Centers.

DEC – The New York State Department of Environmental Conservation.

DECK - An unroofed open structure projecting from an outside wall of a structure without any form of enclosure.

DEDICATION – The deliberate appropriation of property by its owner for general public use.

DESIGN/ARCHITECTURAL STANDARDS - Standards approved by the Municipal Board for use in guiding the design of new signs. A design review board, appointed by the Municipal Board, shall be responsible for the administration of the design/architectural standards.

DESIGN MANUAL – the *New York State Stormwater Management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

DETENTION – Temporary storage of stormwater runoff.

DEVELOPER – A person undertaking land development activity, or for whose benefit land development activities are carried out.

DEVELOPMENT - To make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, excavating, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, altering landforms, or constructing a structure on the land.

DOMESTIC ANIMAL - For the purposes of this Law a domestic animal shall include dogs and cats only.

DRAINAGE – The removal of excess surface water from land by a system of swales, ditches and culverts, catch basins and piping to convey runoff to retention areas and stabilized discharge points.

DRAINAGE AREA – A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

DRIVE-IN - Business designed to either wholly or partially provide services or products to customers while in their automobiles parked on the premises. Examples include but are not limited to: film shops, drive-in theaters, and fast food restaurants.

DRY HYDRANT - A pipeline capable of transporting water on a year-round basis from a pond, lake, or other water source to a hydrant. The water is not under pressure and thus to be utilized for firefighting purposes must be properly engineered such that a pumper truck can successfully draw sufficient water volume from the hydrant.

DUPLEX - A dwelling arranged, intended, or designed to be occupied by 2 families living independently of each other.

DWELLING UNIT - One or more rooms providing living facilities, including equipment and provisions for cooking, for a single household including 1 or more persons living as a family. Dwelling units shall be categorized by 4 construction types:

- A. **Conventional** - A permanent single or multiple-family dwelling unit which is built on site using conventional “stick” construction techniques among others. Included in this category are precut homes which refer to a conventional dwelling unit built on site utilizing wood framing members that are precut in a factory to the correct lengths but delivered to the building site unassembled. For the purpose of this law, a precut dwelling unit shall be considered to be the same as a conventional dwelling unit and shall not be considered to be 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’ 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 approximately 40 feet long. Often the doors and windows are factory insulated 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. **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 supported by a chassis which is an integral part of the unit. Mobile dwelling units are not designed to be lived in except when set up on a lot with proper utilities. This includes double wide mobile dwelling units, but does not include travel trailers which are self-contained. For the purpose of this Law, mobile homes are listed separately as allowed uses as are conventional (stick built/precut), modular, and prefabricated (panelized) dwelling units.

EASEMENT - The right to use the land of another, obtained through the purchase of use rights from a landowner, for a special purpose consistent with the property’s current use.

EATING AND DRINKING ESTABLISHMENTS - Places where food and/or beverages are prepared and/or sold for consumption on the premises or for take-out, including restaurant, tea rooms, cafeterias, bars, taverns, and lunchrooms.

ENFORCEMENT OFFICER - Shall mean the Enforcement Officer of the municipality.

EPA – U.S. Environmental Protection Agency

EROSION – The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EROSION CONTROL - Use of re-seeding, re-vegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.

EROSION CONTROL MANUAL – The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance by public utilities or municipal, or other governmental agencies, of gas electrical, steam, water, sewage, and communication systems, and facilities. Railroad trackage and facilities and bus shelters shall also be considered as providing an essential service.

EXCAVATION – Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

FAMILY - One or more persons, related by birth, marriage, or other domestic bond, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FARM - Any parcel of land containing at least 10 acres which is used to raise/grow agricultural products, livestock, poultry, and/or dairy products with the intent of financial gain. It includes necessary farm structures and the storage of equipment used.

FARMER’S MARKET – An occasional or periodic market held in an open area or in a structure where groups or individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site, that does not involve the construction or alteration of any permanent structure.

FAST FOOD RESTAURANT – Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

FEED & SEED SHOP – A small (less than 3,500 square feet) retail facility specializing in the sale of domestic pet food, bird seed and related accessory items.

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, BARRIER - Any fence which is located near the perimeter of the property of which it is intended to provide privacy.

FENCE, FARM - Any fence whether located on a farm or not which has as its primary purpose the control of non-domestic animals.

FENCE, NONBARRIER - Any fence located a distance from the property line which provides privacy to a portion of land such as a patio or swimming pool.

FILLING – Any activity which deposits natural or artificial material in a manner that modifies the surface or subsurface of land or watercourses.

FINAL STABILIZATION – When all soil-disturbing activities at the site have been completed and a uniform, perennial vegetative cover with a density of eighty (80) percent has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

FIRE RESISTANT - Any materials which possess the properties, construction or assembly qualities which under fire conditions prevent or retard the passage of excessive heat, gases or flames; and thus, is not easily ignited.

FLAMMABLE - Capable of igniting within 5 seconds when exposed to flame and continuing to burn.

FLOATING DISTRICT - Any zoning district for which district regulations are included in this law and yet for which no land has initially been designated on the zoning map to be included in said district. Such a district may become

a reality through the amendment of the zoning map of the municipality in accordance with the amendment procedures of this law. The initiation of the creation of such a district may come from residents, the Planning Board, a developer or the municipal board, itself, while the decision whether to activate such a district shall be made based upon the need for such a district.

FLOOD – A flow event where the capacity of the channel is exceeded.

FLOODPLAIN – The area of land that is inundated when flow exceeds the capacity of the normal channel.

FLOOR SPACE - The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the outside face of exterior walls, or from the inner line of walls separating 2 uses. Said areas shall not include areas below the average level of the adjoining ground, garage space, or accessory building space.

FUNNELING – The use of a lakefront or navigable waterway lot by more non lakefront or upland households who possess a contractual access to the use of the waterfront lot. Generally, the access allows the householders to access the lake for boating or general recreational enjoyment. Contractual arrangements generally utilized include legal contract or deed stipulation.

GARAGES, PRIVATE - A secondary structure used in conjunction with a primary building which primarily provides for the storage of motor vehicles and in which no occupation, business, or services for profit are carried on.

GARAGES, PUBLIC - Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline and oil.

GAS COMPRESSOR - Any mechanical equipment utilized to cause the movement of natural gas through a transmission line system.

GAS STATION - The retail sale of fuel and related oil products as well as minor service repairs and routine maintenance to include oil and tire changes.

GENERAL REPAIR BUSINESS - See [Retail Business](#).

GENERAL SERVICE BUSINESS - See [Service Business](#).

GENERAL WHOLESALE BUSINESS - See [Wholesale Business](#).

GRADING - Any excavation, any alteration of land contours, grubbing, filling or stockpiling of earth materials.

GRAVEL PIT / QUARRY/ SAND PIT - 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 building permit has been made.

GRAVEL PIT, SMALL - Any gravel pit involving the extraction of less than 1,000 tons annually or approximately 2.6 average trucks weekly.

HARDWARE STORE – A facility of 5,000 or fewer square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders’ hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, and garden supplies.

HEALTH CLUB – A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, as well as locker rooms, saunas and related accessories.

HEAVY VEHICLES - Automobile wreckers, commercial trailers, semi-trailers, or any vehicle or truck with 3 or more axles which is subject to vehicle regulations and state inspections for use on public highways.

HEIGHT - The vertical distance from the highest point on a structure (excepting chimneys and other items listed in [Article V, Section on “Height”](#)) to the average ground level of the grade where the wall or other structural elements intersect the ground.

HOME FOR AGED - A structure principally used to house senior citizens in which a separate household is established for each family. Nursing homes are not considered to be a home for the aged.

HOME OCCUPATION – An occupation, profession, activity or use that is clearly customary, secondary, and incidental use of a residential dwelling unit which does not alter the exterior of the property or affect the residential character and which is carried on wholly or in part within the main building by a member of the family who resides on the premises.

HORTICULTURE, PRIVATE The growing of fruits, vegetables, flowers, or ornamental plants for one’s own pleasure and use. Also referred to as a private garden.

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.

HOUSING, ELDERLY - Apartments containing eating, sleeping, and living space and designed with elderly fully independent residents in mind. Generally, these apartments contain smaller than normal floor space, require less parking and less active recreational area. Additionally, common eating areas are sometimes provided.

HUNTING CAMP - See [Camp](#).

IMPERVIOUS AREA, DISCONNECTED – Impervious area that is not directly connected to a stream or drainage system, but which directs runoff towards pervious areas where it can infiltrate, be filtered, and slowed down. See the 2010 “NYS Stormwater Management Design Manual, Chapter 5”, for more detailed guidelines.

IMPERVIOUS SURFACE – Those surfaces, improvements and structures that prevent precipitation from effectively infiltrating into the ground such as, but not limited to, paved streets, driveways, parking areas, sidewalks and building rooftops.

IMPERVIOUS SURFACE, CONNECTED – The total area of impervious surface in a project (such as paved areas and rooftops) that will drain directly, via impervious conveyance (such as gutters, pipes, or paved or compacted channels or ditches), to the municipal separate storm sewer system (whether a road ditch or storm sewer) or to a surface water. Also see definition of “Disconnected impervious area”.

IMPERVIOUS SURFACE COVERAGE - The percentage of the lot covered by buildings, patios, parking areas, walkways or other surfaces covered with a paved surface or a surface that is impervious to water. A deck with boards spaced at least 1/8 inch apart, a swimming pool surface, and a patio with a permeable paving system shall not be considered impervious surface.

INDUSTRIAL STORMWATER PERMIT – A State Pollution Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INDUSTRY, GENERAL - The manufacture, preparation, processing, milling, or repair of any article, substance or commodity, and which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisances incidental to productions and processing shall be limited to a level which does not affect the use or enjoyment of property outside of the Industrial District.

INFILTRATION - The process of stormwater percolating into the subsoil.

JUNK VEHICLE –

- A. Any wrecked, discarded, dismantled or inoperable motor vehicle, trailer or any parts thereof, excluding farm equipment in Agricultural and Agricultural Residential Districts.
- B. Any vehicle or trailer that does not carry a current and valid motor vehicle registration or is otherwise not in full condition for legal use on the public highway. (Exceptions: boat trailers, utility trailers)

JUNK YARD - See Definitions of [Scrap Yards](#) and [Vehicle Dismantling Yards](#).

KENNEL - Any premises on which 5 or more dogs or cats over 6 months old are housed, groomed, boarded, trained, or sold for monetary gain.

LAND DEVELOPMENT ACTIVITY – All activities including clearing, grubbing, grading, excavating, stockpiling, placement of fill, paving, installation of utilities, and construction of buildings or structures that result in soil disturbance.

LAND DISTURBANCE, AREA OF – The total land area subject to Land Development Activity, as defined herein. If activities are part of a larger common plan of development or sale, total Area of Disturbance is calculated for the entire project, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER (Owner, or Property Owner) – The legal or equitable owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LARGE GROUP - Any gathering of 500 or more people, occurring on a non-regular basis and involving either the charging of a fee, request for a donation or sale of products or services.

LICENSED PROFESSIONAL - A licensed professional engineer or licensed landscape architect who is knowledgeable in the principles and practices of erosion and sediment control and stormwater management.

LOADING SPACE - Space logically and conveniently located exclusively for bulk pickups and deliveries at commercial structures.

LOT - A parcel of land occupied, or designed to be occupied by 1 structure and the accessory structures or uses customarily incidental to it, including such open space as are required by this Zoning Law.

LOT, COVERAGE - That percentage of the lot which is devoted to building area. District regulations refer to the maximum percentage of the lot area devoted to building area.

LOT, SIZE - An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres.

LOT LINE - Any line dividing 1 lot from another.

LOT WIDTH - The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

MANUFACTURED HOME - A general category of housing construction denoting single-family detached or attached multiple-family dwelling units which are partially or totally constructed away from the site where they are to be placed for occupancy. Included in this category are mobile homes, modular housing, and panelized (prefabricated) housing.

MASSAGE ESTABLISHMENT - Any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where nonmedical or nonsurgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices.

MINI-MART – A facility associated with the sale of gasoline products, motor oil and minor traveling accessories are retailed directly to the public in combination with the retailing of prepackaged food items, beverages and pastries.

MOBILE DWELLING UNIT - See *Dwelling Unit* (same as Mobile Home).

MOBILE HOME - See *Dwelling Unit*. (**Amendment 2/2007**....Any reference in the Zoning Ordinance where it states "mobile home" shall now read "manufactured home".)

MOBILE HOME PARK - A parcel of land upon which 2 or more mobile homes are set up for living purposes.

MODULAR DWELLING UNIT - See *Dwelling Unit*.

MOTOR HOMES - A self-propelled, relatively small temporary living quarter generally used as mobile vacation homes. Motor homes generally have self-contained, independent utility systems.

MOTORIZED VEHICLE – Any automobile, bus, truck, tractor, manufactured home, recreational vehicle, snowmobile, and any other contraption originally intended or usable in whole or part as motorized transportation.

MOTOR VEHICLE SERVICE STATION - Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil, and other lubricating substances: including any sale of motor vehicle accessories; and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

MULTIPLE DWELLING - Two or more dwelling units per building.

MULTIPLE USE BUSINESS - A building or buildings in 1 contiguous location under single ownership which has more than 1 distinct business (e.g., restaurant and a gift shop) as defined in the allowed uses.

MULTI-TENANT PLAZA – A group of stores planned and designed for the site on which it is built, with off-street parking, landscaped areas, and pedestrian malls or plazas provided as an integral part of the design.

MUNICIPALITY - Shall mean the Town of North Harmony.

NONCONFORMING USE - That use of a building, structure or land legally existing at the time of enactment of this Zoning Law or amendment thereto, and which is not one of those permitted in the district in which it is situated.

NUISANCE - A violation of this Law caused by an offensive, annoying, unpleasant, or obnoxious use of characteristics of said use which produces effects of such a nature or degree that they are detrimental to the health, safety, general welfare, property values, etc., thus resulting in harm or injury to adjacent or nearby properties. Common examples include excessive odors, noise, smoke, vibration, light, runoff, traffic, development density, electronic interference, etc.

NURSING HOME - Also referred to as a convalescent home, it includes buildings where, for a fee, non-ambulatory residents are provided full-time convalescent or chronic care by skilled nurses in addition to room and board. No care for the acutely ill is provided; and thus, clearly, hospitals and mental health centers are not to be considered as a nursing home.

NURSERY (For children) - See *Day Care Center*.

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

OPEN SPACE - Common, 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.

OPERATOR – The person having operational control over the construction plans and specifications for a project and/or responsibility for day-to-day supervision and control of the activities occurring at a construction site, and/or responsibility for long term maintenance of a stormwater management facility.

PANELIZED - See *Dwelling Unit, Prefabricated*.

PARKING SPACE - A required off-street parking space. (See Supplemental Section).

PERSON – Shall include an individual, corporation, Limited Liability Company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description, and acting as either the owner or the owner’s agent.

PERSONAL SERVICES – An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include beauty and barber shops, shoe repair shops, spas, massage services by licensed masseurs/masseuses, chiropractic clinics and other similar establishments.

PHARMACY – A small establishment of less than 3,000 square feet, which is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies and items.

PHASING – Land Development Activity completed in distinctly separate pieces or parts, with the stabilization of each piece completed before the clearing of the next.

PLANNING BOARD - Refers to the Municipal Planning Board unless otherwise indicated.

POLLUTANT OF CONCERN – Sediment or a water quality measurement that addresses a sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

POND - A man-made body of water utilizing natural materials which is used for recreational purposes as well as for fire protection.

PORCH - A roofed open structure projecting from an outside wall of a structure without any form of enclosure. Screens used as insect barriers are permissible and shall not cause the porch to be considered to be an enclosure.

PORTABLE TOILET – Any commercially manufactured or assembled completely self-contained plastic or fiberglass toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection and is serviced and leased from a licensed commercial disposal contractor.

PRECUT - See *Dwelling Unit, Conventional*.

PREEXISTING USE - Any use, either conforming or nonconforming with this Law, that is legally existing at the enactment date of this Law.

PREFABRICATED DWELLING UNIT - See *Dwelling Unit*.

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

PRIVATE CAMP - 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 recreation purposes. (See Supplemental Section)

PRIVY – Any permanent or semi-permanent facility or structure, with a separate pit or vault located below the unit, provided for storage or deposit of human excreta without water carriage.

PROFESSIONAL - Any person with an advanced college degree who possesses a license to practice. This includes but is not limited to doctors, lawyers, CPA’s, engineers, etc.

PROFESSIONAL OFFICE – Offices of professional or service occupations or agencies which are characterized by low traffic and pedestrian volumes and low density building developments, including accountant, appraiser, architect, engineer, insurance agent, landscape architect, lawyer, consultant, real estate, mortgage or title agency, small general practitioner physician and investment agency.

PROJECT – Land development activity.

PROJECT SITE – The portion of a parcel (or parcels) on which land development activity will occur.

PUBLIC - Owned, operated, or controlled by a governmental agency (Federal, State, or Local) including a corporation created by law for the performance of certain specialized governmental functions, a public school district, or service district.

PUBLIC, QUASI - An organization which serves a governmental function but is not a governmental unit per se. A volunteer fire department is an example.

QUALIFIED PROFESSIONAL – A person knowledgeable in the principles and practices of erosion and sediment control and stormwater management and treatment, such as a licensed professional engineer, licensed landscape architect, or other New York State DEC endorsed individuals. All components of Basic or Full SWPPPs that involve the practice of engineering, as defined by the NYS Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York.

RECHARGE – The replenishment of underground water reserves.

RECREATION, COMMERCIAL - Recreational facilities operated as a business and open to the general public for a fee. Includes only those facilities which can confine noise, lights, and other potential nuisances to their own premises. Recreational facilities shall include but not be limited to golf courses, ice skating rinks, and swimming pools.

RECREATIONAL VEHICLE - A vehicle primarily designed as temporary living quarters for recreational, travel or camping use, which either has its own mode of power, or is drawn by another vehicle.

REDEVELOPMENT – Reconstruction or modification to any existing previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from development or new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to constructed areas with impervious surface.

RESIDENCE, SINGLE-FAMILY DETACHED - A detached building designed to contain 1 dwelling unit.

RESIDENCE, TWO-FAMILY - Either of the following:

- A. a building having 2 side yards and accommodating but 2 dwelling units; or
- B. a detached building containing 2 dwelling units separated by a party wall, each having 1 side yard.

RESIDENCE, MULTI-FAMILY - A building used or designed for 3 or more dwelling units within existing residential structure in accordance with conditions set forth in this Law.

REST HOME - Commonly referred to as homes for the aged. These facilities provide private sleeping rooms for ambulatory (able to walk) residents. Generally rest homes have common eating areas and provide minimal medical aid to residents. Only incidental convalescent care is provided which does not involve either trained nurses, physical therapy or other activities provided in a hospital or nursing home.

RETAIL BUSINESS, GENERAL - For the purpose of this Law, whenever a general retail business is listed as an allowed use, it shall signify that any retail business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific retail uses as being allowed.

RETENTION – A practice designed to collect and store stormwater runoff without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool or tank.

RIDING ACADEMY - Any establishment where horses are kept for riding for compensation. Riding academies shall be situated on a minimum of 10 acres of land and only in districts where allowed.

ROADSIDE STAND - A structure (either enclosed or open), a booth or a transportable vehicle, the purpose of which is the sale of produce and other farm products to the general public. Roadside stands are located along a roadway in such a manner as to provide safe and convenient off-street parking. All conditions specified in this Law must be met.

SAWMILL - Commercial facility containing sawing and planing equipment utilized for the preparation of dimensional lumber used for construction. No on-premise sales to the general public take place.

SCRAP YARD - Any place of storage or deposit of more than 100 square feet, usually of a commercial nature, where metals, glass, rags, etc., are held, whether for the purpose of disposal, reclamation, recycling or resale of such, including establishments having facilities for processing iron, steel, and nonferrous scrap for re-melting purposes.

SECTION - Unless otherwise noted section and section numbers shall refer to this Law.

SEDIMENT - Soils or other surficial materials transported by surface water as a product of erosion.

SEDIMENT CONTROL – Measures that prevent eroded sediment from leaving the site.

SEMI-PUBLIC - Places of worship, institutions for the aged and children, nurseries, nonprofit colleges, hospitals, libraries, cemeteries, and institutions of the philanthropic nature; also, open space.

SENSITIVE AREAS – Cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, wetlands, and unique natural areas.

SEPTIC SYSTEM - A subsurface sewage disposal system, which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

SETBACK - Distance measured from the street edge to a structure, sign, etc.

SERVICE BUSINESS, GENERAL - For the purpose of this Law, whenever a general service business is listed as an allowed use, it shall signify that any service business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed, in addition to the specific service uses listed as being allowed.

SHOOTING RANGE - The parcel(s) of land used for discharging of firearms with the intent to hit any object (moving or stationary) other than live game, by any person who pays a fee (e.g.; membership fees, shooting fee, etc.) to use said facilities. Commercial shooting ranges include, but are not limited to, nonprofit clubs (skeet club, etc.); and profit motivated business. For the purpose of this Law, a shooting range shall be considered to be a trap/skeet or other type of range utilizing shotguns, rifles or pistols, as well as an indoor (fully enclosed) range utilizing rifles or pistols not classified as shotguns.

SHOPPING CENTER - A group of commercial establishments occupying adjoining structures all of which may be deemed as 1 building and normally owned/managed as 1 unit. Off-street parking as well as loading/unloading facilities is provided as an integral part of the unit.

SIGN - Any structure or part thereof, attached thereto, or painted, or represented thereon, which shall display or include any letter, work, model, banner, flag, pennant, insignia, device of representation used for the purpose of bringing the subject thereof to the attention of the public. The word sign does not include the flag, pennant or insignia of any nation, state, city, or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like organization, or the property thereof

SIGN, AREA - The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, 4-sided (straight sides) geometric shape which most closely outlines the said sign. Only 1 side of the sign shall be used in measuring the area.

SIGN, ADVERTISING - A sign which offers services or goods produced or available somewhere other than on which the sign is located. The words “advertising sign” include the word “billboard.” Neither directional warning nor other signs posted by public officials in the course of their public duty shall be construed as advertising signs.

SIGN, BILLBOARD - Any sign with a total area larger than that permitted by sign regulations of this Law for the district in which the billboard either exists or is proposed to be located in.

SIGN, BUSINESS - A sign for permitted use conducted on the premises which shall identify the written name and/or the type of business and/or any trademark of an article for sale or rent on the premises.

SIGN, DIRECTIONAL - A sign which identifies an attraction or activity and provides directional information useful to the premises or otherwise call attention to a use conducted on the premises.

SIGN, IDENTIFICATION - A sign for a permitted use conducted on the premises for articles sold, or distributed by that use, or displaying the name of the premises.

SIGN, INSTRUCTIONAL - A sign conveying instructions with respect to the use of the premises, or a portion of the premises on which it is maintained, or a use or practice being conducted on the premises.

SIGN, NAMEPLATE - Any sign attached directly to the wall of a building occupied by the person to whom such a sign indicated the name, occupation and/or address of the occupant. A nameplate shall be not over 2 square feet in size.

SIGN, PUBLIC - Those signs erected to direct flow, speed and direction of traffic, effect general public safety or name streets and buildings.

SIGN, TEMPORARY - A sign which offers premises for sale, rent, or development; or announces special events or calls attention to new construction or alteration; or offers a sale of seasonal garden produce, garage, household, porch items or signs of similar nature; or political signs. Temporary status of signs will expire after 6 months.

SILVICULTURAL ACTIVITY – The on-going practice of controlling the establishment, growth, composition, health and quality of forests expressly for the periodic production of timber. For example, clear-cutting is not considered an exempt silvicultural activity.

SLOPE(S) – In this law, generally described as percent slope, which is calculated as rise over run (vertical change in elevation between two representative points on the site divided by horizontal distance between the same two points) and multiplied by 100. For example, a 5% slope is a rise of 5 feet over a horizontal distance of 100 feet. Percent slope may be calculated by observing contour lines on a map, or by use of survey equipment. Slope can also be expressed in degrees, as in angle degrees, ranging from 0 to 90 degrees (which would be a vertical cliff). To convert from degrees slope to percent slope, take the tangent of the slope in degrees, and multiply by 100.

SOLAR STRUCTURE - Any structure containing either a passive or active heat storage device which is dependent on direct contact with the sun in order to operate. Said heat storage devices are commonly used to heat totally or partially water, rooms, etc.

SOURCE MATERIAL – Any material(s) or machinery, which is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery; and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

SPECIALTY STORE, HOME IMPROVEMENT – A facility of 3,500 or fewer square feet gross floor area, primarily engaged in the custom design and retailing of home décor, kitchen cabinets or other similar décor needs of homes and offices.

SPECIAL USE PERMIT - A special use permit deals with special permission, granted only by the Permitting Board after public hearing to occupy land for specific purposes when such use is not permitted By Right, but is listed as permitted by Special Use Permit.

STABILIZATION – The use of practices that prevent exposed soil from eroding.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-0-10-001 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

(cont. on next page)

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-0-10-002 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and to specify stormwater control standards.

STOP WORK ORDER – An order issued which requires that some or all construction activity on a site be stopped.

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. A storage structure shall be less than 150 square feet and twelve (12) feet in height, with larger structures, such as a private garage, bathhouse, private swimming pool, private tool house, children’s playhouse or a noncommercial greenhouse and other customary accessory uses, to be considered as accessory structures or uses. Storage structures less than 150 square feet shall be limited to one per lot.

STOREFRONT AREA - That area of the front of a building associated with the first floor only. For businesses located above a first floor, the storefront area shall be calculated based on the ground floor entrance only.

STORMWATER – Rainwater, surface runoff, snowmelt and drainage that does not infiltrate the ground or evaporate but instead flows onto adjacent land or watercourses.

STORMWATER HOTSPOT – A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies. See the Stormwater Design Manual for details and a list of land uses designated as hotspots for the State of New York.

STORMWATER MANAGEMENT – The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

STORMWATER MANAGEMENT FACILITY – One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) – A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

SWPPP, BASIC – A Stormwater Pollution Prevention Plan (SWPPP) that includes all requirements for erosion and sediment control, but does not require post construction water quality and quantity controls.

SWPPP, FULL – A Stormwater Pollution Prevention Plan that includes all requirements for erosion and sediment control, and also post construction water quality and quantity controls.

SWPPP, SIMPLE – A Stormwater Pollution Prevention Plan that includes an erosion and sediment control plan appropriate for small areas of disturbance.

STORMWATER RUNOFF – Flow through or on the ground surface resulting from precipitation.

STORY - That portion of a building excluding attics and cellars included between the surface of any floor and the floor next above it; or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF - A story under a gable, hip, or gambrel roof, the wall plates of which, on at least 2 opposite exterior walls, are not more than 2 feet above the floor of such story.

STREAM CORRIDOR – The landscape features on both sides of a stream, including soils, slopes, and vegetation, whose alteration can directly impact the stream’s physical characteristics and biological properties.

STREET EDGE - A curb or in the absence of a curb, the furthest outside point of a street or roadway which is designed and constructed to carry vehicles on a regular basis. A paved or unpaved shoulder of a road shall not be considered in determining the street edge.

STRUCTURE - A building constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Mobile homes are not considered to be structures for the purpose of this Law. (A Mobile Home is considered to be a structure under the Flood Insurance Program.)

SWIMMING POOL - Any man-made receptacle for water (excluding farm ponds) located above or below ground designed for capacity of over 4 feet in depth at any point and intended to be used for swimming.

TEMPORARY DWELLING UNIT (MOBILE) - Dwellings intended for temporary occupancy and including but not limited to: travel trailers, motor homes, truck campers, and tents. Persons residing in temporary dwelling units generally do not include those residing in the primary dwelling unit located on the parcel.

TEMPORARY USE - An activity conducted within a structure or on a tract of land for a specific limited period of time which may not otherwise be permitted by the provision of this Law. For example, a building used in conjunction with new construction which would be removed upon completion of the work.

TOWER - A structure generally fixed on the ground of a noncommercial or commercial nature, the purpose of which is to better enable the transmission or receiving of signals by achieving more height. For the purposes of this Law, a tower shall generally be capable of being climbed without utilizing special equipment and shall be categorized as:

- A. commercial;
- B. noncommercial more than 50 feet high as measured from the ground; and
- C. noncommercial 50 feet or less in height. Standard TV-type antennas are not to be considered to be a tower.

TOWN HOUSE - A dwelling unit designed to be occupied as a residence for 1 family and 1 of a group of 3 or more attached dwellings, placed side by side, separated by party walls, each containing 1 or 2 stories, and each having separate front and rear, or side and rear, or front and side entrances from the outside.

TRACT - A large piece of land under single ownership.

TRASH - Glass, scrap metals, salvaged metals, rags, refuse, garbage, wastepaper, salvaged machines, appliances, or similar materials, etc.

TRAVEL TRAILER/CAMPER - A relatively small temporary living quarter designed to be hauled behind a vehicle. Travel trailers are not designed as permanent living quarters and generally are used on a seasonal basis. They are supported at all times primarily by their own wheels. Travel trailers generally have self-contained independent utility systems. See definition of Accessory Dwelling Unit.

TRAVEL TRAILER CAMP/COMMERCIAL CAMPGROUND - A parcel of land used or intended to be used, let, or rented on a seasonal basis for occupancy by campers or for occupancy by or of travel trailers, motor homes, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

TRIPLEX - A dwelling arranged, intended and designed to be occupied by 3 families living independently of each other.

USE - Any purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE - Permissive waivers from the terms of the 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 in unnecessary hardship or practical difficulty or that the spirit of the Law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

VEHICLE DISMANTLING YARD - Any place or storage of deposit where 2 or more unregistered, old, or secondhand vehicles, no longer intended for or in condition for legal use on public highways are held, whether for resale of parts or materials, or used parts and waste materials, which, when taken together equal in bulk 2 or more vehicles, shall constitute a vehicle dismantling yard. This excludes farm vehicles.

VEHICLE REPAIR SHOP - A commercial business operated for profit which repairs or services motor vehicles.

WATERBODY - Any natural or man-made body of water, such as a pond, lake, wetland or wet area which does not necessarily flow in a definite direction or course.

WATERCOURSE — The banks of such watercourse shall be identifiable, i.e., defined bed, banks, gullies, ravines, etc. Road ditches and shallow land depressions generally referred to as grassed waterways, swales, etc., that carry water only immediately (a few to several hours) after a runoff-producing event are not considered watercourses. Where there is a question of whether a watercourse exists and where the top of the bank is located, the reviewing board shall conduct a site evaluation to determine whether or not a particular channel is a watercourse and where the top of the bank is located. Its determination shall be final. For purposes of determining setbacks and required buffers, the boundary of the watercourse shall be measured from the lake line or the top of the bank closest to construction.

WATERSHED – Total drainage area contributing runoff to a given point along a watercourse.

WETLAND – Any area which meets one or more of the following criteria:

1. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, “Freshwater Wetlands Act.” The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated.
2. Areas which meet the definition used by the US Army Corps of Engineers and US Environmental Protection Agency: “Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.”

WETLAND DELINEATION – The process of determining the boundaries of a wetland in the field, as described in the US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1.

WHOLESALE - A business establishment engaged in selling to retailers or jobbers rather than consumers in wholesale lots.

WHOLESALE BUSINESS, GENERAL - For the purpose of this Law, whenever a general wholesale business is listed as an allowed use, it shall signify that any wholesale business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific wholesale uses listed as being allowed.

WHOLESALE, LIMITED - A wholesale business with a maximum of 3 employees, no more than 4,000 square feet of floor space and no outside storage.

WINE TASTING ROOM – A facility devoted to the sampling and sales thereof of wine or beer produced on or off premises. Sale of food is secondary.

YARD, FRONT - The area extending across the entire width of the lot between the building line, and the front edge of the road into which space there shall be no extension of building partitions or accessory structures. For parcels adjacent to the lake, with a public or private roadway between the primary structure and the lake, the front yard shall consist of the land area between the primary structure and the public or private roadway serving the property. Where no such roadway exists between the primary structure and the lake, the front yard shall consist of the land area between the ordinary lake shoreline and the primary structure.

YARD, REAR - The area extending across the entire width of the lot between the rear wall of the principal building and rear line of the lot, and unoccupied except for parking, loading and unloading space, and garages and carports.

YARD, SIDE - That open area of a lot situated between the side lines of the building and the adjacent side lines of the lot.

ZONING BOARD OF APPEALS - Shall mean the Zoning Board of Appeals of the Town of North Harmony.

ZONING PERMIT - Written permission issued by the appropriate Municipal Board/Officer authorizing the use of lots or structures. Zoning Permits are issued for uses which are permitted by the Zoning Law where all conditions required by the Law can be met for the district where the lot/structure is located. The relocation, enlargement, alteration, or other change of use shall require the issuing of a Zoning Permit. The two types of permits include by Right Permit and Special Use Permit.

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ARTICLE III

TITLE, ENACTING CLAUSE & PURPOSE

**ARTICLE III
ESTABLISHMENT OF DISTRICTS**

Section 301 - Creation & Enumeration of Districts

For the purpose and provisions of this Local Law, the municipality is hereby divided into the following types of districts.

Single-Family Residential	R1
Duplex/multiple Family Residential	R2
Multiple Residential	R3
Multiple/Seasonal Residential	R4
Hotel/ Multiple-Family	R5
Agricultural Residential	AR
Agricultural	A
Commercial	C1
Light Industrial	I1
Industrial Park (Floating)	I2
Conservation	C
Tourist / Commercial	TC

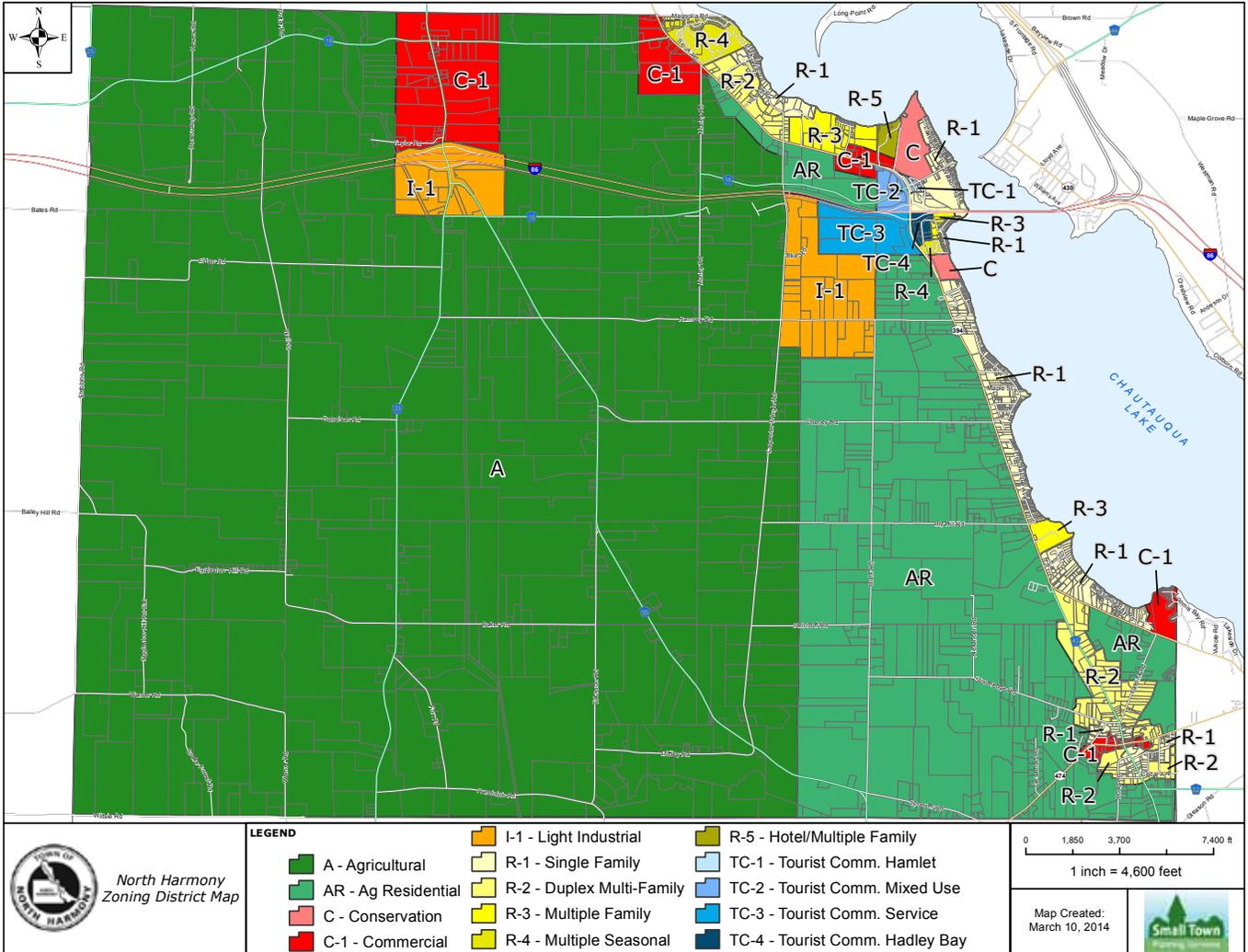
Section 302 - Zoning Map

The boundaries of the aforesaid zoning districts are hereby established shown on the map entitled, *“Zoning District Map of the Town of North Harmony, New York, dated February 2013”*, which map accompanies and is made a part of this Local Law and shall have the same force and effect as if the zoning map, together with all notations, references, and other information shown thereon, were fully set forth and described herein.

Section 303 - Interpretation of District Boundaries

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

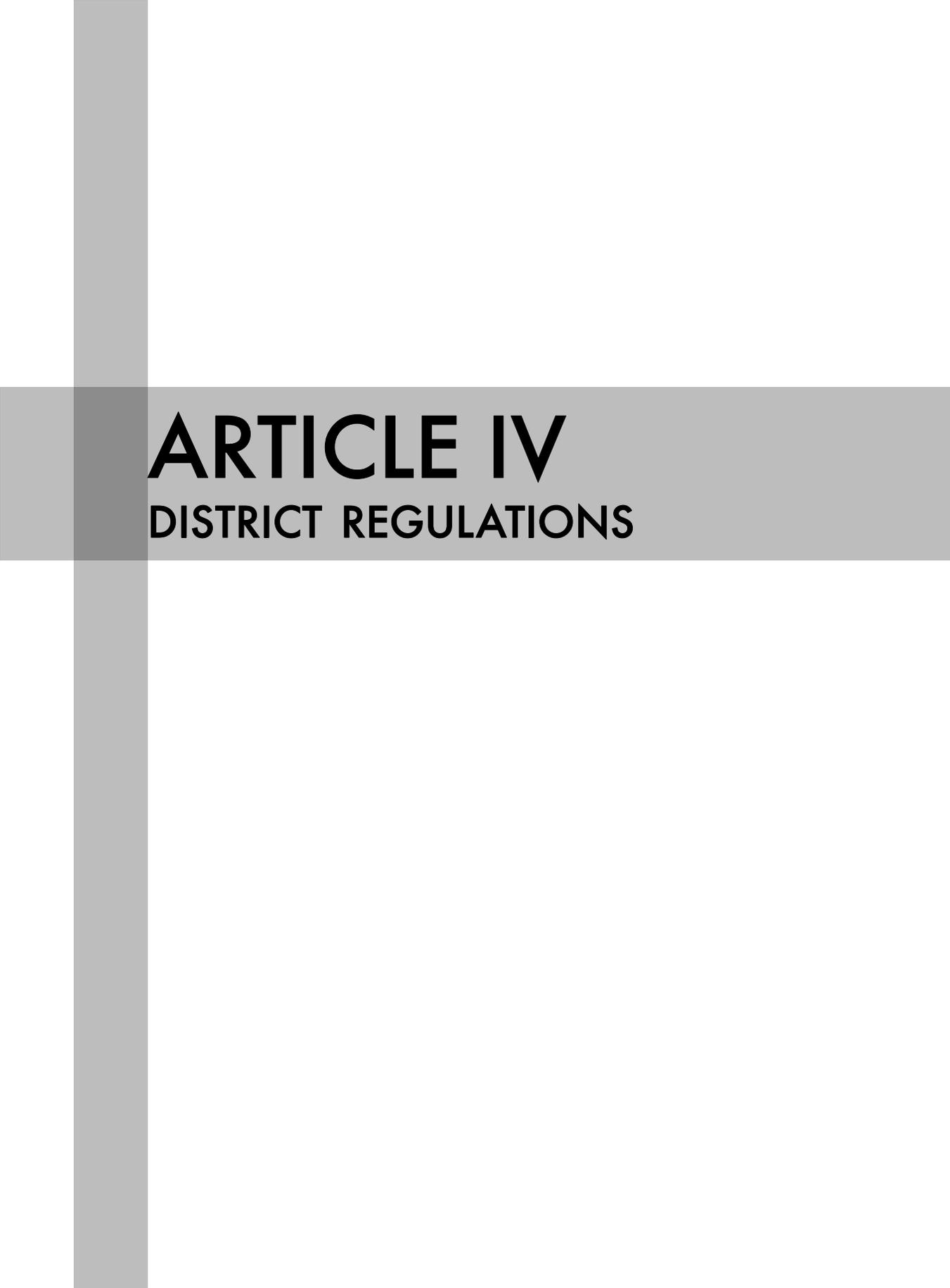
- A. Where district boundary lines are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such district lines shall be construed to be said boundaries.
- B. Where district boundary lines are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundary lines are so indicated that they are approximately parallel to the center lines, or street lines of streets, or the center lines or right-of-way lines of highways, such district lines shall be construed to be said boundaries.



Zoning District Map of the Town of North Harmony, New York

** Use zoom function to see districts in closer detail.*

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ARTICLE IV

DISTRICT REGULATIONS

ARTICLE IV DISTRICT REGULATIONS

Section 401 – Zoning Districts – Purpose

The following zoning districts are established in the Town of North Harmony for the purpose of implementing the land use goals of the Town and of this Law. While each purpose statement 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.

A. DISTRICT PURPOSES

- 1.) **Single-Family Residential (R1)** – R1 Districts are established to primarily provide for new “subdivision” single-family development or to protect existing neighborhoods from encroachment of all other uses. Very few other uses are allowed in this district. R1 Districts are generally adjacent to and oriented toward Chautauqua Lake, thus accounting for its high development potential.
- 2.) **Duplex Multi-Family Residential (R2)** -R2 Districts are established to protect established residential neighborhoods from adverse conditions resulting from inserting incompatible uses. Most types of housing are allowed on lots larger than these generally found in the single-family district. Generally, abundant open space is available for development with some of this district comprised of a second tier of lake property.
- 3.) **Multiple Family Residential (R3)** - R3 Districts are intended for attached multiple-family dwellings at a greater density than found in other Residential Districts. Additionally, certain types of water oriented commercial uses such are marinas, bed & breakfast, and cottages are allowed. Some of the most desirable vacant property adjacent to the lake is within this District. New development will be strongly protected from non-compatible uses.
- 4.) **Multiple Seasonal Residential (R4)** – Most forms of residential use are permitted in this Residential District which presently is dominated by a seasonal campground. Some commercial/recreational uses are permitted. Existing or proposed development is protected from most forms of commercial development.
- 5.) **Hotel-Multiple Family (R5)** – Most forms of residential uses are permitted in this district in addition to numerous water-oriented, tourist-related uses to include hotels and marinas. Presently, this property consists of various large single ownership parcels with a great degree of lake exposure.
- 6.) **Agricultural Residential (AR)** - AR Districts are established to provide for a compatible mix of agricultural and residential uses. Clearly, the intent is to protect and provide agricultural uses and preserve the rural character of the neighborhood as well as providing for natural buffers. This district has an abundant supply of vacant land some of which possesses panoramic views of Chautauqua Lake and as such is subject to residential development pressures. Home occupations and recreational uses are generally permissible.
- 7.) **Agricultural (A)** – A districts area primarily agricultural lands with scattered large lot residential units. Municipal utilities are to be discouraged in this district. Commercial development is discouraged except for recreational use.
- 8.) **Commercial (C1)** - The purpose of the C1 District is to promote retail and service uses for the use of residents and visitors. At the same time, a major goal is to protect and enhance the community by encouraging aesthetically appealing businesses with safe ingress and egress and prohibiting chaotic strip development.
- 9.) **Light Industrial (I-1)** - I1 Districts have the purpose of promoting a variety of retail and service uses which are vehicle oriented in addition to light industrial uses not associated with nuisances or large utility systems. A major goal is to protect and enhance the community by

encouraging aesthetically appealing businesses with safe ingress and egress and prohibiting chaotic strip development.

10.) Industrial (I-2) floating - This district is formulated exclusively for Industrial Uses with recreational uses also allowed. This district is not located on the map initially but instead is ready to be formed when an appropriate site is proposed by a developer.

11.) Conservation (C) – Districts are established to provide protection for, and preservation of, natural features of a municipality such as watersheds, wetlands, open space, recreation areas, etc. These resources are the foundation of the local and county-wide green infrastructure, including the highest quality streams, wetlands and riparian areas, high-quality habitat areas and unique geologic features. Agricultural uses and limited recreation uses are the only uses allowed in these important areas.

12.) Tourist/Commercial (TC) – The purposes of the Tourist Commercial District(s) (TC) are to:

- (a) Promote appropriate development at the gateway(s) to North Harmony and the surrounding region from major arterial roads that will service both tourist and local residents while not distracting from the character of the area;
- (b) Influence the appearance and first impression of the community to tourists, which will enhance its success as a tourist center to benefit the Town and the entire region; and
- (c) Create a critical mass of tourism and service development consistent with the existing land use pattern of the area that contains a mix of vehicular and pedestrian oriented uses.

The TC District consists of four mapped subdistricts that reflect the existing and desired places within the Tourist Commercial District. They are:

- (a) **TC-1 - Tourist Commercial Hamlet Subdistrict** - The TC-1, Tourist Commercial Hamlet Subdistrict is primarily intended to encourage and enhance a range of small businesses in the area adjacent to the Stow Hamlet while preserving and enhancing the character of the Hamlet and its residential area. The TC-1 subdistrict regulations support the Hamlet's role as a hub for the existing residences, the motoring public and the surrounding rural area. The district regulations support a mix of small retail, gift stores and services.
- (b) **TC-2 - Tourist Commercial Mixed-Use Subdistrict**.- The TC-2, Tourist Commercial Mixed-Use Subdistrict is primarily intended to support (residential/nonresidential) projects requiring larger lot areas, including multi-family or group facilities. The TC-2 subdistrict regulations support the need to develop moderate commercial space for the delivery of needed services and retail opportunities. The district regulations encourage minimum intrusions into primary roads, rear and side yard parking and landscaping to minimize the scenic impact on the character of the area.
- (c) **TC-3 - Tourist Commercial Service Subdistrict**.- The TC-3, Tourist Commercial Service subdistrict is primarily intended to accommodate moderate- to high-density lodging and service related commercial entities. The TC-3 subdistrict regulations support the role as an interstate gateway for the traveling public and tourists. The district regulations support a mix of lodging facilities, restaurants, and other amenities necessary for the traveler.
- (d) **TC-4 - Tourist Commercial Hadley Bay Subdistrict**.- The TC-4, Tourist Commercial Hadley Bay Subdistrict is primarily intended to support moderate impact uses which can be delivered in an atmosphere that maintains and enhances the gateway to the Hadley Bay community. The district regulations support a mix of service and tourist facilities for the residents of Hadley Bay and visitors alike. The character of the facilities serves to complement the overall aesthetics of the interchange area while providing a pleasing entrance to the community.

Section 402 – Uses Permitted

The following set of tables establishes the uses permitted by special use permit, by right, with no permit, or prohibited within the Town of North Harmony's Zoning Districts. 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.

USE TYPE	Refer to SECT #	C-1	TC-1	TC-2	TC-3	TC-4	I-1	I-2 (Floating)			
COMMERCIAL USES (continued)											
Food and Beverage - Retail Sales											
BAKERY SHOP		R	S	S	S	S	R				
CONVENIENCE STORE			S		S						
CORNER GROCERY STORE		R					R				
FARMERS MARKET											
FOOD SUPERMARKET		R		S	S	S	R				
LIQUOR STORE			S	S	S	S					
MINIMART					S						
WINERY TASTING ROOM			S		S	S					
Lodging											
BED AND BREAKFAST		R		S		S	R				
BOARDING HOME		R					R				
CABINS / COTTAGES - COMMERCIAL		S					S	S			
HOTEL / MOTEL		S		S	S		S				
Medical / Health Services											
CLINIC / HEALTH CARE FACILITY				S	S						
MEDICAL BUILDING				S	S						
Miscellaneous & Other Retail / Commercial											
FUNERAL HOME		S									
HOME OCCUPATION	606	RSN		S		S	RSN	RSN			
HOME OCCUPATION - LIMITED											
HOUSEHOLD SALE / GARAGE SALE	607	N	R			R	N	N			
LOADING/UNLOADING FACILITY	616	S					S	S			
MOBILE HOME / TRAILER SALES		S									
MONUMENT SALES		R					R				
RENTAL STORE		R					R				
R = By Right - Permit Required - No Hearing S = Special Use - Permit & Hearing Required N = No Permit - Abide by Laws / Rules BLANK = Use Not Allowed							TOWN of NORTH HARMONY LAND USE TABLE				

USE TYPE	Refer to SECT #	C-1	TC-1	TC-2	TC-3	TC-4	I-1	I-2 (Floating)		
COMMERCIAL USES (continued)										
Parking - Commercial										
PARKING, COMMERCIAL LOT	615	R	S	R	S	S	R	R		
Personal Services										
ADULT ENTERTAINMENT (CLASS 1)	638	S								
ADULT ENTERTAINMENT (CLASS 2)	638	<i>Refer to the town's Zoning Law Section 638, subsection B.2.A.(Location) for designated location within the town.</i>								
BARBER / BEAUTY SHOP		R					R			
BARBER / BEAUTY SHOP - LIMITED		R					R			
COPY SHOP				S	S	S				
DANCE STUDIO				S		S				
DAYCARE CENTER - ADULTS / CHILDREN		S		S	S	S				
EDUCATIONAL SERVICES				S	S					
HEALTH / PERSONAL CARE										
HEALTH CLUB				S	S	S				
LAUNDROMAT				S	S					
LAUNDRY / DRY CLEANING BUSINESS		R					R			
PERSONAL SERVICE ESTABLISHMENT			S	S	S	S				
PHOTOGRAPHY / MUSIC STUDIO			S	S		S				
PHOTOGRAPHY STUDIO		R					R			
PHOTOGRAPHY STUDIO - LIMITED		R					R			
Professional Offices										
PROFESSIONAL / BUSINESS OFFICE		R					R			
PROFESSIONAL / BUSINESS OFFICE - LIMITED		R					R			
PROFESSIONAL OFFICE / OFFICE BUILDING					S	S				
REALTY OFFICE		R					R			
REALTY OFFICE - LIMITED		R					R			
R = By Right - Permit Required - No Hearing S = Special Use - Permit & Hearing Required N = No Permit - Abide by Laws / Rules BLANK = Use Not Allowed							TOWN of NORTH HARMONY LAND USE TABLE			

USE TYPE	Refer to SECT #	R-1	R-2	R-3	R-4	R-5	AR	A	C (Conserv)
		COMMERCIAL USES (continued)							
Repair Service / Residential Storage Service									
APPLIANCE REPAIR SHOP									
APPLIANCE REPAIR SHOP - LIMITED									
BOAT LIVERY	640								
BOAT STORAGE BUSINESS (EXISTING BLDG.)		R	R	RS	R		R	N	
BOAT STORAGE BUSINESS (NEW BUILDING)					R		R	R	
CLOCK REPAIR SHOP									
Retail Sales - General									
ANTIQUE SHOP - LIMITED	606 E								
ANTIQUE SHOP / STORE	606 E						R	R	
AUCTION BUSINESS									
BLDG. CONTRACTOR BUSINESS									
BLDG. MATERIALS STORE									
BOOK / MUSIC STORE									
BOUTIQUE									
CATALOG STORE									
CLOTHING / ACCESSORIES STORE									
DEPARTMENT / VARIETY STORE									
DRIVE-IN BUSINESS	609								
DRUGSTORE (PHARMACY)									
FARM MACHINERY / IMPLEMENTS STORE									
FLORIST SHOP									
FURNITURE / APPLIANCE STORE									
FURNITURE SHOP (SMALL)									
GENERAL RETAIL STORE (MAX. SIZE 3,500 SF)									
GIFT SHOP									
HARDWARE / GLASS / PAINT STORE									
LOCKSMITH SHOP									
MULTI-TENANT PLAZA									
NEWSSTAND									
PLUMBING / HEATING SHOP									
RETAIL STORE - LIMITED									
SHOPPING CENTER / MALL	605								
SPECIALTY STORE - HOME IMPROVEMENT									
SPORTING GOODS STORE (MAX. SIZE 3,500 SF)									
R = By Right - Permit Required - No Hearing S = Special Use - Permit & Hearing Required N = No Permit - Abide by Laws / Rules BLANK = Use Not Allowed		TOWN of NORTH HARMONY LAND USE TABLE							

USE TYPE	Refer to SECT #	C-1	TC-1	TC-2	TC-3	TC-4	I-1	I-2 (Floating)
COMMERCIAL USES (continued)								
Repair Service / Residential Storage Service								
APPLIANCE REPAIR SHOP		R		S		S	R	
APPLIANCE REPAIR SHOP - LIMITED		R					R	
BOAT LIVERY	640				S	S		
BOAT STORAGE BUSINESS (EXISTING BLDG.)		R					R	
BOAT STORAGE BUSINESS (NEW BUILDING)		S					S	
CLOCK REPAIR SHOP			S		S	S		
Retail Sales - General								
ANTIQUE SHOP - LIMITED	606 E	R					R	
ANTIQUE SHOP / STORE	606 E	R	S	S	S	S	R	
AUCTION BUSINESS								
BLDG. CONTRACTOR BUSINESS		S						
BLDG. MATERIALS STORE		R					R	
BOOK / MUSIC STORE			S	S	S	S		
BOUTIQUE			S		S	S		
CATALOG STORE		R					R	
CLOTHING / ACCESSORIES STORE			S	S	S	S		
DEPARTMENT / VARIETY STORE		R					R	
DRIVE-IN BUSINESS	609	S		S	S		S	
DRUGSTORE (PHARMACY)		R		S	S		R	
FARM MACHINERY / IMPLEMENTS STORE		S						
FLORIST SHOP		R	S	S	S	S	R	
FURNITURE / APPLIANCE STORE		R					R	
FURNITURE SHOP (SMALL)			S		S	S		
GENERAL RETAIL STORE (MAX. SIZE 3,500 SF)				S	S	S		
GIFT SHOP		R	S	S	S	S	R	
HARDWARE / GLASS / PAINT STORE		R		S	S		R	
LOCKSMITH SHOP		R		S	S	S	R	
MULTI-TENANT PLAZA				S	S			
NEWSSTAND		R	S	S	S	S	R	
PLUMBING / HEATING SHOP		R					R	
RETAIL STORE - LIMITED								
SHOPPING CENTER / MALL	605	S					S	
SPECIALTY STORE - HOME IMPROVEMENT				S	S	S		
SPORTING GOODS STORE (MAX. SIZE 3,500 SF)			S	S	S	S		
R = By Right - Permit Required - No Hearing S = Special Use - Permit & Hearing Required						TOWN of NORTH HARMONY LAND USE TABLE		
N = No Permit - Abide by Laws / Rules BLANK = Use Not Allowed								

USE TYPE	Refer to SECT #	R-1	R-2	R-3	R-4	R-5	AR	A	C (Conserv)
COMMERCIAL USES (continued)									
Vehicle Sales, Service, and Repair / Gas Stations									
AUTO BODY REPAIR SHOP / TOWING SERVICE	610								
CAR WASH									
GASOLINE STATION	611								
TRUCK TERMINAL									
VEHICLE REPAIR SHOP / TOWING SERVICE	610								
VEHICLE SALES / USED VEHICLE LOT									
VEHICLE SERVICE STATION									
Wholesale Business									
DURABLE GOODS WAREHOUSE									
FUEL / MATERIAL STORAGE - WHOLESALE	634								
NONDURABLE GOODS WAREHOUSE									
WHOLESALE BUSINESS / WAREHOUSE (NOT LIMITED)									
WHOLESALE BUSINESS / WAREHOUSE - LIMITED									
PUBLIC & CIVIC USES									
AIRPORT / AIRSTRIP / HELIPORT	635							S	
CEMETERY / CREMATORY								S	
CHURCH / RECTORY		S	S		S	S	R	R	
FIRE HALL / FIRE STATION									
FRATERNAL MEETING FACILITY / CLUB								R	
LARGE GROUP GATHERING	627					S	S	S	
LIBRARY									
LIBRARY / MUSEUM / GALLERY (PUBLIC)		S	S		S	S	S	S	
MUNICIPAL OFFICE									
MUSEUM									
PUBLIC PARK – ACTIVE / PASSIVE			R	R	R	R	R	R	S
PUBLIC RESTROOMS									
SCHOOL / COLLEGE - PUBLIC / PRIVATE			S				S	S	
TELECOMMUNICATIONS TOWER									
UTILITIES - PUBLIC (E.G. WATER, SEWER)		N	N	N	N	N	N	N	
UTILITIES - QUASI-PUBLIC (E.G. TELEPHONE)		S	S	S	S	S	R	R	
WATER TOWER									
R = By Right - Permit Required - No Hearing		S = Special Use - Permit & Hearing Required				TOWN of NORTH HARMONY LAND USE TABLE			
N = No Permit - Abide by Laws / Rules		BLANK = Use Not Allowed							

USE TYPE	Refer to SECT #	C-1	TC-1	TC-2	TC-3	TC-4	I-1	I-2 (Floating)	
COMMERCIAL USES (continued)									
Vehicle Sales, Service, and Repair / Gas Stations									
AUTO BODY REPAIR SHOP / TOWING SERVICE	610	S					S		
CAR WASH		R					R		
GASOLINE STATION	611	S					S		
TRUCK TERMINAL							S		
VEHICLE REPAIR SHOP / TOWING SERVICE	610	S					S		
VEHICLE SALES / USED VEHICLE LOT		S							
VEHICLE SERVICE STATION									
Wholesale Business									
DURABLE GOODS WAREHOUSE									
FUEL / MATERIAL STORAGE - WHOLESALE	634	S					S		
NONDURABLE GOODS WAREHOUSE									
WHOLESALE BUSINESS / WAREHOUSE (NOT LIMITED)		S					S		
WHOLESALE BUSINESS / WAREHOUSE - LIMITED		R					R		
PUBLIC & CIVIC USES									
AIRPORT / AIRSTRIP / HELIPORT	635	S					S	S	
CEMETERY / CREMATORY		S							
CHURCH / RECTORY		R					R		
FIRE HALL / FIRE STATION				S					
FRATERNAL MEETING FACILITY / CLUB		S		S	S	S			
LARGE GROUP GATHERING	627	S					S	S	
LIBRARY				S	S	S			
LIBRARY / MUSEUM / GALLERY (PUBLIC)		R					R	S	
MUNICIPAL OFFICE		R					R		
MUSEUM			S		S	S			
PUBLIC PARK – ACTIVE / PASSIVE		R		S	S	S	R	R	
PUBLIC RESTROOMS			R	R	R	R			
SCHOOL / COLLEGE - PUBLIC / PRIVATE		R					R		
TELECOMMUNICATIONS TOWER									
UTILITIES - PUBLIC (E.G. WATER, SEWER)		N	N			N	N	N	
UTILITIES - QUASI-PUBLIC (E.G. TELEPHONE)		R					R	R	
WATER TOWER				S	S				
R = By Right - Permit Required - No Hearing		S = Special Use - Permit & Hearing Required					TOWN of NORTH HARMONY LAND USE TABLE		
N = No Permit - Abide by Laws / Rules		BLANK = Use Not Allowed							

USE TYPE	Refer to SECT #	R-1	R-2	R-3	R-4	R-5	AR	A	C (Conserv)
INDUSTRIAL USES									
ELECTRONIC & SMALL PARTS MFG.									
GAS / OIL WELL			N	N	N	N	N	N	
GAS COMPRESSOR	623						S	S	
GENERAL INDUSTRY - HEAVY									
GENERAL INDUSTRY - LIMITED									
GRAVEL AND SAND OPERATION	622							S	
LABORATORY & RESEARCH - COMMERCIAL									
MACHINERY SHOP									
TV / RADIO TOWER - COMMERCIAL	619		S	S	S		S	S	
VEHICLE DISMANTLING YARD / JUNK / SCRAP YARD	625								
WIND ENERGY FACILITIES - COMMERCIAL	690								
OTHER USES									
BOATHOUSE - PRIVATE									
DEMOLITION		R	R	R	R	R	R	R	
FENCES / WALLS	618	RSN	RSN	RSN	RSN	RSN	RSN	RSN	
GASOLINE / VOLATILE FUEL TANK	634	R	R	N	N	R	RN	N	
HEATING FUEL TANK (E.G. OIL, PROPANE)	634			RN					
HEAVY VEHICLE PARKING	626		N	N	N	N	N	N	
ONE STORAGE STRUCTURE (UNDER 150 SQ. FT.)		N	N		N	N	N	N	
OPEN PORCH / DECK	508	R	R	R	R	R	R	R	
OUTDOOR STORAGE - RECREATIONAL VEHICLE	614	N	N	N	N	N	N	N	
PARKING, PRIVATE	615	RN	RN	RN	RN	RN	RN	RN	
PORTABLE TOILETS									
SIGNS	617	RSN	RSN	RSN	RSN	RSN	RSN	RSN	R
STORAGE STRUCTURE (150 SQ. FT. OR LESS)									
STORAGE STRUCTURE (OVER 140 SQ. FT.)									
SWIMMING POOL - PRIVATE	612	S	S	R	R	R	R	R	
TENNIS COURT - PRIVATE		S	S	S	S	S	S	S	
TOWER - NONCOMMERCIAL (OVER 60 FT.)									
TV DISH ANTENNA (4 FT. DIAMETER AND UNDER)									
TV DISH ANTENNA (OVER 4 FT. DIAMETER)									
UNLICENSED VEHICLE / JUNK VEHICLE ON PRIVATE PROPERTY	624						N	N	
R = By Right - Permit Required - No Hearing N = No Permit - Abide by Laws / Rules						S = Special Use - Permit & Hearing Required BLANK = Use Not Allowed		TOWN of NORTH HARMONY LAND USE TABLE	

USE TYPE	Refer to SECT #	C-1	TC-1	TC-2	TC-3	TC-4	I-1	I-2 (Floating)		
INDUSTRIAL USES										
ELECTRONIC & SMALL PARTS MFG.							S	R		
GAS / OIL WELL		N					N	N		
GAS COMPRESSOR	623						S	S		
GENERAL INDUSTRY - HEAVY								S		
GENERAL INDUSTRY - LIMITED		S					S	R		
GRAVEL AND SAND OPERATION	622						S	S		
LABORATORY & RESEARCH - COMMERCIAL							S	R		
MACHINERY SHOP								R		
TV / RADIO TOWER - COMMERCIAL	619	S					S	S		
VEHICLE DISMANTLING YARD / JUNK / SCRAP YARD	625						S	S		
WIND ENERGY FACILITIES - COMMERCIAL	690									
OTHER USES										
BOATHOUSE - PRIVATE										
DEMOLITION		R					R	R		
FENCES / WALLS	618	RSN	RS	RS	RS	RS	RSN	RSN		
GASOLINE / VOLATILE FUEL TANK	634	N					N	N		
HEATING FUEL TANK (E.G. OIL, PROPANE)	634	N						N		
HEAVY VEHICLE PARKING	626	N					N	N		
ONE STORAGE STRUCTURE (UNDER 150 SQ. FT.)										
OPEN PORCH / DECK	508	R	R	R	R	R	R	R		
OUTDOOR STORAGE - RECREATIONAL VEHICLE	614	N					N	N		
PARKING, PRIVATE	615	RN	N	N	N	N	RN	RN		
PORTABLE TOILETS										
SIGNS	617	RSN	S	S	S	S	RSN	RSN		
STORAGE STRUCTURE (150 SQ. FT. OR LESS)			R	R	R	R				
STORAGE STRUCTURE (OVER 140 SQ. FT.)		RN					RN	N		
SWIMMING POOL – PRIVATE	612	R		S	S		R	R		
TENNIS COURT - PRIVATE		S		S	S		S	S		
TOWER - NONCOMMERCIAL (OVER 60 FT.)										
TV DISH ANTENNA (4 FT. DIAMETER AND UNDER)		N					N	N		
TV DISH ANTENNA (OVER 4 FT. DIAMETER)										
UNLICENSED VEHICLE / JUNK VEHICLE ON PRIVATE PROPERTY	624	N					N	N		
R = By Right - Permit Required - No Hearing S = Special Use - Permit & Hearing Required							TOWN of NORTH HARMONY LAND USE TABLE			
N = No Permit - Abide by Laws / Rules BLANK = Use Not Allowed										

SECTION 403 - AREA STANDARDS

TOWN OF NORTH HARMONY - ZONING DISTRICTS AREA STANDARDS SUMMARY TABLE

District / Type of Use	Minimum Lot Size (sq. feet)	Max. Lot Cover	Minimum Lot Width (feet)	SETBACKS			STRUCTURE			
				Front yard (feet)	Side Yards (feet)	Rear Yard (feet)	Min. 1st Floor Space (sq. ft.)	Max. Bldg. Height* (feet)	Max. Bldg. Height* (stories)	
R1	SINGLE-FAMILY RESIDENTIAL									
	SINGLE-FAMILY (PRIMARY USE)	40,000	25%	100	50	20	50	1,200 (1-STORY) 1,000 (1ST FLOOR, 2-STORY)	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	25%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
R2	DUPLEX MULTIPLE-FAMILY RES.									
	SINGLE-FAMILY (PRIMARY USE)	40,000	25%	135	50	20	50	1,200 (1-STORY) 1,000 (1ST FLOOR, 2-STORY)	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	30%	100 + 10/unit	50	20 + 2/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	25%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
R3	MULTI-FAMILY RESIDENTIAL									
	SINGLE-FAMILY (PRIMARY USE)	40,000	25%	125	50	20	50	1,200 (1-STORY) 1,000 (1ST FLOOR, 2-STORY)	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	30%	100 + 10/unit	50	20 + 2/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	25%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----

* NOTE: MAXIMUM BUILDING HEIGHT IN FEET REPRESENTS THE DISTANCE FROM THE AVERAGE GROUND GRADE TO THE BUILDING PEAK.

**TOWN OF NORTH HARMONY - ZONING DISTRICTS AREA STANDARDS
SUMMARY TABLE (continued)**

District / Type of Use		Minimum Lot Size (sq. feet)	Max. Lot Cover	Minimum Lot Width (feet)	SETBACKS			STRUCTURE		
					Front yard (feet)	Side Yards (feet)	Rear Yard (feet)	Min. 1st Floor Space (sq. ft.)	Max. Bldg. Height* (feet)	Max. Bldg. Height* (stories)
R4	MULTI-SEASONAL RESIDENTIAL									
	SINGLE-FAMILY (PRIMARY USE)	40,000	25%	125	50	20	50	1,200 (1-STORY) 1,000 (1ST FLOOR, 2-STORY)	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	30%	100 + 10/unit	50	20 + 2/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	25%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
R5	HOTEL - MULTIPLE FAMILY									
	SINGLE-FAMILY (PRIMARY USE)	40,000	25%	125	50	20	50	1,200 (1-STORY) 1,000 (1ST FLOOR, 2-STORY)	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	30%	100 + 10/unit	50	20 + 2/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	25%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	5	5	-----	18	-----
AR	AGRICULTURAL RESIDENTIAL									
	SINGLE-FAMILY (PRIMARY USE)	43,560 (1 acre)	20%	150	50	25	50	600	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	10	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	50,000 + 10,000/unit	25%	150 + 15/unit	50	25 + 3/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	20%	-----	50	50	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	50	50	-----	18	-----

* NOTE: MAXIMUM BUILDING HEIGHT IN FEET REPRESENTS THE DISTANCE FROM THE AVERAGE GROUND GRADE TO THE BUILDING PEAK.

TOWN OF NORTH HARMONY - ZONING DISTRICTS AREA STANDARDS SUMMARY TABLE (continued)

District / Type of Use		Minimum Lot Size (sq. feet)	Max. Lot Cover	Minimum Lot Width (feet)	SETBACKS			STRUCTURE		
					Front yard (feet)	Side Yards (feet)	Rear Yard (feet)	Min. 1st Floor Space (sq. ft.)	Max. Bldg. Height* (feet)	Max. Bldg. Height* (stories)
A	AGRICULTURAL									
	SINGLE-FAMILY (PRIMARY USE)	87,120 (2 acres)	20%	150	50	25	50	600	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	10	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	87,120 + 15,000/unit	25%	200 + 15/unit	50	25 + 3/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	20%	-----	50	50	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	50	50	-----	18	-----
C	CONSERVATION									
	PRIMARY USE	130,680 (3 acres)	10%	250	100	50	50	-----	-----	-----
	ACCESSORY USE	-----	10%	-----	100	50	50	-----	-----	-----
C1	COMMERCIAL									
	SINGLE-FAMILY (PRIMARY USE)	43,560 (1 acre)	20%	150	50	25	50	600	32	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	10	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	50,000 + 10,000/unit	25%	150 + 15/unit	50	25 + 3/unit	50	600	32	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	35%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	10	50	-----	18	-----
TC-1	TOURIST COMMERCIAL									
	SINGLE-FAMILY (PRIMARY USE)	40,000	40%	55	25*	10	20	600	20	1 to 1½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	NA	5	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	MULTI-FAMILY (ACCESSORY)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	COMMERCIAL (PRIMARY USE)	40,000	80%	55	N/A* 15** 25 max	10	20	3,500 (max.)	20	1½
	COMMERCIAL (ACCESSORY)	-----	-----	-----	NA	5	10	-----	18	-----

* NOTE: MAXIMUM BUILDING HEIGHT IN FEET REPRESENTS THE DISTANCE FROM THE AVERAGE GROUND GRADE TO THE BUILDING PEAK.

LEGEND SYMBOLS: NA = NOT ALLOWED; N/A = NOT APPLICABLE; * = FROM STREET EDGE - CORRIDOR; ** = FROM STREET EDGE - SECONDARY

TOWN OF NORTH HARMONY - ZONING DISTRICTS AREA STANDARDS SUMMARY TABLE (continued)

District / Type of Use		Minimum Lot Size (sq. feet)	Max. Lot Cover	Minimum Lot Width (feet)	SETBACKS			STRUCTURE		
					Front yard (feet)	Side Yards (feet)	Rear Yard (feet)	Min. 1st Floor Space (sq. ft.)	Max. Bldg. Height* (feet)	Max. Bldg. Height* (stories)
TC-2	TOURIST COMMERCIAL									
	SINGLE-FAMILY (PRIMARY USE)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	SINGLE-FAMILY (ACCESSORY)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	60%	100 + 10/unit	50*	20 + 2/unit	50+5	600	35	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	NA	4 + 1/unit	10+1	-----	18	-----
	COMMERCIAL (PRIMARY USE)	40,000	60%	125	100* 50** N/A* max	20	30	7,500 (max.)	35	2½
	COMMERCIAL (ACCESSORY)	-----	-----	-----	NA	10	15	-----	18	-----
TC-3	TOURIST COMMERCIAL									
	SINGLE-FAMILY (PRIMARY USE)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	SINGLE-FAMILY (ACCESSORY)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	MULTI-FAMILY (PRIMARY USE)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	MULTI-FAMILY (ACCESSORY)	NA	NA	NA	NA	NA	NA	NA	NA	NA
	COMMERCIAL (PRIMARY USE)	80,000	60%	125	100* 50** N/A* max	30	30	N / A	60	4
	COMMERCIAL (ACCESSORY)	-----	-----	-----	NA	15	15	-----	18	-----
TC-4	TOURIST COMMERCIAL									
	SINGLE-FAMILY (PRIMARY USE)	40,000	40%	55	25*	10	20	600	20	1 to 1½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	NA	5	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	40,000 + 5,000/unit	60%	100 + 10/unit	50*	20 + 2/unit	50+5	600	35	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	NA	4 + 1/unit	10+1	-----	18	-----
	COMMERCIAL (PRIMARY USE)	40,000	60%	55	N/A* 25** N/A* max	10	20	4,500 (max.)	35	2½
	COMMERCIAL (ACCESSORY)	-----	-----	-----	NA	5	10	-----	18	-----

* NOTE: MAXIMUM BUILDING HEIGHT IN FEET REPRESENTS THE DISTANCE FROM THE AVERAGE GROUND GRADE TO THE BUILDING PEAK.

LEGEND SYMBOLS: NA = NOT ALLOWED; N / A = NOT APPLICABLE; * = FROM STREET EDGE - CORRIDOR; ** = FROM STREET EDGE - SECONDARY

**TOWN OF NORTH HARMONY - ZONING DISTRICTS AREA STANDARDS
SUMMARY TABLE (continued)**

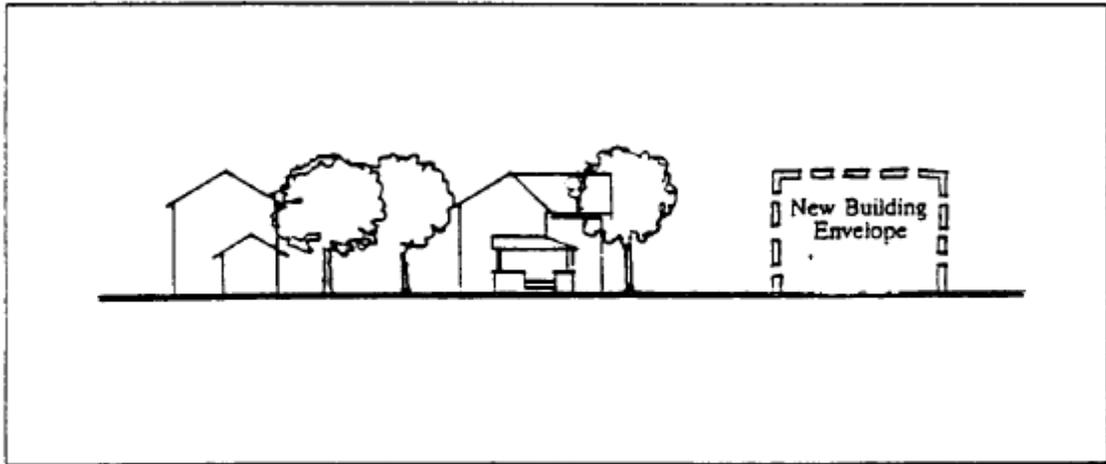
District / Type of Use		Minimum Lot Size (sq. feet)	Max. Lot Cover	Minimum Lot Width (feet)	SETBACKS			STRUCTURE		
					Front yard (feet)	Side Yards (feet)	Rear Yard (feet)	Min. 1st Floor Space (sq. ft.)	Max. Bldg. Height* (feet)	Max. Bldg. Height* (stories)
I-1	INDUSTRIAL									
	SINGLE-FAMILY (PRIMARY USE)	43,560 (1 acre)	20%	150	50	25	50	600	-----	2½
	SINGLE-FAMILY (ACCESSORY)	-----	-----	-----	50	10	10	-----	18	-----
	MULTI-FAMILY (PRIMARY USE)	50,000 + 10,000/unit	25%	150 + 15/unit	50	25 + 3/unit	50	600	-----	2½
	MULTI-FAMILY (ACCESSORY)	-----	-----	-----	50	4 + 1/unit	10	-----	18	-----
	NON-RESIDENTIAL (PRIMARY USE)	-----	35%	-----	50	20	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	10	50	-----	18	-----
I-2	INDUSTRIAL (FLOATING)									
	NON-RESIDENTIAL (PRIMARY USE)	-----	30%	-----	50	25	50	-----	-----	2½
	NON-RESIDENTIAL (ACCESSORY)	-----	-----	-----	50	25	50	-----	-----	2½

* NOTE: MAXIMUM BUILDING HEIGHT IN FEET REPRESENTS THE DISTANCE FROM THE AVERAGE GROUND GRADE TO THE BUILDING PEAK.

Section 404 - Tourist / Commercial Development Standards

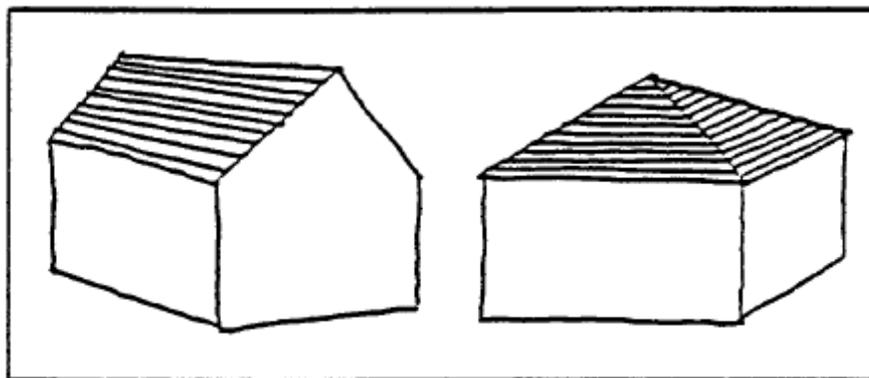
1.) BUILDING SITE & DESIGN

- a. New Buildings may be either traditional in their architectural character or be a contemporary expression of traditional styles and forms, respecting the scale, proportion, character and materials of buildings within the general area.
- b. Site design should enhance the rhythm, fabric, and form of the streetscape and landscape for pedestrians and motorist alike.



New development in residential areas should reflect the character of surrounding architecture in scale, relation to street, roof pitch, etc.

- c. Buildings shall be topped with pitched roofs with overhanging eaves within the TC-1, 2, and 4 Subdistricts. Buildings within the TC-3 Subdistrict may have a flat roof.



Gable Roof

Hip Roof

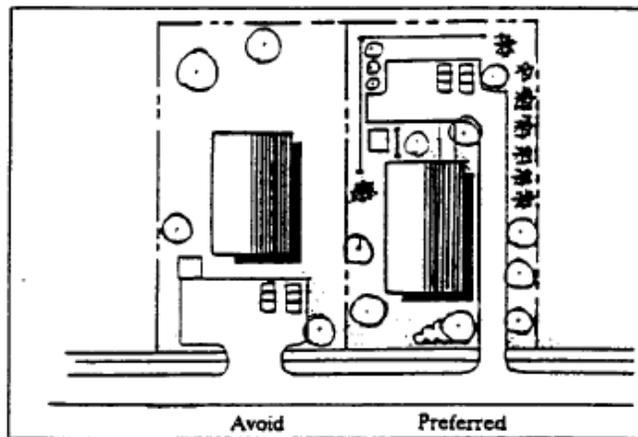
- d. Exterior wall materials may include stucco, wood clapboard (including vinyl and aluminum imitation clapboard siding), split-face aggregate block or brick. Specifically prohibited shall be brick that is white, tan, spray-painted, T-111 plywood and unfinished concrete block. Additionally, metal buildings shall be prohibited with an exception made within the TC-3 & 4 Subdistricts for storage facilities. If a metal storage structure is constructed, the design shall be such that it complements the character of the structures nearby.
- e. Building in the TC-1, 2 & 4 shall attempt to maintain a primarily residential character in design, siting and landscape design.
- f. All off-street parking shall be located behind or alongside buildings and shall be buffered along public streets or ways with shrubs and/or trees.

2.) PARKING

- a. Parcel owners, within the TC-1 Subdistrict, must work with community to incorporate adequate on-street perpendicular parking capacity into site design. In cases where inadequate right-of-way exists, such as along Stow Road, parallel or off-street parking shall be utilized.
- b. Site design shall provide for pedestrian sidewalk between on-street parking and primary use that runs parallel to existing roadway.
- c. Site design shall also provide a pedestrian aisle between the pedestrian sidewalk and the front of the main structure.
- d. In the TC-2, 3 & 4 Subdistricts, no off-street parking shall be permitted in the front yards of buildings, nor shall off-street parking be permitted on corner lots except when screened behind buildings on those lots.

3.) PARKING LOT DESIGN

- a. Parking lots shall be buffered from the road and screened from adjoining residential uses. A mix of deciduous and coniferous plantings shall be used, to provide an appropriate mix of summer shade and year round buffering and/or screening.



Site design should minimize visual impact of storage, parking, and service and assure safe vehicular access to and from the site.

-
- b. Any off-street parking space or parking lot that abuts a street right of way shall be buffered by a landscaped area no less than eight feet wide in which is located a continuous row of shrubs no less than 3.5 feet high in addition to required shade trees.
 - c. Where vehicular access to a parking area must occur from the front of the lot the following shall apply:
 - i. Driveways serving such parking areas containing 4 or fewer parking spaces shall be a minimum of 12 feet in width while those serving 5 or more parking spaces shall be a minimum of 18 feet in width.
 - ii. The location of any entrance or exit of a driveway, access lane or parking area where it enters the public right-of-way shall be subject to approval by the Town Superintendent of Highways.
 - iii. All access points or aprons shall be paved for vehicular and pedestrian safety, drainage and ease of access.
 - d. Exterior pedestrian access aisles shall be provided from parking areas to the front of the main structure. Such aisles shall be a minimum of 4 feet in width.
 - e. Lighting of parking areas shall be directed downward and well-shielded, and glare shall not be cast onto neighboring properties. Parking lots should be illuminated using high cutoff luminaries that keep off-site overspill and night sky lighting to a minimum.

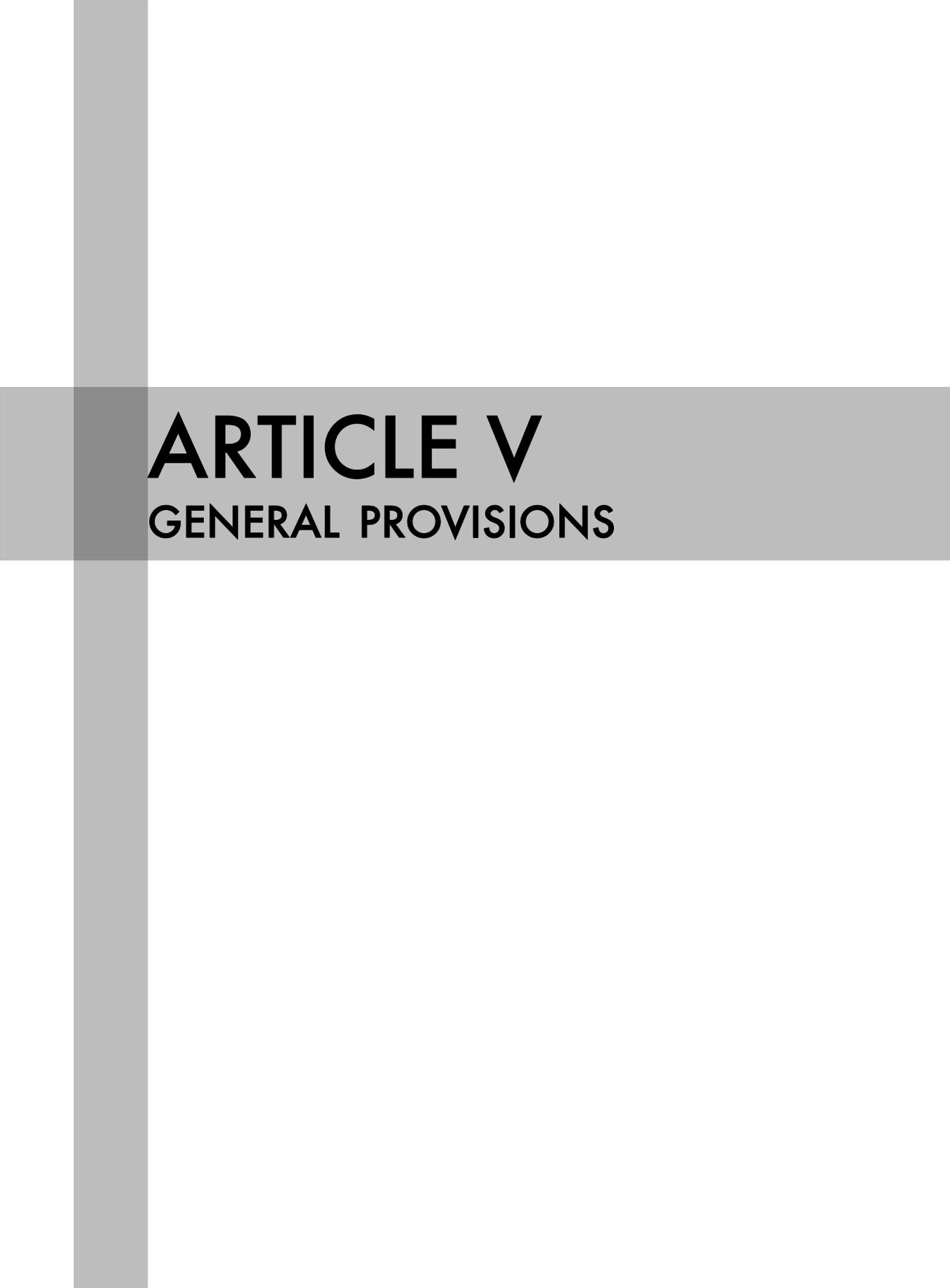
Pedestrian areas should be lit with lower fixtures to emphasis the walking surface. Overall site design for lighting should respect the character of the area in scale and size.

4.) SIGNAGE – Refer to [Section 617](#)

5.) LANDSCAPING:

- a. Shade trees shall be planted in front yard areas, as part of the condition for approval, at intervals no greater than 40 feet. Each lot shall have a minimum of one shade tree in this area. In locations where healthy and mature shade trees currently exist, the requirements for new trees may be waived.
- b. Shade trees shall be planted in rear yard areas, as well as the front yard areas, for any lots on New York State Route 394 that front on an arterial road in order to soften the commercial appearance of the Stow Interchange area.
- c. Tree species shall be selected according to the following criteria:
 - i. trees shall be at least 2 inches to 2.5 inches in diameter, measured at chest height, when planted;
 - ii. cast moderate to dense shade in summer;
 - iii. survive more than 60 years;
 - iv. mature height of at least 50 feet;
 - v. tolerant of pollution and direct or reflected heat;
 - vi. require little maintenance by being mechanically strong (not brittle) and insect and disease resistant;
 - vii. be able to survive two years with no irrigation after establishment; and be of native origin, provided they meet the above criteria.

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ARTICLE V

GENERAL PROVISIONS

ARTICLE V GENERAL PROVISIONS

Section 501 - Access to Public Streets

Except as otherwise provided for in this Local Law, every building shall be constructed or erected upon a lot, or parcel of land which abuts upon a public street unless a permanent public easement of access to a public street was of record prior to the adoption of this Law. However, this shall not preclude the creation of a private road on a 50 foot right-of-way which connects to a public road and serves 5 or more subdivided lots. Upon request from a developer, landowner(s), or other involved parties., the Municipal Board shall consider the takeover of a private road, but only after assurances are received by all involved parties that the roadway will be constructed to standards specified by the Municipality. The municipality is in no way obligated to take over any road even if it meets specified road construction standards. Where less than 5 lots are involved, a legal right-of-way shall be required to connect all lots to a public road when said lots do not abut a public road.

Section 502 - Contiguous Parcels

When two 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 in one ownership, they shall be used as one lot for such use.

Section 503 - Corner Lots

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

Section 504 - Height

- A. The height limitation** of this Law shall not apply to church spires, belfries, cupolas, silos, penthouses (equipment building on a flat roof), and domes, not used for human occupancy; and shall also not apply to chimneys, ventilators, skylights, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. However, such features 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.
- B. The provisions** of this Law shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than 5 feet.

Section 505 - Existing Substandard Sized Lots

The minimum area requirements specified for each type of allowed use shall not prevent the construction of an allowable use on a substandard sized lot less than 2 acres in size which existed and was officially recorded at the time of enactment of this Zoning Law if the following conditions are met:

- A.** At the time of enactment of this Law, the substandard lot was not contiguous with another lot in the same ownership (see [Section 502 – Contiguous Parcels](#)).
- B.** The substandard lot is not less than 75% of all of the applicable standards, and
- C.** The County Health Department approves the lot where there are municipal utilities.
- D.** If subsection “B” above cannot be met but subsection “C” above has been accomplished, then the applicant can request an Area Variance from the Zoning Board of Appeals (Refer to [Variance Section 904](#)).

Section 506 - Visibility at Intersections

For the purpose of maintaining sight lines and promoting traffic safety on a corner lot in any district, no fence, wall, hedge, other structure or planting of more than 3 feet in height shall be erected or placed within the triangular areas formed by the intersecting street edge lines and the imaginary straight line down between the points 25 feet from the intersecting street edge lines along the street edge lines.

Section 507 - Interpretation of Permitted Uses

When a use is not specifically listed as a “*Use By Right*” or a *Use By Special Use Permit*” within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Board of Appeals that said use is similar to permitted uses, meets the intent specified in the zoning districts, and is not inherently a nuisance, menace, or danger to the health, safety or welfare of the residents of the municipality.

Section 508 - Preserving Yards, Courts & Open Space

- A. Preservation of Yards, Courts and Open Space** - Rear yards, courts and other open space shall be kept undeveloped in order to meet setback and coverage requirements of this Law except as specified in subsection “B” below.
- B. Permitted Obstructions** - The following shall not be considered to be obstructions when located in the preserved yards, courts, and open space:
 - 1. open terraces, patios, awnings, and canopies, chimneys, trellises, flag poles, open fire escapes, decks, balconies, and other similar uses which do not extend more than 40% of the required setback nor come closer to a lot boundary line by more than 40% of the required setback;
 - 2. bay windows, steps, chimneys, overhanging eaves and gutters and other similar uses shall not extend more than 3 feet from the principal structure nor come within 2 feet of any property line.
- C. Location** - All yards, courts and open space shall be located on the same undivided lot as the structure for which the setback and area requirements are required. Refer to General Provisions on “Contiguous Parcels ([Section 502](#))” and “Number of Residential Dwellings on a Lot ([Section 510](#))”.

Section 509 Established Front Yards

In an existing neighborhood where structures are not set back from the edge of the road as 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 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.

Section 510 - Number of Residential Dwellings on a Lot (Lot Division)

- A. Number of residential dwellings on a lot** - No more than one principal detached residential dwelling shall be constructed on a lot.
- B. Division of Lots** - No lot improved with a building or buildings shall hereafter be divided into two 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.

Section 511 - Driveways within Right-of-Ways

When property to be developed fronts on a highway and access to the highway is desired, an approved permit from the applicable agency for the development of such highway access shall be presented. The Highway/ Street Superintendent may require the installation of an appropriately sized sluice pipe where it is likely that drainage problems exist or may be created by the presence of a driveway on a public right-of-way.

Section 512 - Agriculture

- A. Agricultural Preservation** - In order to promote, preserve and protect agricultural businesses, any portion of this Law that would reduce operational capability of an agricultural business shall be waived in that one instance. However, where a documented health or safety problem exists or would be created if sections of this Law were not adhered to, then, these sections will be enforced, but even then only to the minimum necessary. Determination or interpretations shall be made by the Zoning Board of Appeals.
- B. Manure Piles** - Manure piles may not be located within 200 feet of any neighboring water well on adjacent or nearby lots.

Section 513 – Transition Between Districts

- A. Purpose** - The purpose of this section is to promote harmonious use of land located at district boundaries.
- B. Conditions** - Where the Permitting Board determined there is a need to protect a residential neighborhood located in a Residential District from a permitted use in an adjacent district, the Board may:
 - 1. require an artificial or natural buffer such as a hedge, fence, wall, etc. which shields the residential units from the business use;
 - 2. require a doubling of the yard setback requirements to protect the neighborhood;
 - 3. control the positioning of signs, lights, parking, mechanical equipment, and any other features so as to reduce the potential nuisance; or
 - 4. impose other appropriate requirements.
- C. Preexisting Uses** - This section shall only apply to new construction and also include additions and enlargements.

Section 514 - 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 proof such as a survey accomplished by a licensed surveyor.
 - 2. Refer the matter to the Zoning Board of Appeals for an interpretation of documentation provided by the applicant.
 - 3. Grant Zoning Permit after the applicant receives an Area Variance from the Zoning Board of Appeals.



ARTICLE VI

SUPPLEMENTAL REGULATIONS

**ARTICLE VI
SUPPLEMENTAL REGULATIONS**

Section 601 - General Development Conditions

- A. Purpose** - Development conditions shall be attached to permits or variances when necessary or advisable to reduce or eliminate conflicts between uses or to protect the health, safety, and general welfare.
- A. Areas of Concern** - The following checklist shall be considered by the appropriate boards and administrators in their reviews 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 new 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 a 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.
 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 revocation of the Variance/Special Use Permit and continuance of the use shall only be allowed after reapplication for the Variance/Special Use Permit.

Section 602 - Cluster Residential Development

- A. Purpose** - Cluster residential provisions for single-family subdivisions and attached multiple-family projects are intended to allow flexibility where desirable to permit and encourage superior development of relatively large undeveloped sites; development aims may include the preservation of views or natural features, provision of amenities for common use, including recreational facilities not feasible on individual lots, and innovative groups of dwellings which will provide desirable variety in the municipal housing stock. To carry out this purpose, standards for individual lot area and dimensions may be reduced from the standards of the district in which the cluster is located, if compensating permanent common area ancillary to the dwelling units is provided.
- B. Standard for Development of Single-family Clustered Subdivision**
1. A cluster single family residential development shall not be less than 5 acres of contiguous undeveloped area under single ownership.
 2. Uses permitted shall be limited to the residential uses permitted in the district in which the cluster development is located.
 3. An approved municipal or community sewage system and water system must be utilized.
 4. Maximum permitted reductions in individual lot standards - Any lot in a cluster development may be reduced from the standards of the district in which it is located by the following or lesser amounts:
 - a. Minimum lot area may be reduced by up to 55% of the required area.
 - b. Minimum lot width may be reduced by up to 50%.
 - c. Minimum yard requirements (front, side, and rear) may be reduced up to 50% where the lots are not adjacent to an existing public roadway.

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5. Compensating permanent common area ancillary to the dwelling units shall consist of all land and recreational areas held in common by the by the owners of the dwelling units in the development. This shall include but not be limited to private streets, parking areas, utility systems, parks, buffer areas, recreational areas to include tennis courts, pools, golf courses, storage areas, and wetlands. Permanent common areas shall be legally set aside and developed for the common use and enjoyment of all residents of the cluster development and appropriate convenient access shall be provided.
 6. Compensating permanent common area shall equal or exceed 25% of the total of individual lot area reductions.
 7. Applicable general provisions and supplemental regulations of this law shall apply to all cluster residential development.

C. Standards for Development of Clustered Multiple Attached Dwellings (Apartments, Condominiums, Townhouses) -

1. A cluster multiple-family residential development shall not be less than 5 acres of contiguous undeveloped area under single ownership.
2. Multiple dwellings (attached) shall be listed as an allowable use in the district in which the project is proposed.
3. An approved municipal or community sewage and water system must be utilized.
4. The per acre density may be increased up to 100% (doubled) over that specified in the area requirements for the district as long as the overall density of the project is maintained at or below the maximum allowed. This is accomplished by setting aside common areas as defined below.
5. Compensating permanent common area ancillary to the dwelling units shall consist of all land and recreational areas held in common by the owners of the dwelling units in the development. This shall include but not be limited to private streets, parking areas, utility systems, parks, buffer areas, recreational areas to include tennis courts, pools, golf courses, storage areas, and wetlands. Permanent common areas shall be legally set aside and developed for the common use and enjoyment of all residents of the cluster development and appropriate convenient access shall be provided.
6. Applicable “general provisions” and “supplemental” sections of this Law **shall apply to all cluster residential development.**

Section 603 - Mixed Residential/Commercial Uses in C1 District

Commercial structures (preexisting and new) located within a retail section of a Commercial District may, by Special Use Permit, be partially used for dwelling purposes when the following conditions are met:

- A. Location in Structure** - All such dwellings shall be located on the second or third floor.
- B. Location** - The location is appropriate for housing units with respect to health, safety and general welfare of the occupants.
- C. Parking** - Sufficient off-street parking is available, preferably on the parcel where the structure is located or in close proximity to the structure.
- D. Other Conditions** - Other reasonable conditions as deemed necessary by the appropriate Town of North Harmony Permitting Board.

Section 604 - Multiple Dwellings

- A. Purpose** - Attached multiple dwellings, in districts where allowed shall be subject to Special Use Permits and where 3 or more units are proposed, site plan review requirements ([Section 1004](#)) shall also apply. Each development proposal shall be evaluated on its own merits with reasonable conditions attached.
- B. Conditions** - The following shall be considered where appropriate for inclusion.
 1. Special Use Permit Conditions -
 - a. Safe Ingress and Egress
 - b. Roadway Ownership and design. Insure roadways and fire lanes are adequate for year-round fire equipment movement.

- c. Parking in accordance with the supplemental section and additionally, auxiliary parking.
 - d. Storage facilities such that adequate indoor storage is available. See supplemental sections.
 - e. Utilities to include sewer, water, telephone, electric, cable TV, etc. f. Common property ownership and the creation of an owner’s association.
 - g. Sign size, location, lighting, etc. See supplemental section on signs.
 - h. Recreational uses, active and passive.
 - i. Buffers, natural and man-made as necessary.
 - j. Clustering of development as specified in the area requirements.
 - k. Other reasonable and appropriate conditions as deemed necessary by the Permitting Board. See supplemental section on development conditions.
2. Site Plan Review Conditions - See site plan review section.
 3. Fire Regulations - Dry hydrants and residential sprinkler systems shall be required for attached multiple dwellings where no municipal water system (with fire-fighting capabilities) exists, a water supply other than wells is available (e.g., lake, pond, water tower), and the following criteria are exceeded.

	Fire Fighting Capability 1/	
	<u>Optimum</u>	<u>Minimal</u>
<u>Dry Hydrant Only</u> required if:		
-Number of units in project exceeds the specified number and 1 of the following criteria is exceeded:	20 units	15 units
-Maximum units per acre exceeds:	7 units	5 units
-Maximum units per building exceeds:	8 units	6 units
 <u>Sprinkler System 2/ & Dry Hydrant</u> required if:		
-Number of units in project exceeds the specified number and 1 of the following criteria are exceeded:	30 units	25 Units
Maximum units per acre exceeds:	9 Units	7 Units
-Maximum units per building exceeds:	15 Units 1	2 Units

Notes:

- 1/ Based on response time, availability of fire-fighting personnel year round fire lane access, topography, fire equipment potential, and year-round availability of sufficient water and ISO rating.
- 2/ Refers to residential sprinkler system as defined in NFPA Fire - Code 13D.

Section 605 - Shopping Center

- A. Purpose** - Commercial shopping centers or malls in districts where allowed shall be subject to Special Use Permits and site plan review requirements shall also apply. Each development proposal shall be evaluated on its own merits with reasonable conditions attached.
- B. Conditions** - The following shall be considered for inclusion, where appropriate -
 1. Special Use Permit Conditions -
 - a. Safe ingress and egress.
 - b. Alleys, fire lanes, and all other means of fire equipment movement shall be adequate for year-round movement.
 - c. Dry hydrants shall be required where year-round access to pond, stream, or other source of water for fighting fires is not available.
 - d. Sufficient parking in accordance with the supplemental section on parking ([Section 616](#)).
 - e. Loading and unloading spaces in accordance with the supplemental section on loading.
 - f. Signs shall be in conformance with the supplemental section on signs ([Section 617](#)).
 - g. Buffers, either natural or man-made, shall be required where a conflict of uses needs to be reduced to acceptable levels.
 - h. Trash should be handled in accordance with the supplemental section on trash.
 - i. Other reasonable and appropriate conditions as deemed necessary by the permitting board. See supplemental section on development conditions ([Section 601](#)).
 2. Site Plan Review Conditions - see site plan review section ([Section 1004](#)).

Section 606 - Home Occupation

A. Purpose - To preserve the residential character of neighborhoods, Home occupations shall be controlled to various degrees dependent upon the density development of a neighborhood and the planned use of the area as designated by the Zoning District.

B. Applicability -

District Name	Distance in Feet from Home Oc. to Adjacent Owners Parcel	Most Limited	Limited	Moderately Limited	Least Limited
R1 R5	0+	x			
R2, R3, R4	Less than 100	x			
	100+	x			
AR	Less than 50	x			
	50 - 149	x	x		
	150 +	x	x	x	x
A	Less than 40	x	x		
	40 - 99	x	x	x	
	100+	x	x	x	x
C1	Less than 40	x	x		
	40 - 99	x	x	x	
	100+	x	x	x	x
I1	Less than 40	x	x		
	40 - 99	x	x	x	
	100+	x	x	x	x
I2	Less than 40	x	x		
	40 - 99	x	x	x	
	100+	x	x	x	x

C. Category of Home Occupation

Condition	Most Limited	Limited	Moderately Limited	Least Limited
- Floor Area - Maximum (% of living space)	10%	15%	20%	25%
- Use of Accessory Bldg.				
Existing Bldg. only	No	No	Yes	Yes
New Bldg.	No	No	No	Yes
- Use of land outside of structure (% lot)	0%	0%	½ %	1%
- Use of Non-household Equipment	No	No	Yes	Yes
- On premise sale of Goods to Client	No	No	Yes	Yes
- On premise Service to Client	No	Yes	Yes	Yes
- Max. # Clients at one time	0	1	15	No Limit
- Number of Employees (non-family)	0	1	2	3
- Outside Display of Goods	No	No	Yes	Yes
- Signs Allowed	No	Yes	Yes	Yes
Location		On Dwelling	Any-where	Any-where
Size (Sq. Ft.)		5	15	25
Number		1	1	2
-Hours of Operation May be specified	Yes	Yes	Yes	Yes
-Parking required (sufficient for peak demand)	None	Yes	Yes	Yes
Minimum spaces required	0	1	2	3
- Effects on Character of Neighborhood (Nuisances, etc.)	None	Minimal	Minimal	Some
-Permit Required	None	By right	Special Use	Special Use

D. Preexisting Home Occupations - Home occupations legally existing at the time of enactment of this law shall not generally be required to comply with the above conditions. However, when there is clear evidence that a nuisance is present due to an increased level of activity or a substantial change in the nature of the home occupation, then the use shall be subject to Special Use Permit proceedings and any of the above conditions may be imposed on the use where reasonably possible. Compliance shall take place within the period specified by the Permitting Board but shall be no less than 6 months.

E. Antique Shops- Antique shops shall be allowed "By Right" in the **AR** and **A** Districts if they meet all conditions under the "**Moderately Limited**" category of Home Occupation in Part C above with the following exceptions: hours of operation - daylight hours; parking spaces - a minimum of 5 off-street parking spaces; outside display of goods - display of goods outside shall only be allowed by Special Use Permit. Use of non-household equipment such as dip tanks shall be prohibited. Additionally, the owner(s) of the Antique Shop shall meet the residency requirements of a Home Occupation.

Section 607 - Household Sales

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

- A. Frequency** - Sales shall be limited to 3 periods of 3 days each per year per property owner.
- B. Signs** - refer to supplemental Sign [Section 617](#).
- C. Fees** - No fees shall be charged for household sales and permits are not required.

Section 608 - Roadside Stand (Seasonal)

A. Definition - For the purpose of this Law, roadside stands shall consist of two types, general roadside stand and limited roadside stand.

- 1. **General Roadside Stand** - Produce sold but not necessarily grown on premises where stand is located
- 2. **Limited Roadside Stand** - All produce grown on premises (lots) where the stand is located and are sold only by the owner(s) of said premises. Also, the stand may only be located at the sales location during the produce sales season.

B. Regulations

- 1. **General Roadside Stand** - permitted by Special Use Permit in accordance with part B3 of this section. No permit shall be required nor shall a fee be charged.
- 2. Limited roadside stands shall comply with the following:
 - a. safe entry, exit, and parking;
 - b. sufficient off-street parking to meet peak demand;
 - c. hours of operation which are compatible with the neighborhood;
 - d. signs in accordance with Sign [Section 617](#).

C. Preexisting Roadside Stands - All stands utilized in the 24 month period prior to the effective date of this Law shall be exempt from all regulations found in this section. However, any expansion or alterations shall be subject to regulations of this section.

Section 609 - Drive-in Business

A. Definition - Drive-in establishments shall include those businesses designed to either wholly or partially provide services to customers while in their vehicles parked on the premises.

B. Regulations - Drive-in establishments shall be allowed in districts where they are listed and the following conditions shall be considered prior to granting the permit:

- 1. supplemental [Section 601](#) on General Conditions; and/or
 - 2. traffic safety;
 - a. Provisions for traffic to "back up" off of public streets shall be provided.
 - b. Safe entry and exit shall be provided with only one entry and exit point.
 - c. Proper parking, which allows convenience and safety, shall be provided.
 - d. Pedestrian safety shall be considered when constructing the facility and parking spaces.
-

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3. Location considerations will be analyzed to insure that the character of the neighborhood will not be significantly diminished.
 4. Hours of operation.
 5. The need for natural or artificial buffers, especially when situated near residential structures.

Section 610 - Vehicle Repair Shop/Auto Body Repair Shop

- A. Permit Requirements** - Vehicle repair shops and auto body shops shall be allowed by Special Use Permit in accordance with the supplemental section 601 on General Conditions.
- B. Conditions** - The following conditions shall be met -
1. Vehicle Storage - Any vehicle stored outside awaiting repair shall be enclosed within an appropriate fence which shall make it nearly impossible to view the vehicle from off the premises.
 2. Hours of Operation - The hours of operation shall be derived so as to limit the noise during the early morning and evening hours / typically the non-business hours.
- C. Preexisting Uses** -
1. Expansion and enlargements - All expansions or enlargements of repair shops in existence prior to enactment of this Law shall be subject to regulations of this section.
 2. Preexisting Uses - Where it is determined at a public hearing held by the Municipal Board that a nuisance exists with a preexisting use, then B1, Vehicle Storage Fencing; and B2, Hours of Operation; can be required to be enforced within a reasonable time period..

Section 611 - Gas Stations

- A. Introduction** - Gas stations, as defined in the Definitions Section 202, are regulated in this section to promote safe and properly located stations which are visually attractive.
- B. Entrance/Exit** - No gas station shall have a vehicular entrance closer than 200 feet to an entrance of a church, school, theater, hospital, public park, playground, or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street, and along the street frontage if both entrances are on the same side of the street or within the same square block.
- C. Location** - All gas stations shall be so arranged and all gasoline pumps shall be so placed as to require that all servicing takes place on the premises and outside the public road right-of-way; and that no gasoline pump shall be placed closer to any side property line than 50 feet.

Section 612 - Swimming Pools - Private

- A. Conditions** - A private swimming pool installed or maintained as an accessory to a residential use shall meet the following requirements:
1. Fence - Any such pool which is installed in-ground shall be completely enclosed by a security fence which complies with the NYS Uniform Code.
 2. Filtration System Noise - Pools which are equipped with an integral filtration system and filter pumps or other mechanical devices shall be so located and constructed as not to interfere with the peace, comfort, and repose of the occupants of any adjoining property.
 3. Maintenance - Both in-ground and above-ground pools, accessory buildings, fences, etc., shall be properly maintained.
 4. Drainage - Provisions for the drainage of such pools shall be in accordance with the NYS Uniform Code.
 5. Setback Requirements - Pool shall be installed in accordance with the area requirements of the appropriate zoning district.
- B. Preexisting Uses** - Pools in existence prior to the enactment of this Law shall, within 1 year, comply with the following conditions in the previous paragraph: A1, Fence; A3, Maintenance; and A4, Drainage.

Section 613 - Ponds

- A. Purpose** - In order to minimize traffic safety problems associated with ponds inappropriately located near a roadway and to reduce the probability of creating an attractive nuisance in densely populated areas, the following conditions shall apply.
- B. Conditions** -
1. Traffic safety -
 - a. Setback - All ponds constructed shall be set back a minimum of 50 feet from the right-of-way of any roadway.
 - b. Location - New ponds shall be located in such a manner so as to minimize the likelihood of accidental vehicular access (e.g., avoid locating at the end of a dead end road or T-shaped intersection).
 - c. Area Requirements - All area requirements (except front yard) for the district in which the pond is proposed shall be met when locating the pond.
 2. Water Safety - In areas where there is one or more neighboring housing units within 100 feet of the proposed site for the pond, one of the following shall be accomplished:
 - a. Fence - As a minimum, a 4 foot high security fence shall completely surround the pond, or
 - b. Slope - The pond shall be designed such that the slope from the shore, 10 feet towards the center of the pond, shall be a maximum of 25% (3 feet of drop per 12 feet of run).

Section 614 - Lakeshore Regulations

The following regulation shall apply to parcels located adjacent to Chautauqua Lake. In cases of conflict with other regulations, **the most stringent shall apply**.

- A. Setbacks** - No principal structure intended for inhabitation shall be permitted within **50 feet of the shoreline** based on high water levels of 1310.5 feet above mean sea level (MSL). Refer to general provisions section on established front yards (Section 509).
- B. Accessory Buildings** - Accessory Building not utilized for inhabitation shall be allowed "By Right" when set back 50 or more from the shoreline (based on high water level of 1310.5 feet above MSL). Accessory buildings less than 50 feet from the shoreline shall be allowed by Special Use Permit with consideration given to the following:
1. Visibility from adjacent parcels.
 2. Structure is sufficiently anchored to prevent movement due to wind, high water, etc.
 3. Structure does not extend beyond the natural high water shoreline.
 4. Other reasonable conditions deemed necessary by the permitting board.
- C. Break walls** - Any modifications of a shoreline shall be in accordance with NYS Department of Environmental Conservation Regulations.
- D. Fences** - Any fence established within **50 feet of the shoreline** (based on high water level of 1310.5 feet MSL) shall be by Special Use Permit only. Consideration shall be given to the supplemental Section 618 on fences; and the following:
1. visibility from adjacent parcels;
 2. height of fence,
 3. type of fence, and
 4. other reasonable conditions deemed necessary by the permitting board,
 5. preexisting fences over 4 feet in height shall be subject to a Special Use Permit review to determine if a nuisance exists. If so, the nuisance shall be corrected within a reasonable time period as determined by the Permitting Board.
- E. Docks** - All docks extending from an R1, R2, or R3 District shall be utilized only for noncommercial pleasure uses by the owner of the property or any person s who may have a permanent legal right-of-way over the property from which the dock extends.
- F. Uses allowed** - Any use created on a dock, pier, island, floating vessel or, in general, on Chautauqua Lake shall be listed as an allowed use in the district over which access is obtained to the proposed use. Adequate off-street parking shall be required.
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G. Outdoor storage on parcels adjacent to Chautauqua Lake

1. **Purpose** - Unique lakeshore properties where development density is very high should be preserved and upgraded to encourage a high grade of development for this limited resource.
2. **Items allowed to be stored outdoors** - Items traditionally stored or used outdoors such as recreational vehicles (boats, ATV's, motor homes, snowmobiles, etc.)
3. **Conditions** -
 - a. Only lakefront lots **less than 15,000** square feet shall be regulated with respect to outdoor storage of regulated items.
 - b. A maximum of 1% of the lot area shall be utilized for regulated outdoor storage items.
 - c. All small items or "excess" outdoor items (over 1% limit) shall be stored indoors in sheds, primary structures, garages, other allowed enclosures, or off premise.
 - d. Indoor Items - Where a nuisance exists due to a large number of indoor items being stored or kept outside, it shall be required that the items causing the nuisance be moved indoors. e. Location - Items allowed to be stored outdoors shall be:
 - (1) stored out-of-sight to the greatest degree possible;
 - (2) stored in accordance with area setbacks of the district;
 - (3) placed as far back from the lake as possible;
 - (4) placed out of the sight line of neighbors to the greatest degree possible; and
 - (5) stored in an orderly fashion.
4. **Administration** - The Enforcement Officer shall notify owners of lakefront properties of obvious violations of this section as he is made aware of them. The violator shall within a reasonable time period notify the Enforcement Officer of steps to be taken to come into compliance and shall specify a compliance schedule. If the violator does not voluntarily comply or respond within a reasonable time period, the Enforcement Officer shall in writing specify the conditions to be met and advise the violator of his rights to ask for a Variance or an informal meeting with the Zoning Board of Appeals to settle the matter. Aggrieved parties may also request a meeting with the Zoning Board of Appeals to ask for an interpretation on compliance with this section.

H. Parking - Where commercial parking lots are an allowed use, it shall be allowed only by Special Use Permit

I. TV Dish Antennas - In addition to complying with the supplemental regulations on TV dish antennas, any TV dish antenna proposed to be located on a parcel of land contiguous to Chautauqua Lake must not be located between the lake and the primary structure. This requirement shall apply to primary and contiguous secondary vacant lots.

Section 615 - Parking

A. Purpose - Off-street parking space(s) with a proper and safe access shall be provided within a structure or in the open to serve adequately the uses on each lot within the district. Any application for a building permit for a new or enlarged building structure or change in use shall include with it a plot plan drawn to scale and fully dimensioned, showing any parking in compliance with the regulations of this Law. However, in existing Commercial Districts, parking shall only be required to be provided for new development where it is reasonably possible. All parking spaces shall be allowed "By Right" which requires a zoning permit except that no permit is required for new single-family or duplex parking spaces.

B. Size Requirements - A required off-street parking space shall be an area of not less than 171 square feet, not less than 9 feet wide by 19 feet long, exclusive of access drives or aisles, ramps, columns, or office and work areas. Aisles between vehicular parking rows shall not be less than 12 feet in width when serving automobiles parked at a 45 degree angle in one direction and not less than 20 feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic.

C. Street 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.

D. Location - No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard and no parking spaces nor portion thereof established on a lot without a building shall be located closer to any street line than the front yard setback requirements of this Law in the same manner as a building or structure. The aforementioned required setbacks shall not be applicable to the

Commercial District, nor to residential driveways which may be used for parking. For nonresidential off street parking, the Municipal Board may, upon request by the applicant, allow certain parking spaces off the applicant's property, but within 500 feet of said property, to be included as part of the required spaces.

E. Material Composition - All open off-street parking space and access areas, except those accessory to single-family dwellings and duplexes shall be surfaced with some type of all-weather low dust materials such as stone, gravel, or macadam.

F. Number of Spaces - The following parking spaces shall be provided and satisfactorily maintained by the owner of the property, for each use which, after the date when this Law becomes effective, is erected, enlarged, or altered for use for any of the following reasons:

Uses	Minimum of 1 Space Per
One-Family Residence & Mobile Home	½ Dwelling Unit
Two-Family Residence	½ Dwelling Unit
Multi-Family Residence	½ Dwelling Unit
Church	5 Fixed Seats
Home for Aged	3 Residents
Elementary School	20 Students
High School & College	12 Students
Library	1,000 Sq. Ft.
Places of Assembly, inc., Convention Hall & Dance Hall	200 Sq. Ft
Club, Lodge (Without Sleeping Accommodations)	Each 5 capacity of hall
Places Providing Sleeping Accommodations Inc., Hotels, Motels, & Tourist Homes	Sleeping Unit
Mortuaries or Funeral Parlors	1/8 Viewing Rm., plus 1 for Every Employee
Offices, Banks	100 Sq. Ft. Floor Area
Food Market	200 Sq. Ft. Floor Area
Eating & Drinking Establishments	4 Seats or 1 for each 200 sq. ft of floor area, whichever is more
Bowling Alley	¼ per Alley
Other Commercial	300 Sq. Ft. Sales Area
Industrial	Employee (Max. Work Shift)
Other Uses not Listed Above	500 Sq. Ft. Floor Area

Section 616 - Loading & Unloading

A. **Need** - Off street loading and/or unloading spaces for non-farm commercial vehicles while loading and/or unloading shall be provided for new uses where it is deemed that such facilities are necessary to serve the use or uses on the lot. At least 1 off-street loading and/or unloading space shall be provided for all commercial establishments in excess of 7,500 square feet of floor area.

B. **Size** - Each loading and/or unloading space shall be at least 14 feet wide, 60 feet long and shall have at least a 15 foot vertical clearance; and it shall have a 60 foot maneuvering area. Refer to Variance [Section 904](#) where this requirement cannot be met.

C. **Use of Parking Spaces** - Generally parking space shall not be used for loading and/or unloading purposes except during hours when business operations are suspended or if pedestrian and vehicle traffic will not be obstructed. However, the Permitting Board may allow the use of parking spaces when it is determined that the effects will be minimal.

D. **Design** - Loading and/or unloading facilities shall be designed so that trucks need not back in or out, or park in any public right-of-way. No truck shall be allowed to stand in a traveled roadway or pedestrian walkway or in any way block the effective flow of persons or vehicles. The loading and/or unloading area shall have an all-weather surface to provide safe and convenient access during all seasons.

E. **Preexisting Uses** – Any loading and unloading use existing, as of the effective date of this Law, shall not be subject to this section.

Section 617 - Signs

A. Purpose - The intent of this section is to preserve and enhance the Commercial and Industrial Districts by encouraging signs in character and scale with individual buildings and with the municipality to avoid a chaotic, unsafe, or unattractive clutter of signs by prohibiting signs or advertising devices which are inappropriate in size or type, to municipal character; and to protect the character of the Residential Districts by strictly limiting signs within them.

B. Administration

1. **Permits Required** - Except as listed in paragraphs B2 and B3, a Zoning Permit shall be required before an outdoor sign is created, altered, relocated, or enlarged. A permit shall not be issued until all applicable sign regulations are met. All requests for permits must be accompanied by a plan drawn to scale showing the exact size, shape, location, and type of sign.
2. **Exempt signs** - The following signs shall be exempt from all regulations of this Section: public signs such as directional, street, traffic, and personal identification signs not more than 2 square feet in size.
3. **Signs Requiring No Permit** - The following signs shall be subject to all regulations of this section but shall be exempt from obtaining a permit as required above:
 - a. Temporary Signs to include contractor signs, political signs and fruit stand signs (see C3e below);
 - b. non-illuminated, indoor signs;
 - c. realty signs; and
 - d. household sale signs. (See C3d below.)

C. Specific Regulations by Sign Type - Specific regulations shall take precedence over the more general sign regulations.

1. Signs Attached to Buildings

- a. No sign shall project more than 12 inches from the building wall on which it is attached.
- b. No sign shall project higher than the roof line.
- c. No sign shall be permitted to be mounted on the roof of a building above the roof line.
- d. No sign shall extend higher than 18 feet in height as measured from the ground.
- e. No sign shall be located as to overhang above a walkway or a right-of-way.

2. Freestanding Signs - Freestanding Signs where allowed shall be in accordance with the following:

- a. Height - A maximum height of 18 feet from the ground to the top of the sign shall be allowed.
- b. Setback - Freestanding signs shall be set back a minimum of 25 feet from the road edge.

3. Temporary Sign Regulations - The following specific regulations shall apply to temporary signs:

- a. Contractor signs shall be allowed during periods from when the job commences and is completed. The sign must be removed if substantial progress on the job is not taking place. The maximum size shall be 10 square feet.
- b. Political signs up to 10 square feet in size shall be allowed **4 weeks before** and 1 week after the election and it shall be the responsibility of the candidate to comply with this regulation. Permission from the property owner must be received prior to sign placement.
- c. Sandwich Signs, in Business Districts, shall be allowed when located on premise, when located within three feet of the building, and when there is at least nine feet of clearance between the sign and the edge of the street curb. The Size of the sign shall not exceed 3' x 5' in size. However, sandwich signs shall not be allowed from November 1 through March 31.
- d. Household Sale signs shall be permitted in accordance with the following regulations:
 - (1) Maximum Size - no more than 4 feet high by 4 feet wide.
 - (2) Maximum Number - no more than 2 signs shall be used and permission must be received from property owners where off premise signs are located.
 - (3) Location - Signs shall not be placed on "Off premise" trees or utility poles.
 - (4) Illumination - Signs shall not be illuminated.
 - (5) Time - Household signs may be erected on the day the sale starts and must be removed on the last day of the sale.

- e. Seasonal On-premise Roadside Stand Signs shall be allowed in accordance with the following conditions:
 - (1) Maximum Size - No more than 4 feet high by 4 feet wide.
 - (2) Maximum number - No more than 2 signs shall be used per property with more signs requiring a permit.
 - (3) Location - Signs shall not be placed on off premise trees or utility poles.
 - (4) Illumination - Signs shall not be illuminated.
 - (5) Time - Roadside stand signs shall only be permitted during the season in which the agricultural product being sold is available.
 - (6) Permits - No permit shall be required for seasonal on premise roadside stand signs.
 - f. Real estate signs up to 10 square feet in size shall be allowed until 1 month after the sale is finalized.
 - g. Signs for quasi-public uses to include churches, schools, libraries, hospitals, and nursing homes shall be a maximum of 25 square feet in size, and shall require a Special Use Permit. If the sign is to be freestanding, it shall be setback 15 feet from the street edge.
4. **Billboards** shall only be allowed under the following conditions:
- a. **Off Premise Billboards**
 - (1) NO off premises billboards are permitted in any district
 - b. **On premise Billboards**
 - (1) Located in the C1 or I1 Districts as well as within 2,500 feet of the Southern Tier Expressway Interchange.
 - (2) A maximum of one (1) billboard allowed on premises.
 - (3) A maximum accumulative size of 300 square feet for any billboard located on premises. In the event that there are multiple businesses on premises, those businesses are allowed one billboard with a maximum accumulative sign size of 300 square feet.
 - (4) Maximum height of 25 feet (5 Acceptable)
 - (5) **Residential development signs** – any signs allowed for a subdivision or multiple family development shall be allowed by a special use permit. A maximum size of 40 square feet shall be permitted and said signs may be illuminated lightly.
5. **Interior Illuminated Window Signs** - Inside illuminated signs shall be a maximum of 2 square feet each and no more than 5% of the front window area can contain such signs. No permit is required. More than these maximum limits would require a Special Use Permit.
6. **Home Occupation Signs** - See Supplemental [Section on Home Occupations](#).
- D. **General Regulations for Business Signs** - The following general regulations shall only apply to signs for which regulations covered herein are not covered in other more specific subsections.

District	Maximum Number Signs	
	Primary	Secondary
R1, R2, R3, R4, R5	1	0
AR, A	2	2
C1	2	2
I1, I2	2	2

E. General Conditions

- 1. **Condition**
 - a. Every permitted sign must be constructed of durable materials and kept in good condition and repair.
 - b. Any sign which is allowed to become dilapidated may be removed by the municipality at the expense of the owner or leasee of the property on which it is located.
- 2. **Location**
 - a. Traffic

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- (1) No sign shall be so located that the sign might interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, signal or marking.
 - (2) No sign shall be stapled, pasted or otherwise attached to utility poles or trees within a road or street right-of-way.

b. Ingress, Egress

- (1) No sign shall be located which shall prevent free ingress or egress from any window, door, or fire escape.
- (2) No sign shall be so placed that it will obscure light and/or air movement from a building.

3. **Illumination**

- a. No off premise neon signs are permitted. Any existing off premise neon signs must be removed within 6 months from the date of this ordinance.
- b. Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal spillover cast on the street, sidewalk or adjacent properties.
- c. Signs which contain include or are illuminated by any flashing, intermittent or moving lights are prohibited.

4. **Moving Parts**

- a. No signs shall utilize moving parts.
- b. Pennants, banners, flags, bunting whirligigs, or other similar attention-getting devices shall not be permitted where its purpose is to advertise or bring attention to a commercial business operation. This provisions does not apply to the displaying of a national, state, or other flags not intended for advertising.

F. **Cessation**

1. If a use ceases for a period of 1 year, all detached signs must be removed.
2. Such signs may be removed by the municipality at the expense of the owner or lessee of the property on which the sign is located if the sign has not been removed after 30 days' notice. All state laws will be complied with in causing removal of any sign.

G. **NYS Regulations**

1. New York State Highway regulation related to outdoor advertising shall also apply where applicable.

H. **Preexisting Signs**

1. General Regulations Covered - Legally existing nonconforming signs shall be required to comply with the following general paragraphs: a. Part E I. b, Dilapidation; and b. Part F, Cessation;
2. Compliance - Sign owners notified of a violation shall respond within 30 days of receipt on how they intend to comply. Compliance shall take place within 3 months of notification.

Section 618 - Fences/Walls

A. Regulations - Fences and walls as defined in [Section 202 \(Definitions\)](#) shall be allowed by permit in any district and shall conform to the regulations which follow:

1. **Exempt Fencing** - Fencing used for agricultural purposes on farms (see definition) shall be exempt from all regulations except for maintenance requirements detailed below. Additionally, non-boundary fencing located more than 25 feet from any property line shall be exempt.
2. **Permits** - Fences shall be allowed up to 4 feet in height by right. Fences above 4 feet in height shall require a Special Use Permit and consideration will be given to visibility from adjacent properties, light and air movement, etc.
3. **Setback from Road** - Fences shall be set back a minimum of 10 feet from the edge of the road (street) and shall not be located within legal highway rights-of-way.
4. **Proximity to Neighboring Properties** - All fences, walls, and/or hedges shall be located no closer than 2 feet from adjacent property lines. This rule can be waived or agreed to in writing by adjacent property owners.
5. **Fire Hazard** - Any fence considered to be flammable shall be prohibited. Also, any fence in a potentially hazardous location shall be not allowed.
6. **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.
7. **Materials** - Only durable materials generally used and accepted by the industry shall be used for fences.

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- 8. **Maintenance** - All fences shall be maintained structurally and visually.
 - 9. **Lakeshore Fence** - See supplemental Section 614 on Lakeshore Regulations.

B. Preexisting Fences - Fences in existence at the time of enactment of this Law shall only be subject to the above regulations numbered 8 (Maintenance); and 1 (Exempt Fencing).

Section 619 - Regulation of Telecommunications Facilities

A. LEGISLATIVE INTENT AND PURPOSE

The Town of North Harmony recognizes the increased demand for wireless communication transmission facilities and the need for the services they provide. Often these facilities require the construction of a communication tower and/or similar facilities. The intent of this Section is to regulate the location, construction, maintenance, and modification of these facilities in accordance with sound land use planning by:

- (1) Minimizing adverse visual effects of towers and/or similar facilities through careful design, siting, and vegetative screening and/or buffering.
- (2) Avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures.
- (3) Maximizing use of any new and/or existing tower or existing building and/or structure to reduce the number of towers and/or similar facilities needed in the Town.
- (4) Providing for the general health, safety, and welfare of the Town by the regulation of these facilities as such regulation is permitted under applicable Federal and/or State law.
- (5) Accommodating and allowing wireless service providers to meet their service objectives in a manner consistent with these regulations and/or other applicable Federal or State law.

The purpose of this local law is to promote the health, safety, and general welfare of the residents of the Town, to provide standards for the safe provision of cell communications consistent with the applicable federal and state regulations, and to protect the natural features and esthetic character of the Town with special attention and protection of residential neighborhoods.

These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonable discriminate among providers of functional equivalent services consistent with current federal regulation.

The specific purposes of this law are:

- (A) **Need** - accommodating the need for telecommunication tower/antennas while regulating their location and the number in the community so as to have the least impact on neighborhood and community.
- (B) **Visual Impact** - minimizing adverse visual impact of these towers/antennas through proper design, siting, and screening.
- (C) **Esthetic Qualities** - Preserving and enhancing the positive esthetic qualities that have built a natural environment in the Town of North Harmony.

B. DEFINITIONS

- (1) **Accessory Structure** - A non-inhabitable accessory, facility or structure serving or being used in conjunction with a communications tower and/or similar facility or antenna, and located on the same lot as the communications tower or antenna. Examples of such structures include utility or transmission equipment, storage sheds, or cabinets.
- (2) **Antenna** - A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but are not limited to radio, television, cellular, paging, personal wireless communication services (PWCS), and microwave communications.
- (3) **Board or Zoning Board** shall mean the Zoning Board of Appeals of the Town of North Harmony.

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- (4) Co-Located Antennas - Telecommunications facilities which utilize existing towers, buildings, or other structures for placement of antennas and do not require construction of a new tower.
 - (5) Fall Down Zone - The radius around a tower within which all portions of the tower and antenna would fall in the event of a structural failure of the tower.
 - (6) “FAA” - means the Federal Aviation Administration.
 - (7) “FCC” - means the Federal Communication Commission.
 - (8) Telecommunication Facilities - towers and/or antennas and accessory structures used in connection with the provision of cellular telephone service, personal wireless communication services (PWCS), paging services, radio and/or television broadcast services, microwave transmission and/or similar broadcast services.
 - (9) Tower - A structure designed to support antennas. It includes, without limitation, freestanding towers, guyed towers, monopoles, and similar structures, which do, or do not, employ camouflage technology.

C. TELECOMMUNICATIONS FACILITY PERMIT REQUIRED

- (1) No telecommunication facility shall be sited, located, constructed, erected, or modified without the issuance of a Special Use Permit as prescribed by this Section.
- (2) The Zoning Board is hereby authorized, after public notice and a hearing, to review and approve, approve with modifications, or disapprove Special Use Permits pursuant to this law. The Zoning Board shall have the authority to impose such reasonable restrictions and conditions as are directly related to or incidental to the proposed antenna, tower, or accessory structures.
- (3) Notwithstanding any inconsistent provisions of the Zoning Code of the Town of North Harmony, towers and antennas shall be permitted and regulated only in accordance with the provisions of this Section.
- (4) The Zoning Board of Appeals shall request a recommendation by the Planning Board on any application for any telecommunications facilities.

D. GENERAL STANDARDS

- (1) No permit or renewal thereof or modification of the conditions of a current permit relating to a telecommunication facility shall be authorized by the Zoning Board unless it finds that such telecommunication facility or proposed modification thereto:
 - (a) Is necessary to meet current or expected demands for the services supported by the telecommunications facility;
 - (b) Conforms with all applicable regulations promulgated by the Federal Communications Commission and/or any other applicable State or Federal regulatory agency.
 - (c) Is designed and constructed in a manner which minimizes its visual impact.
 - (d) Complies with all other requirements of the Zoning Code of the Town of North Harmony, including this Section.
 - (e) Is the most appropriate site within the immediate area for the location of a telecommunication facility, based upon the report required under Section 619 (G) (4).

It is preferred that telecommunication facilities be co-located as provided in this Section unless the Zoning Board finds that co-location not to be appropriate under the circumstances.

E. SITING PREFERENCES

- (1). Consistent with the objectives set forth in Section 619 (A) hereof, a proposed telecommunication facility shall be located in accordance with the following siting preferences, from most favorable to least favorable, to the extent that there are commercially available locations which are technically feasible and otherwise consistent with the standards of Section 619:
 - (a) Existing towers in low-density areas suitable for co-location.
 - (b) Property with an existing structure suitable for location or co-location.
 - (c) Light Industrial District.

F. CO-LOCATED ANTENNAS PREFERRED

(1) The shared use of existing telecommunication facilities or other structures shall be preferred to the construction of new such facilities. Any application for a telecommunication facility permit or renewal thereof or modification of the conditions of a current telecommunication facility permit shall include proof in accordance with Section 619 (G) (4) that reasonable efforts have been made to co-locate with an existing telecommunication facility or upon an existing structure.

(2) Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least five additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(3) The applicant shall submit to the Zoning Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunication service providers in the future. Any permit issued hereunder shall commit the new tower owner and its or his or her successors in interest to:

- (a) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
- (b) Negotiate in good faith concerning future requests for shared use of the new tower, by other personal wireless communication services (PWCS).
- (c) Allow shared use of the new tower if another PWCS provider agrees in writing to pay charges.
- (d) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction, maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(4) In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing tower in a neighboring municipality be considered for shared use, an applicant who proposes a new tower shall notify in writing the legislative body of each municipality that borders the Town of North Harmony as well as the Chautauqua County Planning Board. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.

G. SPECIAL USE PERMIT APPLICATION REQUIREMENTS

All applicants for Special Use Permits for telecommunication facilities towers and/or antennas shall make a written application to the Zoning Board. This application shall include:

- (1) Tower special use permit application form, supplied by the Town;
- (2) All towers which exceed 100 feet in height shall be considered a Type One Action and shall require a full Environmental Assessment Form prepared in accordance with the State Environmental Quality Review Act.
- (3) Visual Environmental Assessment Form Addendum prepared in accordance with the State Environmental Quality Review Act.
- (4) Service Area/Inventory Report for New Towers.
 - (a) The applicant shall provide a report, which establishes to the satisfaction of the Zoning Board of Appeals that the applicant is required to provide service to locations, which it is not able to serve through existing facilities within a one-mile search radius of the proposed tower and which are located either within outside of the Town. The search radius may be reduced to one-half mile for towers under 60 feet. Said report shall show the specific locations and/or areas the applicant is seeking to serve which cannot be served through existing facilities.

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- (b) 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 service and include a report on the possibilities and opportunities for a co-location as an alternative to a new site.
 - (c) The applicant must demonstrate to the satisfaction of the Zoning Board of Appeals that despite good faith efforts, the proposed facility cannot be accommodated on any such existing facility or structure either within or outside of the Town, due to one or more of the following reasons:
 - i) The proposed equipment would exceed the existing and reasonable potential structural capacity of existing facilities or structures within or outside of the Town considering existing and planned use for those facilities or structures
 - ii) proposed equipment which could not reasonably be mitigated or prevented
 - iii) 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 agreement with the owner or owners of such facilities or structures.

(5) Documentation of the notification required under Section 619 (f) (4).

(6) A site plan is required for all new telecommunication facilities, except those to be co-located or attached to a suitable existing structure and which otherwise comply with the requirements of Section 619. The site plan must be acceptable to the Town Planning board in form, content, scale, and detail sufficient to show, at a minimum;

- (a) The exact location of the proposed tower, and appurtenances;
- (b) The maximum height of proposed tower;
- (c) A detail of tower type (monopole, free, or other);
- (d) The color or colors of the tower;
- (e) The location, type, and intensity of any lighting on the tower;
- (f) The property boundaries; (A copy of a property survey must also be provided.);
- (g) Proof of the landowner's consent and copy of any lease agreement if the applicant will not own the property;
- (h) The location of all structures on the property and all structures on any adjacent property within 500 feet of the property line, together with the distance of these structures to the tower;
- (i) Names and addresses of adjacent land owners and landowners within 2,500 feet of every point on the property line;
- (j) The location, nature and extent of any proposed fencing, landscaping, or screening;
- (k) The location and nature of proposed utility easements and/or access roads, if applicable;
- (l) Building elevations of accessory structures or immediately adjacent buildings.

(7) 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.

(8) 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 proper signal strength and coverage to the target area or cell. The applicant must be prepared to explain to the Board why it selected the proposed site, discuss the availability or lack of availability of a suitable location within the search ring which would have allowed for co-located antennas 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.

(9) The applicant must submit a copy of its policy regarding co-location of its proposed tower with other potential applicants. Such policy should allow co-locations if new antennas and/or equipment do not or will not exceed structural loading requirements, interfere with tower space use, or pose any technical or radio frequency interference with existing equipment.

(10) A report prepared by a New York State licensed professional engineer, which describes the tower's height and design, including a cross section of the structure; demonstrates the tower's compliance with applicable

structural standards and describes the tower's capacity including the number and type of antennas it can accommodate. In the case of an antenna or antennas mounted on an existing structure, the report shall indicate the existing structure's suitability to accept the antenna and proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

- (11) A written agreement by the applicant to remove the telecommunications facility if such facility becomes technically obsolete or ceases to be used for its originally intended purpose for 12 consecutive months.
- (12) Any applicant receiving a Special Use Permit hereunder must, at the time of obtaining such permit, provide:
 - (a) a financial security bond to the Town of North Harmony, as assignee, in accordance with the requirements of Section 619 (L) (2); and
 - (b) evidence that liability insurance is in effect that covers damages and other losses due to tower failure or other hazards related to the installation and use of said tower. The Town of North Harmony shall be named on the insurance policy as an additional insured.
 - (c) evidence that the applicant has provided notification to the FAA as provided in 14 CFR CH1 Section 77.13.
- (13) The Zoning Board reserves the right to request reasonable additional visual and aesthetic information it deems appropriate on a case by case basis. Such additional information may include, among other things, line-of sight drawings and/or visual simulations.
- (14) The Zoning Board shall evaluate the application for a telecommunications tower Special Use Permit in accordance with the criteria and requirements established under this Section and all other applicable Special Use Permit requirements under the Town Zoning law. Any and all grants of a Special Use Permit for a telecommunications facility under this Article shall be non-assignable and non-transferable and shall not run with the land, notwithstanding anything in the General Zoning Laws of the Town to the contrary.
- (15) The following fees shall be assessed for the various reviews and Special Use Permit:
 - (a) Site Plan Review \$3000.00
 - (b) Special Use Permit Review \$2000.00 plus \$20.00 per ft.
 - (c) Issuance and ongoing monitoring of Special Use Permit \$500.00

H. PERFORMANCE STANDARDS

(1) **COMPLIANCE WITH FEDERAL REQUIREMENTS** - The applicant must demonstrate in writing that the telecommunications facility will be operated only at FCC- designated frequencies or power levels and/ or any applicable EPA technical exposure limits. The applicant further must provide written certification from a New York State licensed professional engineer that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications.

(2) **ANTENNA SAFETY** - Antennas shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC standards on a yearly basis. If new, more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted by the Zoning Board of Appeals. The cost of verification of compliance shall be borne by the owner and operator of the tower.

(3) **TOWER LIGHTING** - Towers shall not be artificially lighted or marked except as required by the Federal Aviation Administration, The Town, or other applicable laws. If lighting is required, the lighting design must minimize disturbance to the surrounding view. The towers shall be of a non-reflective finish and the color subject to Town 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 FAA.

(4) Using any portion of a tower for signs other than for warning or equipment information is prohibited.

(5) **TOWER HEIGHT LIMITATIONS** - All applicants must demonstrate that the height of the proposed

tower is the minimum necessary to meet the applicants' objectives and the standards and requirements of Section 619. The maximum height of a tower is limited to 200 feet above the ground upon which the tower is placed, unless the applicant demonstrates in writing that a higher tower is required to provide the necessary coverage and will otherwise meet the standards of Section 619.

(6) Tower Building Requirements -

- (a) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams, or other means. The design shall utilize an open framework or mono-pole configuration. Permanent platforms or structures exclusive of antennas that increase off-site visibility are prohibited. The Zoning Board of Appeals may require only a monopole tower if it determines that a monopole tower best meets the purpose and intent of this Section.
- (b) The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no wider than the base.
- (c) Towers must be located on a parcel that meets the minimum lot size requirements for the zoning district in which the tower is to be located.
- (d) Minimum spacing between tower locations is ¼ mile.

(7) Access to Towers - A road and parking area must be provided to assure adequate emergency and service access. Maximum uses of existing roads, public or private, shall be made.

(8) Setbacks for Towers -

- (a) Telecommunication towers shall be set back from the lot lines a distance at least equal to 120% of the height of the tower.
- (b) No telecommunication tower shall be located nearer than 500 feet or five times the height of the tower, whichever is greater, from a residential building, school, place of public worship, or designated historic district or landmark.

(9) Screening and Security of Towers and Accessory Structures -

- (a) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (b) The base of the tower and any accessory structures shall be landscaped.
- (c) Towers and auxiliary structures shall be surrounded by a fence or wall at least 8 feet in height of a design approved by the Board so as to make intrusion difficult. Barbed wire is not to be used in a residential area or on public property unless specifically permitted by the Board. There shall be no permanent climbing pegs within 15 feet of the ground on any tower or facility.
- (d) A sign shall be conspicuously located near the base of the telecommunications tower that states that a danger exists and no unauthorized access is permitted. In addition, an address and an emergency contact number shall be provided on the sign in order to allow the owner/operator to be contacted in the event that a problem arises.

(10) Design of Antennas, Towers, and Accessory Structures - towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Every antenna and tower shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings, and structures surrounding such antenna and omni-directional or whip antennas located on the exterior of a building that will also serve as an antenna tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site.

(11) Other Requirements and Conditions -

- (a) The Zoning Board may impose such other reasonable requirements or conditions to ensure that the telecommunication facilities shall be located and buffered to the maximum extent practicable and technologically feasible to maximize any adverse aesthetic impact on neighboring residents.
- (b) The Zoning Board may further impose any other reasonable requirements or conditions to ensure that the public health, welfare, and safety are protected.

I. TELECOMMUNICATIONS FACILITIES MAINTENANCE

All telecommunications facilities, both predating this Article and otherwise shall fulfill the requirements of this section. The Town Zoning Enforcement Officer and/or Building Inspector are empowered to enforce these regulations.

(1) The sufficiency of the bond required by Section 619 (G) (12) shall be reevaluated at least every five (5) years by an analysis of the cost of removal and property restoration performed by a licensed New York State professional engineer at the expense of the owner/operator with the results to be communicated to the Zoning Board of Appeals. If the bond amount in force is insufficient to cover the removal cost, it shall be immediately increased to cover such amount.

(2) The owner and/or operator of the telecommunication facility shall have said facility inspected at least every two years for structural integrity by a New York State licensed professional engineer at the expense of the owner/operator, and a copy of the inspection report submitted to the Board. If such a report recommends that repairs or maintenance are to be conducted, the permittee shall provide to the Zoning Board a written schedule for the repairs or maintenance, which repairs shall be completed within 60 days of the report.

(3) All telecommunications facilities 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) Any additional antennas, reception, or transmission devices or other similar receiving or transmitting devices proposed for attachment to an existing facility shall require review in accordance with this Article. The intent of this requirement is to ensure the structural integrity, visual aesthetic and land use compatibility of communication towers upon which additional antennas, reception, or transmission devices are to be installed.

(5) 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.

J. EXEMPTIONS

(1) Amateur Ham Radio tower meeting the following requirements:

- (a) A tower not to exceed 70 feet from ground level for non-commercial private use by a federally licensed amateur radio operator living on the same premises upon which the tower is proposed to be located. Said tower shall be set back from all property lines by a minimum distance equal to 100% of the tower height. The applicant shall submit such information or certifications to the Enforcement Officer as may be necessary for the Enforcement Officer to determine if the safety and welfare of the neighborhood properties is safe-guarded. No lighting of signs shall be permitted on the tower.
- (b) No tower shall be located in the area between the front line of the house and the street.
- (c) Towers shall be maintained by the property owner and/or operator in a safe condition and good repair.
- (d) The tower shall be removed by the property owner within 90 days after expiration of the operator's license.
- (e) The applicant for the tower shall submit to the Enforcement Officer such information as shall be necessary to make any determinations.
- (f) Every antenna and tower shall be of neutral colors that are harmonious with and blend with the natural features, buildings, and structures surrounding the tower.

(2) The Zoning Board shall have the right to waive or modify any provision of this Section 619 for facilities whose total height aboveground does not exceed thirty-five (35) feet or for good cause shown.

K. COST OF STUDIES OR REPORTS

The cost of any engineering studies or reports required by this Section or required by the Zoning Board shall be borne by the owner and/or operator of the tower.

L. REMOVAL OF OBSOLETE/UNUSED FACILITIES

(1) The applicant shall agree, in writing, to remove the tower or antennas if the telecommunication facility becomes obsolete or ceases to be used for its intended purpose for twelve (12) consecutive months. The owner/operator shall notify the Zoning Board of Appeals within thirty (30) days of any change of utilization of the tower or when the tower becomes obsolete or ceases to be used for the purpose for which its permit was issued. In the event that the owner/operator elects to modify or change the tower or antennas, the owner/operator shall be required to file an application for a special use permit before any modifications to the tower and shall be governed by the applicable provisions of this chapter. Removal of such obsolete and/or unused towers and site restoration shall commence no later than 12 months after cessation of use and shall be completed within 14 months of cessation of use. The site restoration shall be defined as returning the properties to as near to original condition as is possible. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete tower or antennas upon any person subsequently securing rights to co-locate on the tower or telecommunications facility.

(2) Bond/Security - The applicant shall be required to execute and file with the Town Clerk a bond or other form of security acceptable to the Zoning Board of Appeals and Town Attorney as to form, content, and manner of execution, in an amount sufficient to ensure the faithful performance of the terms and conditions of the permit or approval issued hereunder, for the observation of all Town local laws or ordinances, to cover the maintenance of the tower during its lifetime, and provide for the removal and restoration of the site subsequent to its removal. The amount of the bond or security shall be no less than 125% of the cost of the removal of the tower and restoration of the site pursuant to a written estimate prepared by a licensed New York State Engineer to the applicant. Such estimate shall be subject to approval of the Zoning Board of Appeals and shall be reviewed and adjusted at five (5) year intervals.

In the event of default upon performance of such conditions or any of them including maintenance as defined in Section 619 (l), the bond or security shall be forfeited to the Town of North Harmony, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of transmission tower, telecommunication tower, communications installation, freestanding tower, satellite dish, antenna, pole, accessory facility/structure, and site restoration.

(3) The Town of North Harmony, at its option, may cause the removal of any tower or antennas which violate any provisions of this Section or which become unsafe or hazardous as determined by the Town of North Harmony. Prior to said removal, the Town shall cause at least seven (7) days notice to be served by certified mail or personally or by any other method reasonably designed to give notice to the owner of the tower or antenna that a violation exists or that the telecommunications facility is unsafe or hazardous and that the Town intends to remove the tower or antenna and assess the entire cost against the property owner upon which the antenna or tower is located and/or upon the owner of the tower or antenna. The Town is authorized to petition the County Court or Supreme Court through a special proceeding to obtain an order of removal and to assess the entire cost thereof against the owner of the premises, which shall be assessed and collected in the same manner as a Town tax.

M. VIOLATIONS - PENALTIES

This Article is adopted pursuant to the zoning and planning powers granted to the Town of North Harmony under the 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 any permit issued hereunder, the Town may seek enforcement by any legal or equitable remedy.

Any applicant, upon receipt of a Special Use Permit for telecommunication facilities that fails to comply with the requirements and/or conditions of that permit, may have its permit revoked and ordered to remove the telecommunications facilities within ninety (90) days of notification by the Town of such violation.

N. MISCELLANEOUS

(1) In the event of any conflict or inconsistencies between this Section and any other provision of the Town Zoning Law or other Local Law ordinance, rule, or regulation, the more restrictive requirement shall apply.

(2) The procedural requirements for a Special Use Permit for a telecommunication facility shall be as set forth in the Zoning Law of the Town of North Harmony and the Town Law of the State of New York.

(3) Any decision to deny a request for authorization to place, construct, or modify a telecommunication facility shall be in writing and shall be supported by substantial evidence contained in a written record.

Section 620 – *Reserved for Future Use*

Section 621 - Solar Energy Systems

In order to promote and protect the use of solar energy systems (active and passive) the following regulations shall apply:

- A. Solar Energy Permit and Placement** - The placement of structures or modification of existing structures which are to contain solar energy systems shall be by Special Use Permit **IF** protection is to be sought under part of this section. If no protection is sought for a solar energy system, then no permit shall be required for the installation unless the floor space is increased. Consideration will be given to locating the solar energy structure the furthest distance from adjoining properties, on the southern exposure, which is reasonably possible. This distance shall be a minimum of 100 feet and may be required to be more if the slope so dictates.
- B. Adjacent Property Control** - The placement of structures, trees, towers, etc., which have the potential of blocking the sun from adjacent solar energy collectors established by Special Use Permit under part A. of this section shall also only be allowed by Special Use Permit. The placement of said potential obstruction shall be such that it least interferes with the adjacent solar energy collectors while still allowing reasonable use of the adjacent property owner's land.
- C. Notification** - If protection is sought owners of all properties within 200 feet of the property on which the solar energy collector is to be placed will be notified in writing of the intent to place a solar energy system in the neighborhood and the possible effects that this could have on future development. The date, time, and location of the public hearing shall be included in the notification.

Section 622 - Gravel Operations

- A. Purpose** - Gravel pits not regulated by the NYS DEC shall be regulated by this section, the purpose being to limit the nuisances associated with gravel pits and insure that adjacent residential neighborhoods are protected. See the definition of gravel pit, small in [Section 202](#).
- B. Conditions** - In districts where small gravel pits are allowed, the following conditions shall be considered:
- 1. Setbacks** - Excavation, blasting, and stockpiling of materials shall not be allowed within 100 feet of any public road or property line.
 - 2. Fencing** - Fencing may be required for public safety as determined by the Permitting Board. Consideration will be given to topography, type of operation, equipment being used, size of the lot, population density, and any other reasonable characteristic.
 - 3. Restoration** - All gravel pits shall be restored to a safe and an aesthetically pleasing state within two months after termination of the operation. Termination shall be considered to have taken place when no gravel and sand has been extracted for a one year period and there is no intention of reactivating of the site. A Special Use Permit shall be required to keep a site in an active status after no reasonable amount of activity has taken place for five years.
- C. Preexisting Operations** - Gravel pits in existence before the enactment of this Law shall be subject to conditions B2, (Fencing) and B3, (Restoration) above. In addition, any expansion or enlargement (purchase of additional property or use of property beyond scope of permit) of such gravel and sand operations shall be subject to all regulations in this Law within reason as determined by the Permitting Board.

Section 623 - Gas Compressors

- A. Purpose** - Gas transmission compressors are capable of producing unacceptable environmental and noise intrusion, especially where residential uses are prevalent. In order to avoid unreasonable use of property resulting in substantially reduced use-value of adjacent inhabited or non-inhabited properties, this section shall regulate the location and installation of all gas compressors not under the jurisdiction of the NYS Public Service Commission. Generally, the section is intended to preserve and protect the general welfare, health, and safety of the public while still promoting the transmission of natural gas in a reasonable environmentally acceptable manner.

B. Administration -

1. **Permit Requirements** - In districts where gas compressors are permitted, a Special Use Permit shall be required for the placement of a new gas compressor.
2. **Pre-existing Gas Compressors** - All gas compressors existing or being constructed at the time of enactment of this law shall be subject to the following conditions as listed below: C2c, (Maintenance); C2d, (Barriers); and C3, (Identification Signs). These conditions shall be considered at a public hearing held a minimum of 30 days after the owner of the compressor station is notified in writing. All owners of parcels as well as all renters within 2,000 feet of the proposed/existing gas compressor shall be notified in writing of the public hearing. Compliance shall take place within two months of the receipt of a written decision by the Permitting Board. A longer compliance period may be granted by the Permitting Board if the cost of the alterations is significantly high.

C. Conditions - All gas compressors shall be located and designed such that the nuisances associated with the use shall be minimized. It shall be unlawful for any person or firm to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers comfort, repose, health, peace or safety to others. The following specific conditions shall be met:

1. **Location** - The site shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units, and any other reasonable conditions as deemed necessary by the Permitting Board.

2. Noise Levels -

- a. **Easement** - All new gas compressors covered by this section must be located such that lands subject to a 40 decibels or higher noise level produced by a new compressor shall be covered by a noise easement clearly delineating the maximum noise level allowed at any inhabited dwelling unit or proposed site of a dwelling unit. Preexisting leases shall not negate the requirement for a noise easement as described above.
 - b. **Certification of Noise Level** - Prior to being granted a permit for the placement of a gas compressor, the owner of the proposed compressor shall be responsible for verifying the compressor and quieting devices (silencer, low speed fan, barriers such as walls or berms, etc.) as proposed will meet the specified decibel level requirements. A certified noise consultant must certify in writing that the requirements will be met. Additionally, after placement of the compressor is completed, along with the specified quieting devices, the same certified noise consultant must verify that the 40 decibels requirements are not exceeded. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
 - c. **Maintenance** - The compressor and quieting devices must be properly operated and maintained such that the noise level will not rise above the specified permissible levels. If it becomes apparent to the Permitting Board that the noise levels are not in compliance, the Board may require the owner of the compressor to do corrective maintenance and again, at the owner's expense, have the compressor noise level verified by a certified noise consultant. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
 - d. **Barriers** - Where it is deemed necessary, either a natural or man-made acoustical barrier may be required for the purpose of minimizing the nuisances associated with a gas compressor. In extreme cases, where no alternative is available, a fully enclosed acoustically designed structure may be required.
3. **Identification Sign** - Each gas compressor shall be identified with a conspicuously placed sign identifying the compressor, its location and the name of the person/company responsible for the unit in case of emergency. Additionally, a 24 hour emergency telephone number shall be included.
 4. **Other** - Any other reasonable conditions as deemed necessary by the Permitting Board.

D. State Environmental Quality Review Law - All permit requests for gas compressors shall be subject to an environmental review, in accordance with State law. No zoning permit shall be granted until this environmental review has been accomplished by the municipality or their representative.

Section 624 - Junk Vehicles

- A. Purpose** - It is the intent of this section to minimize safety, health and aesthetic related problems by limiting, according to district and lot size, the storage outdoors of junk vehicles.
- B. Number and Location of Vehicles** - The maximum number of junk vehicles that may be stored outdoors shall be as follows: **NONE** in all Residential and Commercial Districts. One unregistered operable motorized vehicle will be allowed in Agricultural, Agricultural Residential and Industrial Districts, so long as they are stored in a fashion that minimizes visibility from adjacent properties and roadways. Any additional unregistered vehicles shall be stored indoors.
- C. Restoration of Vehicles Outdoors** - Sustained progress in restoring or repairing a vehicle to operational condition shall be allowed under the following conditions and said vehicle shall not constitute a junk vehicle.
1. Entire restoration shall take a reasonable time to accomplish, not to exceed six months.
 2. Such vehicles shall be located so as to create the least nuisance possible.
 3. Noise associated with the restoration shall be limited to reasonable hours.
 4. Restoration shall be for personal use and not for profit.
- D. Pre-existing Junk Vehicles** - Where there are junk vehicles present at the time of enactment of this Law, a maximum of 6 months shall be allowed for the owner to come into compliance with this section.
- E. Notice to Remove** - A junk vehicle not within the exceptions provided above shall be removed by the property owner upon which the junk vehicle is located within seven days of notification by the Code Enforcement Officer of the Town of North Harmony, his Assistant or Designee.
- F. Enforcement/Penalties for Offenses:**
1. The owner or owners of the premises upon which the junk vehicle is located, the owner of the vehicle, any person having possession or custody of a junk vehicle, or any other person, firm, corporation, or other entity which allows, permits, or causes the keeping of a junk vehicle in violation of this Section shall be punishable as provided by this Section.
 2. A violation of this Section is an offense punishable by a fine not to exceed \$500.00 and/or imprisonment not to exceed 15 days. Each day that a violation continues after seven days from service of the notification to remove the vehicle shall constitute a separate offense and shall be punishable as herein provided.
 3. In the event of the failure to remove a junk vehicle after the seventh day "Notification to Remove", the Code Enforcement Officer is authorized to initiate the assistance of the Chautauqua County Sheriff's Department to cause removal of the vehicle or vehicles and all costs thereof, including storage, shall be at the sole expense of the property owner and/or owner of the junk vehicle. Said vehicle(s), if unclaimed after seven days, shall be deemed abandoned and shall be sold or otherwise disposed of in accordance with *Section 1224 of the Vehicle and Traffic Law of the State of New York* or any other applicable provisions of the law.
 4. If the junk vehicle is kept on property owned by another, then the property owner shall not be liable for penalties unless:
 - a. Such property owner consented, permitted, or otherwise caused the keeping of the junk vehicle(s) on said property or prevented or obstructed the removal of such vehicle(s).
 5. Notification form to be used pursuant to this Section is attached hereto and made a part thereof.

SECTION 625 - Vehicle Dismantling, Scrap, and Junk Yards.

- A. Conditions** - Prior to the granting of a Special Use Permit, assurances will be received that the following conditions will be met:
1. **Fences** -
 - a. Yards shall be completely surrounded with a fence for screening and security purposes of at least 8 feet in height. However, where the Permitting Board determines that the character of the neighborhood does not require aesthetic screening or security fencing, this 8' fence requirement can be waived to any degree for the side and rear yards.

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- b. There shall be located a gate in the fence which shall be kept locked at all times except when the vehicle dismantling or scrap yard is in operation.
 - c. The fence shall be located a minimum of 50 feet from adjacent public highways.
 - d. All storage, dismantling, and work on the vehicles or scrap shall take place within the fenced area.
 - e. The type of materials used shall be generally accepted by the industry and commonly used as fencing material. Fences shall be permanent and substantial.
 - f. Fences shall obscure or screen, adequately, the contents of the yard.
 - g. Fences shall be well-maintained and aesthetically pleasing.

2. Location Considerations

- a. Yards shall only be allowed in the Industrial District.
- b. Yards shall be allowed where there will be a minimum negative effect on the character of existing neighborhoods.
- c. No yard shall be permitted within 500 feet of a church, school, public building, or other place of public assembly.
- d. Yards shall not be permitted to be located upon areas where an 8 foot fence will not reasonably screen the yard's contents from adjacent highways or properties.

3. Off-street Parking

- a. Sufficient off-street parking shall be provided for customers.

4. Fire Safety

- a. The fire department shall be notified prior to the granting of a Special Use Permit for a yard and be given 30 days within which to make recommendations.
- b. Inside, adjacent to and contiguous with the fence, a strip of land at least 10 feet wide shall be kept clear of all dry grass or other growth or combustible material so as to provide a fire lane around the whole yard area.
- c. There shall be maintained at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and visible.
- d. All vehicles and scrap and junk shall be disassembled by means other than burning. The yard's content shall be arranged in neat rows so as to permit easy, clear passage through the area.

5. Visual Considerations

- a. There shall be no stacking of vehicles, scrap or junk above 8 feet in height from the ground. However, vehicles and scrap which have been crushed may be loaded on to the bed of a truck where they will be removed from the premises within a reasonable time period.
- b. An appropriate buffer shall be established between adjacent properties.

6. Minimum Lot Size -

- a. Adequate acreage shall be available to handle present and future needs of proposed yards.

7. Other Considerations -

- a. Suitable sanitary facilities shall be provided in accordance with State Health Laws.
- b. Inspection of yards shall be allowed at any reasonable time to insure compliance with this and other laws.
- c. Reasonable hours of operation may be specified.
- d. Other reasonable conditions may be imposed as is deemed necessary by the permitting board.

B. Preexisting Yards - Yards in existence before the enactment of this Law shall be subject to the following conditions: A1a, (Fence height); A1b, (Gates); A1c, (Fence location) (with the exception that the minimum distance is 25 feet and not 50 feet); A1d, (Work location); and A5a, Visual Considerations, above. Compliance shall take place within a 6 month period of time. In addition, any expansion or enlargement of any preexisting yards shall be subject to all of the regulations of this Law when they can be reasonably enforced as determined by the Municipal Board.

Section 626 - Heavy Vehicle Parking

A. Purpose - This section has as its main purpose the preservation of densely developed neighborhoods and particularly the elimination of noise from diesel engines and air conditioning units caused by large commercial truck parking. Visual intrusion into residential neighborhoods is also a primary concern.

B. Regulations - Heavy vehicles shall comply with the following regulations:

1. **Location** - Heavy vehicles shall be allowed to park in any district under the following conditions:
 - a. The vehicle is not parked on a road or in a public road right-of-way.
 - b. The vehicle is located a minimum of 150 feet to the closest dwelling unit on adjacent parcels.
2. **Location waivers** - In an emergency (e.g., truck breakdown) or for normal deliveries, the location requirements in B1, above, shall be waived for a maximum of 48 hours.

C. Preexisting Heavy Vehicles - This section shall apply to all heavy vehicles immediately, including those that have, in the past parked in such a manner so as not to be in compliance with this section.**Section 627 - Large Group Gathering****A. Purpose** - In order to promote safe and healthy gatherings of large groups of people, as defined in the definition section, certain conditions shall be complied with as defined below.**B. Conditions** - Prior to the granting of a Special Use Permit, the following will be taken into consideration:

1. traffic safety, parking, access;
2. noise;
3. health and sanitation;
4. character of neighborhood and development density;
5. beverages to be served;
6. security and traffic control
7. cleanup and restoration of land; and
8. other appropriate considerations as deemed necessary by the permitting board.

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.**D. Exempt Gatherings** - Nonprofit and local civic group sponsored gatherings shall be exempt from permit requirements.**E. Preexisting Uses** - All gatherings held after the effective date of this Law shall be subject to this section.**Section 628 - Animals, Poultry, & Birds (to include Pigeons)**

Keeping of animals, poultry, and birds shall be regulated in Residential and Commercial Districts in the following manner:

A. Commercial Operations Prohibited - Animals, poultry, and birds shall not be raised for profit or as a commercial venture. They shall only be allowed when kept for recreational use or for home consumption of its products. This rule shall **only** apply to all districts where "**agricultural land use**" is not a permitted use.**B. Nuisance** - Farm animals which create a nuisance due to odor, noise, etc., shall be prohibited in all districts where "**agricultural land use**" is not a permitted use.**C. Fences** - Farm type animals shall be fenced so as not to be able to come within 50 feet of adjacent residential structures nor within 10 feet of any boundary line. This rule applies to all districts where "**agricultural land use**" is not a permitted use.**D. Horses & Cows** - Horses and/or cows shall be allowed for noncommercial use where over 10 contiguous acres of pasture are present. The maximum number of horses or cows allowed shall be based on the acres of pasture available with 1 acres being required per horse or cow. This rule shall apply to districts where "**agricultural land use**" is not a permitted use.**E. Poultry or Birds** - The keeping of birds or poultry (domestic or wild) shall be prohibited in R1 and C1 Districts. No yards, coops, lofts, etc., shall be erected or maintained. This provision shall not include small cage birds such as canaries or parakeets maintained as pets within a residential structure.

Section 629 – Manufactured Home Standards

A. Single-Wide Conditions - In districts where single-wide manufactured homes are allowed by Special Use Permit, all of the conditions listed below shall be considered prior to the granting of the zoning permit.

1. **Minimum Floor Space** - The original “advertised” floor space for a manufactured home, excluding additions shall be a minimum of 600 square feet.
2. **Parking** - Off-street parking spaces in accordance with the supplemental section on parking ([Section 615](#)).
3. **Skirting** - Attractive, fire-resistant skirting shall be installed within six months of when the manufactured home is placed on the lot.
4. **Location** - Manufactured homes shall only be allowed when they will not have a substantial negative effect on the existing character of the neighborhood.
5. **Landscaping** - Landscaping appropriate to the neighborhood shall be considered.
6. **Additions** - All additions shall be in accordance with the New York State Uniform Code and shall be compatible with the construction of the manufactured home.
7. **Storage** - Miscellaneous garage and recreational items traditionally stored under cover shall not be stored outdoors. Appropriate storage shall be supplied.
8. **HUD Requirements** - All manufactured homes (new and used) shall comply with HUD construction requirements prior to being allowed to be placed on a lot.
9. **Other Considerations** - Any other reasonable conditions as deemed necessary by the permitting board shall be considered for inclusion. (See Supplemental [Section 601](#) on General Development conditions for a list of possible conditions to include).

B. Pre-existing Uses - Preexisting manufactured homes shall comply with the above conditions A3, (Skirting) and A2 (Parking), where it is reasonable. These conditions shall be met within 1 year from the date of written notification.

C. Double-Wide Conditions - In districts where double-wide manufactured homes are allowed as a matter of right, all conditions listed below shall be required before the granting of the zoning permit:

1. **Minimum floor space:** The original advertised floor space for a manufactured home, excluding add-ons, shall be a minimum of 1100 square feet. Other area requirements shall be met.
2. **Parking** – off-street parking spaces in accordance with the Supplemental [Section 615 - Parking](#).
3. **Foundation:** The manufactured home shall be completely immobilized and placed upon a full perimeter foundation within 30 days.
4. **Landscaping:** Landscaping appropriate to the neighborhood shall be considered.
5. **Additions:** All additions shall be in accordance with the New York State Uniform Code and shall be compatible with the construction of the manufactured home.
6. **Storage:** Miscellaneous garage and recreational items traditionally stored under cover shall not be stored outdoors. Each unit shall have a storage base of no less than one hundred and forty (140) square feet for a covered storage space.
7. **HUD Requirements:** The HUD requirements are as follows:
 - a. All manufactured homes, new and used, shall comply with HUD construction requirements prior to being allowed to be placed on a lot.
 - b. No manufactured homes over the age of five (5) years shall be permitted in an Agricultural or Light Industrial district as a matter of right.
 - c. The age of the unit shall be the age determined at the time of application and shall be determined by the model year given to the particular unit by the manufacturer in relationship to the calendar year in which application was received by the town.
 - d. Any other reasonable conditions as deemed necessary by the permitting board shall be considered for inclusion. (See Supplemental [Section 601](#) on General Development Conditions for a list of possible conditions to include).

Section 630 - Manufactured Home Parks

A. Conditions - Manufactured home parks shall comply with the following standards:

1. Area and Setback Requirements

- a. **Size** - Parks shall consist of a minimum of 5 acres and shall be designed for a maximum of 5 units per acre overall.

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- b. **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 and/or vegetation) shall be required with the Permitting Board determining the need for a more appropriate size or type of buffer.
 - c. **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 setback a minimum of 20 feet from the edge of the park's private road(s).
 - d. **Lot** - Each Manufactured home shall be located on a lot which is a minimum of 5,000 square feet, and a minimum of 50 feet in width. The width requirement can be waived for corner lots.
 - e. **Side Yard** - Manufactured homes that include enclosed additions shall be spaced a minimum of 25 feet from other enclosed additions.
 - f. **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. **Streets and Walkways**
- a. **Entrance and exits** to the park shall be located and designed to standard highway safety requirements.
 - b. **Private roads** shall be a minimum of 16 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 roadway to door shall be required in addition to a patio for each manufactured home.
3. **Parking**
- a. **Off-street Parking** shall be provided with a minimum of 400 square feet of parking area 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.
4. **Recreation**
- a. **Open space and recreational areas** shall be set aside and improved at central locations at a rate of 700 square feet per manufactured home. They shall be maintained in a manner conducive to recreational use.
5. **Skirting**
- a. **Manufactured homes** shall be skirted with an attractive fire-resistant material within three months from the time of setup.
6. **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.
7. **Accessory Retail or Service Uses** - Accessory uses such as recreational facilities, convenience stores, Laundromats, and mobile home sales/service customarily associated with mobile home parks shall be permitted. However, the land utilized in this manner should not account for more than 5% of the total area of the park. Finally, no commercial character shall be visible from outside the park and such services shall only be allowed when the number of sites is sufficient to support these services.
- B. Bond** - At the discretion of the Permitting Board, the developer may be required to obtain an appropriate bond to insure compliance with conditions attached to the Special Use Permit/Site Plan Review.
- C. Preexisting Parks** - Mobile home parks in existence before the enactment of this Law shall be subject to the following regulations:
- 1. Mobile homes shall be skirted with an attractive, fire-resistant material within 1 year.
 - 2. Enlargement or expansions of all mobile home parks in existence before the enactment of this Law shall comply with all regulations in this Law to the extent determined by the Permitting Board.
 - 3. Off-street parking shall be provided within 1 year, where reasonable
 - 4. Other reasonable conditions for mobile home parks in existence before the enactment of this law as deemed necessary.
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Section 631 - Temporary Dwelling Units (Transportable)

A. Purpose - The primary purpose of this section is to limit the use of travel trailers and other temporary dwelling units to uses for which they are intended, namely, seasonal/recreational use. Ultimately, the protection of neighborhoods is promoted with respect to health, general character, and quality. Commercial travel trailer parks are not subject to regulation under this section.

B. Inhabitation Time - Travel trailers may be inhabited by non-renters on a temporary basis in accordance with the following chart. No permit or fees is required unless the number of inhabitation days desired is greater than that specified, in which case a Special Use Permit must be requested:

<u>District</u>	<u>Maximum Number of Days Inhabited Per Time Period</u>
Residential & Commercial	14 days per 2 months
Agricultural, Agricultural-Residential and Industrial	90 days per 12 months

C. Conditions -

1. **Storage** - A travel trailer may be stored (uninhabited) on any lot indefinitely except on lakefront lots where are regulated by the Supplemental Section 614 on lakeshore regulation.
2. **Setbacks** - Area requirements (e.g., front, rear, and side yard requirements) shall be met.
3. **Utilities** - Permanent utility systems, used exclusively for temporary dwellings in residential or commercial districts, shall not be constructed.
4. **Nuisances** - Accessory dwellings may not be utilized in such a manner as to cause a nuisance.
5. **Field Offices** - Contractors may use temporary dwellings for “field offices” after obtaining a permit. Additionally, temporary dwelling units may be utilized by owner/builders during the construction of a structure.

Section 632 - Temporary Mobile Homes

A. In Conjunction with Construction (Inhabited) -

1. **Administration** - A temporary mobile home Special Use Permit may be applied for in conjunction with the construction of a dwelling unit.
2. **Conditions** - The following conditions may be attached to the permit:
 - a. **A time schedule** for commencement and completion of construction of the dwelling unit. As a minimum, construction on the dwelling unit shall begin within one year from the date when the mobile home is placed temporarily on the lot. Additionally, the mobile home shall be removed within three years from the date when it was first placed on the lot, at which time the dwelling unit shall be livable.
 - b. **The placement** of the mobile home on the lot shall be in accordance with area standards unless the Municipal Board determines that such conforming placement would not be practical, in which case the conditions will be specified by the permitting board.
 - c. **Due to the temporary nature** of the permit, the mobile home will not need to be skirted.

B. Not Inhabited -

1. **Administration** - A mobile home may be stored uninhabited within a district which allows mobile homes by right or by Special Use Permit only after a temporary Special Use Permit has been granted.
2. **Conditions** to be considered include: time limitations and placement location on the property.

Section 633 - Travel Trailer Parks (Commercial Campground)

Travel trailer parks shall comply with the following standards:

A. Area & Setbacks -

1. All lots (pads) shall be a minimum of 75 feet from any public highway.
2. A 100 foot wide buffer zone of appropriate vegetation shall be provided around the circumference of the

park where the adjacent property use is of such a nature that there could be conflicts. No travel trailer or other structures shall be located in the buffer zone.

3. Minimum lot sizes shall be 2,500 square feet for a vacation camp and 1,500 square feet for overnight camps.

B. Streets & Walkways -

1. Access to the park must be designed to assure safe and convenient movement of traffic into and out of the park with a minimum disruption of traffic on adjacent public roads. This shall include a minimum clear view of 150 feet while pulling out onto the adjacent public roadways.
2. Walkways shall be provided to service buildings.
3. All park roadways shall be a minimum of 50 feet from any property line except for the entry and exit roads.
4. Park roads shall be constructed or treated in such a manner so as to minimize the creation of dust or mud.

C. Parking – Adequate off-street parking, loading, and maneuvering space shall be provided.

D. Occupancy - The maximum length of occupancy per year shall be 8 months. Trailers shall not be utilized as permanent residence.

E. Accessory Uses - Accessory uses such as snack bar, recreational facilities, showers, laundry facilities, etc., customarily associated with travel trailer parks shall be permitted. However, the land utilized in this manner shall not account for more than 10% of the total area of the park and the services shall be directed towards the occupants of the park. Finally, no commercial character shall be visible from outside the park and such services shall only be allowed when the number of sites is sufficient to support these services.

F. Location - Parks shall not be located so as to cause heavy traffic directed through residential areas not accustomed to heavy traffic.

G. Lake Dockage - All docks shall begin on the shoreline no less than 200 feet from all property lines abutting the shorelines.

H. Supervision - The park owner shall be responsible for having supervisory personnel on premises around the clock (24 hours per day) during the camping season for the purpose of policing the premises within the limits prescribed to him by law.

I. Nuisances - The park owner shall prevent any undue proliferation of smoke, dust, or any pollution of the air or water by the campers or campsites. Quiet hours shall be established by the owner as necessary.

Section 634 - Fuel Tanks

A. Purpose - The purpose of this section is to promote the safety of residents in residential districts from fire and explosion resulting from gasoline/volatile liquid tanks. As a secondary purpose, the maintenance of aesthetic values in residential neighborhoods is also promoted.

B. Conditions -

1. In districts where fuel tanks (Gasoline and volatile liquids) are allowed “By Right” (permit required) the following conditions shall be followed:
 - a. **Lot size** - a minimum lot of 1 acre shall be required.
 - b. **Uniform Code** - All requirements of the Uniform Code shall be met.
 - c. **Setbacks** - District setback requirements shall be met.
2. In districts where fuel tanks are allowed with no permits, the following conditions shall be followed:
 - a. **Uniform Code** - All requirements of the Uniform Code shall be met.
 - b. **Setbacks** - District setback requirements shall be met.

Section 635 - Aircraft Landing Strip

A. Purpose - In order to protect residents from the creation of unsafe conditions or nuisances, the following conditions shall be considered prior to the granting of any permit for a aircraft landing strip.

B. Conditions -

1. **Location** - Potential airstrips should be located such that they are a minimum of 300 feet from any dwelling and also not more than 10 dwellings are within 500 feet of any portion of the actual runway.
2. **Posted signs** - Airstrips shall be posted with signs of sufficient quantity to alert any person entering the area that aircraft may be present.
3. **No dwellings** shall be in the immediate clear area of the ends of the airstrip.
4. **All commercial development** proposed to be located on the airstrip property must be allowed in that district.
5. **Referral to State** - Prior to acting on any aircraft landing strip permit request, the Municipal Board shall, by resolution, request the NYSDOT Commissioner to review the proposed airstrip and make a recommendation in accordance with Section 249 of General Business Law.

C. Permit Requirements - All requests for permits shall include a description of the type and quantity of aircraft using the facilities, frequency of flights, a map drawn to scale showing the airstrip and prevailing winds as well as dwellings in the neighborhood and proposed commercial development.

Section 636 - Topsoil / Excavation

During the construction of a foundation, general landscaping, or any other extensive excavating project, a person, firm, corporation, etc., shall not strip, excavate, or otherwise remove soil/gravel unless the following conditions are met:

- A. Topsoil** - Topsoil is replenished or left on-site with sufficient amounts to support future development needs.
- B. Groundwater Runoff** – Runoff shall be managed and controlled so it will not be caused to flow into neighboring properties, to pool, or cause erosion.
- C. Time Requirement** - All of the above conditions shall be met within one year from the time the project started. However, the Municipal Board shall have the power to grant extensions or shorten the time frame for just cause after receiving a written request which includes the reasons for the request.

Section 637 – Funneling (Waterfront Lot Division)

A. Purpose – To provide waterfront access opportunities primarily to owners of upland dwelling units (single or multiple family) through a relatively small lakefront lot while, at the same time, providing visual and density protection to lot owners in close proximity to the access lot.

B. Permits & Conditions –

Lot Characteristics	By Right	Type of Permit Required	
		Special Use Site Plan Permit	Area Variance
1. Minimum lot width of each lakefront lot created	40 feet	30 feet	Less than 30 ft.
2. Min. lot width per household unit	20 feet	15 feet	Less than 15' ft.
3. # Housing units with access	2 or less	More than	N/A
4. Lot area of each lakefront lot created	2500 sq. ft.	1500 sq. ft. min	Less than 1500 sq. ft.
5. Width of all contiguous lakefront lots	50 ft. min	25 to 49 ft.	Less than 25 ft.
6. # docks to be included	1 max.	2 Max.	Over 2
7. Dock separations possible between docks associated with new lot & contiguous lots	Min 25 ft.	Min. 25 ft.	Less than 25 ft.
8. Parking spaces – All parking must be off road. There shall be no storage of vehicles or trailers on access lots for more than two consecutive weeks.			

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9. Shoreline Shape – Docks convergence/separations as they extend out from shore – perpendicular to shoreline.
 10. Access Lots – must be maintained in a neat and orderly fashion.
 11. Usage -Any increase in the usage of any existing rights-of-way and/or access lots are subject to the terms and conditions of this provision.

Section 638 - Adult Entertainment

A. DEFINITIONS

Adult businesses shall include the following:

CLASS I ADULT USES: The following uses are Class I adult uses:

Media Shop: A category of retail business that provides a trade in anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or video production, or pictorial representation, or any digital, electronic or electronic reproduction of anything that is or may be used as a means of communication. A media shop shall include, but shall not necessarily be limited to, the trade of books, newspapers, magazines, movies, videos, sound recordings, CD-ROM, other magnetic media, and undeveloped pictures. A media shop shall have more than 5 percent but less than 10 percent of the stock in trade or more than 5 percent but less than 10 percent of the gross public floor area occupied by hard core material.

CLASS II ADULT USES: The following uses are Class II adult uses:

1. **Adult Cabaret:** An establishment that regularly features dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specific anatomical areas for observation by patrons therein. An Adult Cabaret may also have food or beverage services.
 2. **Adult Media Shop:** Any establishment with a retail business that provides a trade in anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or video production, or pictorial representation, or any digital, electronic or electronic reproduction of anything that is or may be used as a means of communication. An adult media shop shall include, but shall not necessarily be limited to, the trade of books, newspapers, magazines, movies, videos, sound recordings, CD-ROM, other magnetic media, and undeveloped pictures. An adult media shop shall have 10 percent or more of the stock in trade or 10 percent or more of the gross public floor area occupied by hard core material.
 3. **Adult Motion Picture Theater:** Any establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of materials characterized by an emphasis upon the depiction or description of specific sexual activities or specific anatomical areas.
 4. **Adult Sex Shop:** Any establishment offering goods for sale or rent and that meets any of the following tests:
 - a. The establishment offers for sale items from any two of the following categories: (1) adult media, (2) lingerie, or (3) leather goods marketed or presented in a context to suggest their use for sadomasochistic practice; and the combination of such items constitutes more than 10 percent of its stock in trade or occupies more than 10 percent of its floor area.
 - b. More than 5 percent of its stock in trade or more than 5 percent of the gross public floor area consists of instruments, devices, or paraphernalia, either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to simulate human genital organs.
 5. **Adult Theater:** Any establishment with a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances characterized by the exposure of specific sexual activities or specific anatomical areas.
 6. **Nude Model Studio:** Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.
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CLASS III ADULT USES: The following uses are Class III adult uses:

1. **Adult Physical Contact Establishment:** Any establishment having a fixed place of business where massages, or any other treatment or manipulation of the human body, are administered for any form of consideration or gratuity, as part of or in connection with specified sexual activities or where any person providing such treatment or service related thereto exposes specific anatomical areas. This definition shall not be construed to include a hospital, nursing home or medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa, or similar establishments where massage or similar manipulation of the human body is offered as an incidental accessory service.
2. **Lingerie Modeling Studio:** Any establishment or business that provides the service of live models modeling lingerie, with an emphasis upon specific sexual activities or specific anatomical areas, to individuals, couples, or small groups in a room smaller than 600 square feet.
3. **Video-viewing Booth, Arcade Booth, Adult Arcade:** Any establishment with a booth, cubicle, stall or compartment that is designed, constructed, or used to hold seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film video or magnetic tape, laser disc, CD-ROM, books, magazines, or periodicals) or observation by patrons therein, where there is an emphasis upon the depiction or description of specific sexual activities or specific anatomical areas. A video-viewing booth shall not mean a theater, movie house, playhouse or a room or enclosure or portion thereof that contains more than 600 square feet.
4. **Adult Lodging Establishment:** Any establishment offering lodging (including, but not limited to bed and breakfasts, inns, motels and hotels) which makes available to its patrons in their rooms or on the premise:
 - a. Any live performances characterized by the exposure of specific sexual activities or specific anatomical areas.
 - b. Provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions.
5. **Sexual Encounter Center:** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
 - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
6. **Live Sex Act Business:** Any business in which one or more persons may view, or may participate in, a live sex act for a consideration.

CONSIDERATION: The payment of money or the exchange of any item of value for:

1. The right to enter the business premises, or any portion thereof; or
2. The right to remain on the business premises, or any portion thereof; or
3. The right to purchase any item permitting the right to enter, or remain on, the business premises, or any portion thereof; or
4. The right to a membership permitting the right to enter, or remain on, the business premises, or any portion thereof.

HARD CORE MATERIAL: Hard core material is media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice of another person; open female labia; penetration of a sex toy into any orifice; male ejaculation; or the aftermath of male ejaculation.

LIVE SEX ACT: Any act whereby one or more persons engage in a live performance or live conduct which contains specific sexual activities.

NUDITY: The appearance of a human bare buttocks, anus, genitals or full female breast.

OPERATE AND MAINTAIN: To organize, design, perpetuate or control. Operate and maintain includes providing financial support by paying utilities, rent, maintenance costs or advertising costs, supervising activities or work schedules, and directing or furthering the aims of the enterprise.

SEMI-NUDE - A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUALLY ORIENTED BUSINESS : An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIC SEXUAL ACTIVITIES: Specific sexual activities shall include:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1, 2, and 3 above.

SPECIFIC ANATOMICAL AREAS: Specified anatomical areas shall include: (1) less than complete or opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernible turgid state, even if completely and opaquely covered.”

B. ADULT USE RESTRICTIONS

1. CLASS I ADULT USE REGULATIONS:

- A. Location: Class I Adult Uses shall be permitted in (C-1) Commercial Districts.
- B. Display Requirements: All adult materials in Class I Adult Uses shall be kept in separate room or section of the establishment and which room or section shall:
 - (1) Not to be open to any person under the age of 18.
 - (2) Be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least eight feet high or to the ceiling, whichever is less;
 - (3) Be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children;
 - (4) Have access controlled by electronic or other means to provide assurance that persons under age 18 will easily not gain admission and that the general public will not accidentally enter such room or section or provide continuous video or window surveillance of the room by store personnel; and
 - (5) Provide signage at the entrance stipulating that persons under 18 are not permitted inside.
- C. Permitting: A special use permit will be required to establish a Class I Adult Use. The construction of new Class I Adult Uses will require site plan review approval.
- D. Class I Adult Uses shall meet all other regulations of the Town of North Harmony, including but not limited to district lot and bulk regulations, parking regulations, sign requirements, and licensing requirements.

2. CLASS II ADULT USES REGULATIONS:

A. Location: Class II Adult Uses shall be permitted only in the (AU) Adult Use Overlay District. The boundaries of said district shall parallel the south side of County Route 18 in a depth of 500 feet from the centerline between Havercamp Road and Stebbins Road.

B. Special siting regulations: Within the Adult Use Overlay District the structure in which the Class II Adult Uses are permitted is prohibited from being established within:

1. 750 feet of the property line in which any existing single-family, two-family or multiple, family dwelling is located.
2. 1,000 feet from the existing property boundary of any public park, off road public bike path, public playground, cemetery, public indoor recreational facility, public library, public or private school, place of worship, public community center or day care facility.
3. 750 feet from any structure where an existing Class II Adult Use is located therein.
4. A structure that has an existing Class II Adult Use located therein.

Unless otherwise specified, the distances provided herein above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the structure in which the adult use is located and to be located to the nearest point of the parcel of the property from which the adult is to be separated.

C. No Class II Adult Use shall be conducted in any manner that allows the observation of any materials depicting, describing, or relating to specific sexual activities or specific anatomical areas from any public way or from any adjacent area. This provision shall apply to any sign, window or

other opening. In addition there shall be no outdoor display, window sign, or advertising of any kind other than a permitted freestanding sign, roof sign or wall sign that shall identify only the name of the establishment.

Permitting: A special use permit will be required to establish a Class II Adult Use. The construction of new Class II Adult Uses will require site plan review approval.

D. Class II Adult Use Uses shall meet all other regulations of the Town of North Harmony, including but not limited to district lot and bulk regulations, parking regulations, sign requirements, licensing requirements.

3. CLASS III ADULT USES REGULATIONS:

- A. Location: Class III Adult Uses shall be prohibited within all zoning districts.”
- B. It shall be unlawful for any person to operate and maintain a live sex act business.
- C. Operation of a live sex act business is a public nuisance per se which may be abated by order of the North Harmony Municipal Court.

C. AMORTIZATION OF EXISTING ADULT USES

The right to maintain a legal nonconforming adult use shall terminate in one year from the effective date of this law, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty days or more. The owner may apply to the zoning board of appeals for an extension of the amortization period and the zoning board of appeals may grant an extension upon a finding that there are substantial and un-recovered costs which cannot be recouped within one year. Such nonconforming uses shall not be increased, enlarged, extended, or altered within the one-year period, except that the use may be changed to a conforming use.

Section 639 - Portable Toilets and Privy Management

A. Purpose – To manage the construction, placement, maintenance and duration of use of portable toilets and privies in a manner that minimizes the potential negative impacts on adjacent properties, drinking water systems and watercourses related to odors and health impacts associated with facilities of this nature.

B. Conditions –

1.) Location:

- a.) No privy will be allowed to be constructed within the Conservation (C), Tourist-Commercial (TC-1, TC-2, TC-3 & TC-4), Commercial (C-1), Residential (R-1, R-2, R-3, R-4 & R-5) or Industrial (I-1) Districts.
- b.) A privy may be constructed in the Agriculture-Residential (AR) and Agricultural (A) Districts if constructed in accordance with the New York State Health Department’s Design Handbook and permitted by the Chautauqua County Department of Health.
- c.) Portable toilets, as defined herein, may be used in any district if such units meet the conditions of use specified in this section of the North Harmony Zoning Law.

2.) Placement:

- a.) No privy or portable toilet shall be constructed or placed within a 100-year flood zone.
- b.) No vault style privy or portable toilet shall be constructed or placed within 50 feet of a stream, lake or other watercourse. No seepage pit privy shall be constructed within 100 feet of a stream, lake or other watercourse.
- c.) All portable toilets shall comply with applicable district set back requirements for accessory buildings.

3.) Maintenance:

- a.) Privies and portable toilets shall be constructed and maintained in a clean condition so that insects and rodents cannot enter the vault.

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- b.) At a minimum, privies shall be pumped out when the vault or pit reaches a level of 18" from the top.
 - c.) Portable toilet(s) must be in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use.
 - d.) Portable toilet(s) must be monitored and under contract to be serviced by a licensed disposal contractor on a weekly basis or if the holding tank becomes full during the period of use.
- 4.) Duration of Use:
- a.) A maximum of one portable toilet may be placed on any premise within a Residential District (R-1 to R-5) for no longer than 96 hours in any one (1) year.
 - b.) Portable toilet(s) may be placed at sites or facilities not permanently inhabited within the Industrial (I-1), Commercial (C-1), Tourist Commercial (TC-1, TC-2, TC-3 & TC-4) & Conservation Districts for temporary use for special events for a period not to exceed 96 hours per event.
- 5.) Exceptions:
- a.) One portable toilet may be placed upon a premise in a Residential District (R-1 to R-5) for longer than 96 hours in any one year with the administrative approval of the North Harmony Code Enforcement Officer (CEO). This approval may occur after the CEO conducts a review of the proposed site plan layout, including the relationship of the portable toilet to any shoreline, streambank or structures on the premises or adjacent properties, and the submission of written proof of a service contract with a licensed disposal contractor to provide periodic inspections and pump outs as necessary.
 - b.) Portable toilet(s) may be placed at sites or facilities not permanently inhabited within the Industrial (I-1), Commercial (C-1), Tourist Commercial (TC-1, TC-2, TC-3 & TC-4) & Conservation Districts for a period exceeding 96 hours per event with a special use permit, site plan approval and written proof of a service contract with a licensed disposal contractor to provide periodic inspections and pump outs as necessary.
 - c.) Portable toilets for construction sites with valid building permits from the Town of North Harmony; active commercial farms requiring portable toilets for farm help; and Public Parks are exempt from the requirements of this section of the Town of North Harmony Zoning Law.
- 6.) Pre-Existing Portable Toilets and Privies
- a.) Existing portable toilets and privies, which do not conform to this new section, may be continued and maintained for a period up to six months, but shall not be moved, replaced or altered in any way except for in conformance with this section. Six months from the issuance date of this law all portable toilets and privies must be brought into compliance with this section or removed.

Section 640 – Boat Livery

Purpose – To allow boat storage and maintenance to occur within portions of the Town of North Harmony that are suited to such use without impacting the environment, neighboring residential clusters or adjacent land owners in a negative manner.

Conditions –

- 1.) All winterization or repairs are to be conducted completely within an enclosed structure. Said structure shall be compliant with all New York State permit requirements for motor vehicle repair facilities.

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- 2.) A single building for storage and repair of boats and boat motors in the TC-4 District that shall not exceed 3,500 square feet in size. Buildings for the same use shall not exceed 10,000 square feet per structure in all other districts where such a use is allowed unless the district within which the lot resides has established lower square footage limits.
 - 3.) Maximum height of boat storage and repair facility shall not exceed 24 feet in the TC-4 District. Maximum height of boat storage facility may not exceed 35 feet in all other districts where such a use is allowed.
 - 4.) No outside storage of boats or items shall be allowed in the TC-4 District. Boats awaiting repair shall be limited and shall be enclosed on the side or rear of the lot within an appropriate fence which shall make it impossible to view the boat from off the premises. A boat livery located in the A/R or C-1 Districts shall be allowed to store vehicles outside.
 - 5.) Signage associated with the facility shall comply with district regulations for business signs.
 - 6.) Site plan review shall be required for all proposed boat liveries.
 - 7.) Buffers shall be provided between adjacent residential parcels or as required by the Planning Board during site plan review.

Section 641 - Stormwater Management, Erosion and Sediment Control

A. Purpose.

The purpose of this supplemental section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town. This supplemental section seeks to meet those purposes by achieving the following objectives:

- (1) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised.
- (2) Minimize increases in the magnitude, rate, and frequency of stormwater runoff between pre-development and post-development conditions from land use activities so as to prevent an increase in flooding, siltation and stream bank erosion.
- (3) Prevent accelerated soil erosion and sedimentation so as to avoid its deposit in streams and other receiving water bodies.
- (4) Reduce detrimental impacts of stormwater flows on adjacent properties and downstream communities.
- (5) Minimize the accumulation, and facilitate the removal of pollutants in stormwater runoff so as to perpetuate the natural biological and recreational functions of streams, water bodies, and wetlands.
- (6) Reduce the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, ponds, wetlands, and stormwater control facilities resulting from inadequate control of soil erosion and stormwater runoff.
- (7) Assure soil erosion control and stormwater runoff control systems are incorporated into site planning at an early stage.

B. Applicability

- (1) This supplemental section applies to all land development activities and/or redevelopment activities that exceed any one of the thresholds below, unless exempt pursuant to Subsection C below. No person may undertake a land development activity without first meeting the requirements of this supplemental section.
- (2) This supplemental section defines three levels of applicability. Depending on the area of disturbance and other criteria listed below, land development activities will require either:
 - (a) A Full SWPPP (Stormwater Pollution Prevention Plan) with both erosion and sediment control and post construction water quality and quantity controls;
 - (b) A Basic SWPPP with erosion and sediment control, or
 - (c) A Simple SWPPP, with a generic small site erosion and sediment control plan.
- (3) Any of the following activities require a Full SWPPP, with Erosion and Sediment Control and Post Construction Water Quality and Quantity Controls, completed in accordance with the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised:

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- (a) Any land development activity with an area of disturbance greater than or equal to one acre that is listed in the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001, Appendix B, Table 2.
 - (b) Any single family home or single family residential subdivision, with an area of disturbance greater than or equal to one acre, that will directly discharge into Chautauqua Lake.
 - (4) Any of the following activities require a Basic SWPPP, with Erosion and Sediment Controls, completed in accordance with the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, unless already subject to a Full SWPPP as described above:
 - (a) Any land development activity with an area of disturbance greater than or equal to one acre that is listed in the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001, Appendix B, Table 1.
 - (b) The construction of a single family home not directly discharging into Chautauqua Lake that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
 - (c) The construction of a single family residential subdivision with 25% or less of impervious surface cover at total site build-out and not directly discharging into Chautauqua Lake that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
 - (d) Construction of a barn or other agricultural building, silo, stock yard or pen that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
 - (5) Any of the following activities require a Simple SWPPP, unless already subject to a Basic or Full SWPPP as described above:
 - (a) Any land development activity or redevelopment activity, located between the shoreline of Chautauqua Lake and the centerline of New York State Route 394, with an area of disturbance greater than or equal to 2,500 square feet but less than one acre;
 - (b) Any land development activity or redevelopment activity, located upland of the centerline of New York State Route 394, with an area of disturbance greater than or equal to 5,000 square feet but less than one acre;
 - (c) Any land development activity that involves the excavation or filling, resulting in the movement of 250 cubic yards or more of soil or similar material.
 - (d) Any land development activity, regardless of size, that the Town Code Enforcement Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.

C. **Exemptions.** The following activities are exempt in part or in whole from review under this supplemental section:

- (1) Silvicultural activities as defined, except that landing areas and log haul roads are subject to this law.
- (2) Agricultural activity as defined.
- (3) Routine maintenance activities that disturb less than 1 acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Code Enforcement Officer.
- (5) Subdivision plats approved by the Town before the effective date of this law, except individual building permits applied for on or after the effective date of this law are subject to this law.
- (6) Land development activities for which a building permit has been approved before the effective date of this law, although the provisions of this law may be applied to permit renewals, or substantial modifications to the original proposal if occurring on or after the effective date of this law.
- (7) Cemetery graves.
- (8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (9) Emergency activity immediately necessary to protect life, property or natural resources.
- (10) Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- (11) Landscaping and horticultural activities in connection with an existing structure creating less than 2,500 square feet of land disturbance in total.

D. Stormwater Pollution Prevention Plans (SWPPP)

(1) **SWPPP Submittal Requirements.** Any land development activity and/or redevelopment activity that exceed the thresholds listed in subsection B of this section, and are not exempt pursuant to Subsection C of this section, shall complete and submit a SWPPP as follows:

- (a) Simple SWPPP - Any land development or redevelopment activity required to complete a Type I or II Simple SWPPP must complete the Simple SWPPP in accordance with the requirements of subsection D(3) and subsection E of this supplemental regulation. Informational requirements that are not relevant or necessary to meet the erosion and stormwater objectives of this supplemental section may be waived by the reviewing board or official.

Once completed, the Type I or II Simple SWPPP shall be submitted to the reviewing board as part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

- (b) Basic SWPPP – Any land development or redevelopment activity required to complete a Basic SWPPP must comply with the substantive requirements of the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised. Such activities will be required to undertake and complete all required submittals to the DEC.

Copies of the Final SWPPP and Notice of Intent (NOI); submitted to the DEC; and completed in accordance with the technical standards referenced in Parts III.B.1,2 or 3 of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, and contained in part in subsection D of this supplemental section, shall be submitted to the reviewing board as part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

- (c) Full SWPPP – Any land development or redevelopment activity required to complete a Full SWPPP must comply with the substantive requirements of the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised. Such activities will be required to undertake and complete all required submittals to the DEC.

Copies of the Final SWPPP and Notice of Intent; submitted to the DEC; and completed in accordance with the technical standards referenced in Parts III.B.1,2 or 3 of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, and contained in part in subsection D of this supplemental section, shall be submitted to the reviewing board as part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

(2) **Type and Content of a Simple SWPPP:**

- (a) Type I Simple SWPPP. A Type I Simple SWPPP shall be required, as specified in the proceeding Section B (5), for land development activities not requiring a Full or Basic SWPPP; creating cumulative areas of disturbance totaling between 2,500 and 10,000 square feet; and not exceeding the following thresholds:

- (i) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, stream bank or watercourse;
- (ii) Within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
- (iii) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
- (iv) Contain slopes in excess of 15% within the area of land disturbance.

- (b) Type I Simple SWPPP Content Requirements:

- (i) Contact Information including: Owner and Developer's Name, Address, Project Address, Phone Numbers, Tax Parcel #.
- (ii) A brief description of the project, including a sketch, which may be combined with other drawings required for a building permit, specifically showing existing drainage features and vegetation on the site.

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- (iii) The ground area in square feet or acres that will be disturbed for each phase and for all phases of the project. The areas to be measured include but are not limited to: driveways, parking areas, buildings, septic systems, wells, grading and clearing, lawns, ditches, drainage structures, utilities, stockpiles, etc., including the total project area of disturbance, total parcel acreage, area of existing impervious surface, total area of impervious surface expected at completion, and total connected impervious area.
 - (iv) A description of the distance(s) from the areas of ground disturbance on any part of the site to the edge of any stream, pond, lake, or wetland on or in the vicinity of the site.
 - (v) A generalized plan describing the erosion control measures to be used to minimize the impacts of the land development activity appropriate for the site, based upon the guidelines in the DEC Erosion Control Manual. Measures may include:
 - 1. Stabilized construction entrance;
 - 2. Stabilization of exposed soil;
 - 3. Protection of adjacent properties, waterways, and natural areas;
 - 4. Management of concentrated flow areas; and
 - 5. Maintenance during construction.
 - (vi) Any additional details requested by the CEO.
- (c) Type II Simple SWPPP. Type II Simple SWPPP shall be required for land development activities not requiring a Full or Basic SWPPP; creating cumulative areas of disturbance totaling greater than 10,000 square feet and less than 43,560 square feet; and not exceeding the following thresholds:
- (i) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, stream bank or watercourse;
 - (ii) Within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
 - (iii) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
 - (iv) Contain slopes in excess of 15% within the area of land disturbance.
- (d) Type II Simple SWPPP Content Requirements:
- (i) A narrative describing:
 - 1. The proposed development.
 - 2. The schedule for grading and construction activities, including:
 - a. Start and completion dates.
 - b. Sequence of grading and construction activities.
 - c. Sequence for installation and/or application of soil erosion, sediment control and stormwater management measures.
 - d. Sequence for final stabilization and stormwater management on the project site.
 - 3. The design criteria for proposed soil erosion and stormwater control measures and stormwater management facilities, and computations necessary to demonstrate compliance with these criteria.
 - 4. The construction details for the proposed soil erosion and sediment control measures and stormwater management facilities.
 - 5. The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
 - 6. The operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.
 - 7. A statement describing all design measures taken to minimize grading and disturbance to land and vegetation.
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- (ii) A site plan, or subdivision plan, prepared in accordance with applicable requirements of this supplemental section or the Subdivision Law which shall include the following additional information:
 - 1. The proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
 - 2. The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities.
 - 3. The sequence of grading and construction activities.
 - 4. The sequence for installation and/or application of soil erosion, sediment control and stormwater management measures.
 - 5. The sequence for stabilization of the development site.

(3) Contents of a Full or Basic SWPPP. Any land development activity and/or redevelopment activity that exceeds the thresholds listed in the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, shall complete a SWPPP in accordance all requirements of said Permit.

E. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.

All land development activities or redevelopment activities required to complete a Full, Basic or Simple SWPPP by subsection B of this supplemental section are subject to the following performance and design criteria:

- (1) **Technical Standards.** For the purpose of this supplemental section, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards of this supplemental section:
 - (a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
 - (b) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (2) **Equivalence to Technical Standards.** Where stormwater management practices are not in accordance with technical standards, the applicant must demonstrate equivalence to the technical standards set forth in Subsection E (1) for a Basic or a Full SWPPP. The Basic SWPPP developed must be prepared and certified by a licensed or certified professional and the Full SWPPP must be prepared by a licensed engineer.

Where stormwater management practices contained within a Simple SWPPP are not in accordance with technical standards, the applicant may use alternative principles, methods and procedures with prior approval of the reviewing board, based upon a favorable recommendation from the Chautauqua County Soil and Water Conservation District.

- (3) **Water Quality Standards.** Any land development activity shall not cause or contribute to a violation of water quality standards in surface waters of the State of New York. The standards are contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

These standards apply whether or not a project is subject to this supplemental section, and whether or not a project meets the requirements of this supplemental section. These standards are enforceable by the DEC under the Environmental Conservation Law.

F. SWPPP Review

- (1) The CEO shall accept and review all Stormwater Pollution Prevention Plans for completeness and compliance with this supplemental section and, when required, forward such plans to the applicable board. The CEO may, if necessary, subject to budget restrictions and Town Board approval, engage the services of the Chautauqua County Soil and Water Conservation District representative, a registered professional engineer or certified professional to review the plans, specifications and related documents submitted in connection with any SWPPP.
- (2) All land development activities subject to review and approval by the Town Board, Zoning Planning Board or Planning Board of the Town under Site Plan, Special Permit, or Subdivision regulations reviewed by such Board must be reviewed subject to the standards contained in this supplemental section. No approval by any such Board shall be made unless it determines that the SWPPP complies with the requirements of this supplemental section.

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- (3) All land development activities subject to review under this supplemental section, but not subject to review under Subsection F (2) above, require a Stormwater Pollution Prevention Plan (SWPPP) to be submitted to the CEO who shall determine completeness of the SWPPP and compliance with this supplemental section before issuing any required permits.
 - (4) No land development activity which requires a Full, Basic or Simple SWPP in accordance with subsection B, unless exempt pursuant to Subsection C above, shall be commenced until the Code Enforcement Officer (CEO) has either approved a Simple SWPPP from the appropriate review board or has received a copy of the Final SWPPP and NOI submitted to the DEC and all local reviews have occurred.

G. Implementation.

- (1) The estimated costs of measures required to control soil erosion and sedimentation, as specified in the approved plan, may be covered in a performance bond or other guaranty acceptable to the reviewing board.
- (2) Site development shall not begin unless the soil erosion and stormwater control plan is approved and those control measures and facilities in the plan scheduled prior to site development are installed and functional.
- (3) Planned soil erosion and stormwater control measures and facilities shall be installed as scheduled according to the approved plan.
- (4) All erosion and stormwater control measures and facilities shall be maintained in a condition which ensures compliance with the approved plan and prevents sediment from leaving the site.

H. Inspection

- (1) **Erosion and Sediment Control Inspection.** The CEO may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant must notify the CEO at least 48 hours before any of the activities listed below, as required by the CEO, or the CEO may develop an inspection schedule specific to an individual project including but not limited to:

- (a) Start of construction
- (b) Installation of sediment and erosion control measures
- (c) Completion of site clearing
- (d) Completion of rough grading
- (e) Completion of final grading
- (f) Close of the construction season
- (g) Completion of final landscaping
- (h) Successful establishment of landscaping in public areas. Additionally, the Town may conduct inspections at any time.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the CEO.

- (2) **Right-of-Entry for Inspection.** When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner must grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section H (1) of this Law.
- (3) **Record Keeping.** Persons subject to this law are required to maintain records demonstrating compliance with this law. Such records must be provided to the CEO upon request.

- I. **Fees for Services.** The Town may require any person undertaking land development activities subject to this supplemental section to pay the reasonable costs of persons hired by the Town to review SWPPP's, perform inspections of stormwater management facilities and certify the completion of the same through application fees and escrow deposits required in connection with an application for a building or zoning permit or for site plan or subdivision approval. The Town Board may by resolution establish a fee schedule SWPPP review and stormwater and erosion inspections.

J. Maintenance, Inspection, and Repair of Stormwater Facilities

- (1) Maintenance and Inspection During Construction.** The applicant or developer of the land development activity or their representative must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this supplemental section. Sediment must be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- (2) Inspection, Maintenance and Easement Agreement.** Prior to the issuance of any approval for a project that has the construction of a stormwater management facility as one of the requirements, the applicant or developer must execute an inspection, maintenance and easement agreement that shall be binding on all subsequent landowners benefited by the stormwater management facility. The agreement must provide for Town access to the facility at all reasonable times for periodic inspection, and possible maintenance by the Town (in the sole discretion of the Town and expense of the owner) to ensure that the facility is maintained in proper working condition and continues to meet design standards and any other requirements of approval and this supplemental section. The agreement must be recorded in the office of the County Clerk, and noted on the subdivision plat (if applicable) after approval by the counsel for the Town. The Town reserves the power to require enforcement and charge-back of expense powers in the agreement, and to assign all agreements to any future drainage district.
- (3) Dedication of Stormwater Management Facilities Maintenance Agreement.** The Town, in lieu of the agreement required in above, in its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this supplemental section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Prior to accepting a dedicated facility, the Town may require the formation of a drainage district to include all parcels served by the facility, to pay the expenses of ongoing inspection, maintenance, and, if necessary, modification of the facility.

K. Enforcement

- (1) Stop Work Orders.** The CEO may issue a stop work order for violations of this law. Persons receiving a stop work order are required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order will be in effect until the CEO confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this supplemental section.
- (2) Violations.** Any land development activity that is commenced or is conducted contrary to this supplemental section, may be restrained by injunction or otherwise abated in the manner provided by Article XII of the Town of North Harmony Zoning Code and as otherwise provided by law.

Section 690 – Wind Energy Facilities

§ 690.00 Purpose

The Town Board of the Town of North Harmony adopts this Local Law to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

§ 690.01 Authority

The Town Board of the Town of North Harmony enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(6) and (10).
2. New York Statute of Local Governments, § 10 (1), (6), and (7).
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).
4. The suppression authority of New York Municipal Home Rule Law, § 10(2)(d)(3), specifically as it relates to determining which body shall have power to grant variances under this Local Law, to the extent such grant of power is different than under Town Law §267.
5. New York Town Law, Article 16 (Zoning).

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6. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).
 7. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(General powers).

§ 690.02. Findings

A. The Town Board of the Town of North Harmony finds and declares that:

1. Wind energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
2. The generation of electricity from properly Sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or on-Site consumption can be reduced.
3. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
4. Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects.
5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road Sites, and harm farmlands through improper construction methods.
6. Wind Energy Facilities may present a risk to bird and bat populations if not properly sited.
7. If not properly Sited, Wind Energy Facilities may present risks to the property values of adjoining property owners.
8. Wind Energy Facilities are significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
9. Construction of Wind Energy Facilities can create traffic problems and damage local roads.
10. Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.

§ 690.03 Definitions

As used in this Article, the following terms shall have the meanings indicated:

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.

RESIDENCE – means any dwelling suitable for habitation existing in the Town of North Harmony on the date SEQRA for the specific application is completed, including seasonal homes, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes. A residence may be part of a multi-dwelling or multipurpose building, but shall not include correctional institutions.

SEQRA – the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SOUND PRESSURE LEVEL – means the level which is equaled or exceeded a stated percentage of time. An L10- 50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 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.

SITE – The parcel(s) of land where the Wind Energy Facility is to be placed. The Site could 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 setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement shall not be considered off-site.

SMALL WIND ENERGY CONVERSION SYSTEM (“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 25 kW and which is intended to primarily reduce on-Site consumption of utility power.

TOTAL HEIGHT – The height of the tower and the furthest vertical extension of the WECS

UTILITY-SCALE WIND ENERGY CONVERSION SYSTEM (“Utility-Scale WECS”) – A wind energy conversion system consisting of a wind turbine(s), and associated control or conversion electronics, which has a rated capacity of more than 25 kW and which is intended to primarily generate electricity for off-site use and resale.

WIND ENERGY CONVERSION SYSTEM (“WECS”) – A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

WIND ENERGY FACILITY – Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER – a tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND OVERLAY DISTRICT – a district which encompasses all or part of an underlying district and that establishes requirements for Utility Wind Energy Conversion Facilities.

§ 690.04. Permits and Rezoning Required

- A. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of North Harmony except in compliance with this Article.
- B. No Utility-Scale WECS shall be constructed, reconstructed, modified, or operated in the Town of North Harmony except in a Wind Overlay District, pursuant to an application for rezoning and special use permit approved pursuant to this Article.
- C. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of North Harmony except in the Agricultural (A) District, pursuant to a Special Use Permit issued pursuant to this Local Law.
- D. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of North Harmony except in the areas of the Town upland of New York State Route 394 pursuant to a Special Use Permit issued pursuant to this Local Law.
- E. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for agricultural operations.
- F. This Article shall apply to all areas of the Town of North Harmony.
- G. 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 Article, 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 or of any other party under this Article unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.
- H. Notwithstanding the requirements of this Article, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when (1) there will no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the WECS.

§ 690.05. Applicability

- A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Article.
- B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Article, shall not be required to meet the requirements of this Article; provided, however, that: *(cont. on next page)*

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1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.
 2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.
 3. Any Wind Measurement Tower existing on the effective date of this Local Law shall be removed no later than twenty-four (24) months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.
- C. Wind Energy Facilities may be either principal or accessory uses. A different existing use or an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on such Site. Wind Energy Facilities constructed and installed in accordance with this Article shall not be deemed expansions of a nonconforming use or structure.
- D. This Article is not intended to cover roof-mounted, building-integrated, building mounted or architectural wind systems; this Article only covers stand-alone tower mounted systems.

§ 690.06 Wind Overlay District Rules.

- A. Wind Overlay District(s) may be created in the Agricultural (A) District.
- B. Initial requests for Wind Overlay District(s) shall be submitted with applications for Utility-Scale WECS Special Use Permits. No Wind Overlay District may be initially created without specific requests for Utility-Scale WECS.
- C. Once a Wind Overlay District has been created, new Utility-Scale WECSs or accessory structures or facilities may be added in that District by grant of a Special Use Permit pursuant to the requirements of this Article.

§ 690.07. Applications for Utility-Scale Wind Energy Conversion Systems and Wind Overlay District

- A. A joint application for creation of a Wind Overlay District and Special Use Permit for individual Utility-Scale WECS shall include the following:
 1. 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.
 2. Name and address 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.
 3. Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number.
 4. A description of the project, including the number and maximum rated capacity of each WECS.
 5. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following.
 - a) Property lines and physical dimensions of the Site;
 - b) Location, approximate dimensions and types of major existing structures and uses on Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of the proposed Wind Overlay District.
 - c) Location and elevation of each proposed WECS.
 - d) Location of all above ground utility lines on the Site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.

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- e) Location and size of structures above 35 feet within a five-hundred foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - f) The zoning designation of the subject and adjacent properties as set forth in Town Zoning Law.
 - g) Proposed boundaries of the Wind Overlay District.
 - h) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:
 - (i.) One and a half times the tower height.
 - (ii.) Five Hundred foot perimeter.
 - (iii.) One Thousand foot perimeter.
 - i) Location of the nearest residential structure on the Site and located off-Site, and the distance from the proposed WECS.
 - j) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
6. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
 7. Landscaping Plan depicting vegetation describing the area to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
 8. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
 9. List of property owners, with their mailing address, within 500 feet of the boundaries of the proposed Wind Overlay District. The applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
 10. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include: a) the anticipated life of the WECS; b) the estimated decommissioning costs in current dollars; c) how said estimate was determined; d) the method of ensuring that funds will be available for decommissioning and restoration; e) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and f) 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 3 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.
 11. Complaint Resolution: The application will include a complaint resolution process to address complaints from nearby residents. The process shall use an independent mediator or arbitrator and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
 12. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:
 - a) A construction schedule describing commencement and completion dates; and
 - b) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
 13. Completed Part 1 of the Full EAF.
 14. Applications for Wind Energy Permits for Wind Measurement Towers subject to this Local Law may be jointly submitted with the WECS.
 15. For each proposed WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
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16. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board may issue a positive declaration of environmental significance.
 17. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information, at a minimum, shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with the application:
 - a. Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
 - b. Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. 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.
 - c. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed District.
 - d. Noise Analysis: a noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Town Board may modify this requirement). The noise analysis shall include low frequency noise.
 - e. Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties neighboring WECS Sites.
 - f. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.
 18. The applicant shall, prior to the receipt of a building permit, provide proof that they have executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
 19. A statement, signed under penalties of perjury that the information contained in the application is true and accurate.

§ 690.08. Application Review Process for Utility-Scale WECS

- A. Applicants may request a pre-application meeting with the Town Board, or with any consultants retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law.
- B. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
- C. Town staff or Town designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Town Board waives any application requirement, no application shall be considered until deemed complete.
- D. If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.

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- E. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board.
 - F. The Town Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed Wind Overlay District, and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
 - G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
 - H. Notice of the project shall also be given, when applicable, to (1) the Chautauqua County Planning Board, if required by General Municipal Law §§239-l and 239-m, and (2) to adjoining Towns under Town Law §264.
 - I. SEQRA review. Applications for Utility-Scale WECS are deemed Type I projects under SEQRA. The Town may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Town's proceedings. The Town may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the applications.
 - J. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

§ 690.09. Standards for Utility-Scale WECS

- A. The following standards shall apply to all Utility-Scale WECS, unless specifically waived by the Town Board as part of a permit:
 - 1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
 - 2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.
 - 3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
 - 4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Site plan.
 - 5. All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay District shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the District, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
 - 6. The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
 - 7. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. 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 operation. If it is determined that a WECS is causing electromagnetic interference, the 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 WECSs causing the interference.

8. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
9. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
10. WECSs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
11. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.
12. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.
13. The maximum Total Height of any WECS shall be 440 feet.
14. Construction of the WECS shall be limited to the hours of 6 a.m. to 8 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.
15. Substations required to serve WECS are an Essential Public Service under this Zoning Code. Substations shall be screened from public view to the extent possible.
16. The Town of North Harmony shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than an amount to be determined by the Town Board given the nature and scope of the project proposed by the applicant.
17. Any construction or ground disturbance involving agricultural land shall be done in accordance with the NYS Department of Agriculture and Markets' publication titled Guidelines for Agricultural Mitigation for Wind Power Projects.

§ 690.10. Required Safety Measures for Utility-Scale WECS

- A. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate.
- C. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7 day week coverage. The Town Board may require additional signs based on safety needs.
- D. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- E. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.
- F. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.

§ 690.11. Traffic Routes for Utility-Scale WECS

- A. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and / or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.
- B. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.
- C. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

§ 690.12. Setbacks for Utility-Scale Wind Energy Conversion Systems

- A. The statistical sound pressure level generated by a WECS shall not exceed L10- 50 dBA measured at the nearest inhabited off-Site dwelling existing at the time of application. If the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
- B. In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph A) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (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 (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.
- C. 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 (5) 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 thirty (30) mph at the ambient noise measurement location.
- D. Any noise level falling between two whole decibels shall be the lower of the two.
- E. Each WECS shall be setback from Site boundaries, measured from the center of the WECS:
 - 1. 500 feet from the nearest Site boundary property line.
 - 2. 500 feet from the nearest public road.
 - 3. A minimum of three times the maximum total height of the WECS from the nearest off-Site residence existing at the time of application, measured from the exterior of such residence.
 - 4. One and a half times the Total Height of the WECS from any non-WECS structure or any above-ground utilities.
 - 5. 100 feet from state-identified wetlands. This distance may be adjusted to be greater or lesser 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.

§ 690.13. Noise and Setback Easements for Utility-Scale Wind Energy Conversion Systems

- A. In the event the noise levels resulting from a Wind Energy Facility exceed the criteria established in this Article, or setback requirement is not met, a waiver will be granted from such requirement by the Town Board in the following circumstances:
1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to (1) allow noise levels to exceed the maximum limits otherwise allowed or (2) all setbacks less than required; and
 2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.
- B. Waivers granted under this Section differ from variances under **Article IX** of North Harmony's Zoning Law in that no variance is required if a waiver is given under this Section, and a variance must be sought rather than a waiver if the adjoining property owner will not grant an easement pursuant to this section.

§ 690.14. Creation of Wind Overlay Districts and Issuance of Special Use Permits

- A. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- B. If approved, the Town Board will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind Overlay Districts, and direct Town staff to issue a Special Use Permit for each Utility-Scale WECSs upon satisfaction of all conditions for said Permit, and direct the building inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.
- C. The decision of the Town Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- D. If any approved Utility-Scale WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

§ 690.15. Abatement

- A. If any Utility-Scale WECS remains non-functional or inoperative for a continuous period of 1 year, the applicant agrees that, without any further action by the Town Board, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property as required by the decommissioning plan in 690.07 (10)(f) of this Local Law. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's limit the ability to order a remedial action plan after public hearing.
- B. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the Utility-Scale WECS is functioning, which reports may be redacted as necessary to protect proprietary information.
- C. Decommissioning Bond or Fund. 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 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.

§ 690.16. Limitations on Approvals; Easements on Town Property

- A. Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- B. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

§ 690.17. Permit Revocation for Utility-Scale WECS

- A. Testing fund. A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Local Law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.
- B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.
- C. Notwithstanding any other abatement provision under this Local Law, and consistent with §690.15(A) and § 690.17(B), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Special Use Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

§ 690.18. Applications for Wind Measurement Towers

- A. An application for a Wind Measurement Tower shall include
 - 1. 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.
 - 2. 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.
 - 3. Address of each proposed tower Site, including Tax Map section, block and lot number.
 - 4. Site plan
 - 5. Decommissioning Plan, including a security bond or cash for removal.

§ 690.19. Standards for Wind Measurement Towers

- A. The distance between a Wind Measurement Tower and the property line shall be at least 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 may be renewed if the Facility is in compliance with the conditions of the Special Use Permit.

SMALL WIND ENERGY CONVERSION SYSTEMS

§ 690.20. Small WECS Purpose and Intent

The purpose of this Article is to provide standards for small wind energy conversion systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

§ 690.21. Permitted Areas for Small WECS

- A. Small Wind energy systems may be permitted in any zoning district(s) upland of New York State Route 394 except for the R-1 and R-5 districts upon issuance of a Special Use Permit.

§ 690.22. Small WECS Applications

- A. Applications for Small WECS special use permits shall include:

1. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
2. 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.
3. Address of each proposed tower Site, including Tax Map section, block and lot number.
4. Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system.
5. 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 Electric Code.
6. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
7. 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 so in the application, to connect the system to the electricity grid.
8. 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.

§ 690.23. Small WECS 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.

1. 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.
2. 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 purposes of this Article.
3. Small Wind energy systems may be used primarily to reduce the on-Site consumption of electricity.
4. Tower heights may be allowed as follows:

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- a. 80 feet or less on parcels upland of New York State Route 394 that are one or more acres.
 - b. 150 feet or less on parcels upland of New York State Route 394 that are five or more acres.
 - c. 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.
5. The maximum turbine power output is limited to 25 kW.
 6. 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.
 7. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible a small wind energy system:
 - a. Shall not project more than (40) feet above the top of the highest natural point on ridgelines.
 - b. Shall be screened to the maximum extent feasible by natural vegetation, landforms or other means to minimize potentially significant adverse visual impacts on neighboring residential areas and public viewing areas.
 8. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
 9. 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 Zoning Board of Appeals if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
 10. 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.
 11. 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, 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.
 12. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground.
 - b. A locked anti-climb device installed on the tower.
 - c. A locked, protective fence at least six feet in height that encloses the tower.
 13. 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 aboveground 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.
 14. 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.
 15. 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.
 16. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
 17. All small wind energy systems 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 manufacture.
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§ 690.24. Small WECS Standards

A. A Small Wind Energy System shall comply with the following standards:

1. Setback requirements. A Small WECS tower shall not be located closer to a property line than one times the Total Height of the WECS. **No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property line.**
2. Noise. Except during short-term events including utility outages and severe wind storms, 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.

§ 690.25. Small WECS Abandonment of Use

- A. 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.
- B. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

MISCELLANEOUS

§ 690.26. Fees for WECS

A. There shall be non-refundable application fees as follows:

1. Wind Overlay District rezoning: \$2,500 per District.
2. WECS Special Use Permit: \$50 per megawatt of rated maximum capacity.
3. Wind Measurement Towers: \$20 per vertical foot per tower.
4. Small WECS: \$150 per WECS
5. Wind Measurement Tower Special Use Permit renewals: \$200 per Wind Measurement Tower.
6. The cost of all legal notices and mailings shall be assessed to the applicant.

B. Building Permits.

1. The Town believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be increased by administrative costs which shall be \$100 per permit request for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.
2. 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 Operator and/or the applicable Transmission Owner.

C. Nothing in this Local Law 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. 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.

D. The Town Board may amend these fees, by resolution after a properly noticed public hearing.

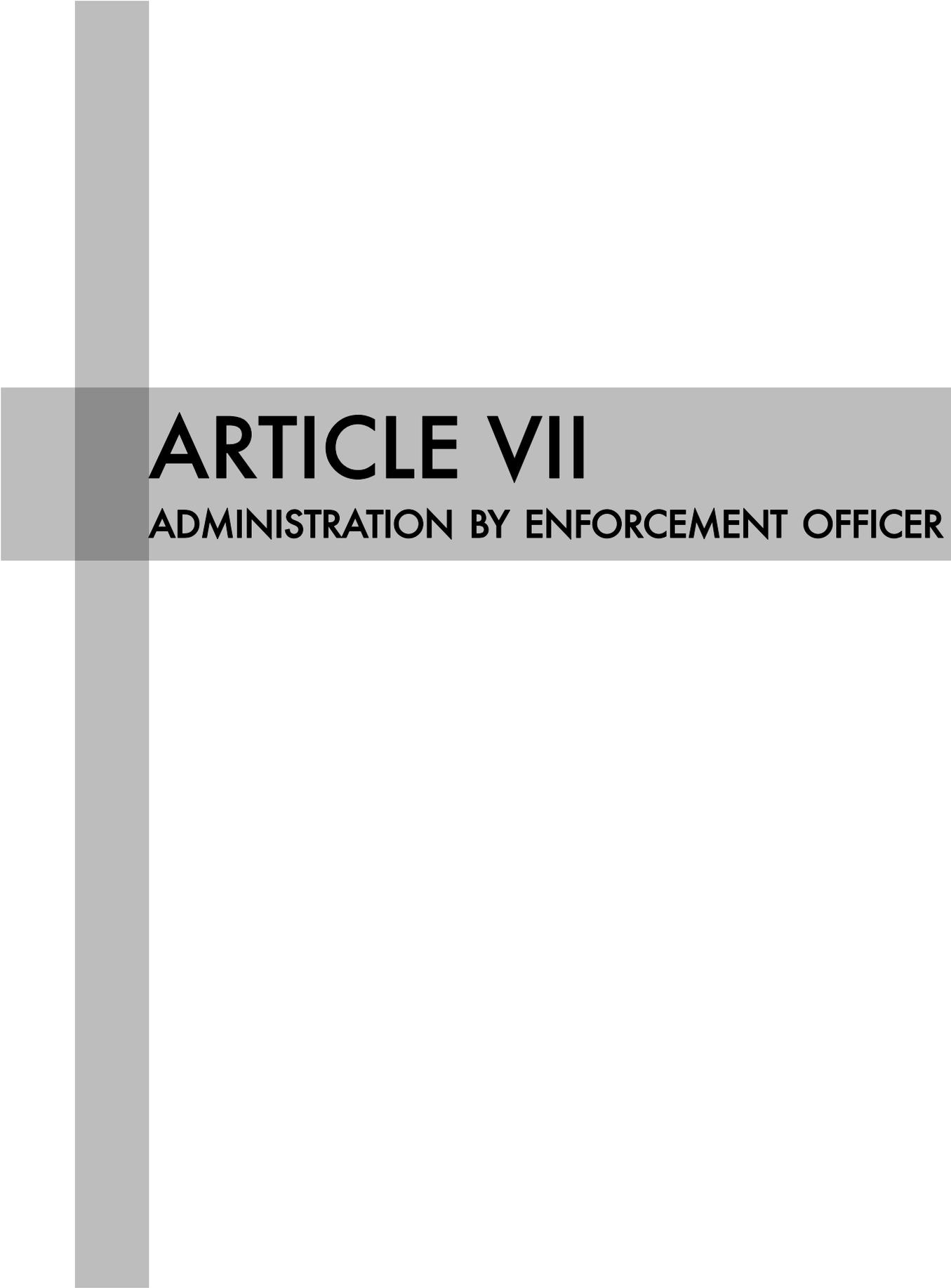
§ 690.27. Tax Exemption for WECS

The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

§ 690.28. Enforcement; Penalties and remedies for violations for WECS

- A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.
- B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this Article or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$350 or to imprisonment for a period of not more than fifteen days, or subject to both such fine and imprisonment for a first offense, for a second offense (both within a period of five-years), a fine not less than \$350 nor more than \$700, or imprisonment not to exceed six-months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amounts set forth herein of for each violation and each week said violation continues shall be deemed a separate violation.
- C. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

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ARTICLE VII

ADMINISTRATION BY ENFORCEMENT OFFICER

ARTICLE VII
ADMINISTRATION BY ENFORCEMENT OFFICER

SECTION 701 - Enforcement

This Law shall be enforced by the Enforcement Officer who shall be appointed for a period of 5 years by the municipality. No building permit shall be issued by the Enforcement Officer except where there is to be compliance with all provisions of this Law.

SECTION 702 - Duties

It shall be the duty of the Enforcement Officer in connection with this Law to do the following:

- A. Permits** - issue building/zoning permits or refuse to issue such permits and give the reasons for such refusal to the applicant in writing.
- B. Records** - Keep a record of all applications for permits and record of all permits issued with a notation of all special conditions involved.
- C. Fees** - Receive all required fees and deposit them with the municipal clerk at least monthly.
- D. Coordination** - Keep the Municipal Board, The Zoning Board of Appeals, and Planning Board informed and advised of all matters, other than routine matters in connection with the Law.
- E. Reports** - Submit such reports as may be deemed necessary by the Municipal Board.
- F. Assist Applicants** - Whenever possible advise and assist persons applying for building permits with the preparation of their applications.
- G. Violations** - Assist in securing warrants and prosecution of violators of the provisions of this Law.
- H. Notices** - Serve or cause to be served all notices that may be required to be served in connection with this Law.
- I. Fire Inspection** - Notify Fire Code Inspector of all permits issued.
- J. Building Code Inspector** - Notify Building Code Inspector of all permits issued.
- K. Amendment Recommendations** - Make recommendations to the Municipal Board for keeping the Zoning Law and accompanying map up-to-date.
- L. Inspections** - Inspect new construction, building renovations / revisions, and changes of use during and/or after construction or change in use to insure conformity with the provisions of this Law and other applicable laws.

SECTION 703 – Zoning Permits

- A. Permit Required** – No building, structure, accessory uses, or lot shall be erected, added to, structurally enlarged, or changed to another use until a zoning permit has been issued by the Code Enforcement Officer. Excluded however, from these permit requirements are:
 - 1. Interior modifications unless additional dwelling units or different types of uses are created, and
 - 2. Home repairs or improvements not involving additions or enlargements of floor space.
 - 3. Refer to Article IV, District Regulations, for other exclusions.
- B. Permit Contents** – The application for a permit shall be made on a form obtained through the Code Enforcement Officer. The form, at a minimum, shall contain all materials requested by the Code Enforcement Officer.
- C. Site Plan Review Check List for Residential Projects Over \$20,000** – All applicants and projects requiring a building permit or any other permits for residential projects, with a construction cost of over \$20,000, shall provide all documents necessary to comply with and satisfy the following site plan review checklist of required materials. The following information must be submitted with each building permit application. Other additional information may be requested by the Town Board and Code Enforcement Officer.

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1. Architectural drawings or blueprints including the name and address of applicant and architect or engineer. Identification of N.Y.S. licensed architect or engineer, where applicable, must include the location, type of construction, proposed use, exterior dimensions of all buildings, designs and general construction materials to be used.
 2. Boundaries of property plotted to scale including north arrow, dimensions and setbacks from property lines, roads, existing buildings, and proposed building.
 3. Elevation and grading plan. If a grade is unusually steep or sloping toward lakes or streams, a topographical map may be required, and a stormwater protection plan may also be required.
 4. Drainage plan with French drains, gutter drains, garage and lawn drains indicated.
 5. Description and location for method of sewage disposal, septic or municipal sewer if applicable. The Chautauqua County Health Dept. must approve septic plan.
 6. Description and location of water supply, well, or municipal water lines if applicable.
 7. Description and location of electrical service, overhead or underground if applicable.
 8. Description and location of fuel service, i.e. piped in natural gas, propane tank or fuel oil tank, if applicable.
 9. A copy of any other applications, permits, easements, restrictions, etc. from any other government bodies, homeowners associations, common ownerships or sub-developments.

D. Site Plan Review Checklist for Commercial Projects – All applicants for a building permit or any other permit for commercial projects shall provide all documents necessary to comply with and satisfy the following site plan review checklist of required materials. The following information must be submitted with each building permit application. Other additional information may be requested by the Town Board and Code Enforcement Officer.

1. Title of drawing, including name and address of applicant and person responsible for preparation, identification of NYS licensed architect, landscape architect or engineer where appropriate for such drawing.
 2. North arrow, scale at one inch equals 200 feet or some agreed upon scale as specified by the Town of North Harmony Planning Board.
 3. Boundaries of the property plotted to scale.
 4. Existing buildings.
 5. Grading and drainage plan. Topographic site plan map is preferred at a scale of 1"= 200 feet.
 6. All existing watercourses, tree cover and other significant natural features shall be plotted. Where drainage is to be a natural watercourse or drainage ditch, the elevation of water in such watercourse or ditch at recognized flood stage should be noted.
 7. A stormwater management plan prepared by a professional engineer in accordance with the requirements set forth by the NYS DEC and NYS Building codes.
 8. Location, design, type of construction, proposed use and exterior dimensions of all buildings.
 9. Location, design and type of construction of all parking and truck loading areas, showing access and egress and showing paving, including typical cross sections and profiles of proposed streets, pedestrian walkways and bikeways. All entrance drives and parking areas shall be bituminous surfaces unless otherwise approved by the respective board.
 10. Provisions for pedestrian access.
 11. Location of outdoor storage, if any.
 12. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 13. Description for the method of sewage disposal and location, design and construction materials of such facilities as approved by the Chautauqua County Health Department.
 14. Description of the method of securing water and location, design and construction materials of such facilities with a proposed water supply plan, including location of fire hydrants, size of service line, and note indicating backflow prevention will be provided.
 15. Location of fire and other emergency zones, including the location of fire hydrants.
 16. Location, design and construction materials of all energy distribution facilities, including electrical and solar energy.
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17. Location, size, design and type of construction of all proposed signage.
 18. Location and proposed development of all buffer zones, including existing vegetative cover.
 19. Location, design, and types of outdoor lighting facilities. An analysis and consideration of lighting spillover onto adjacent properties and roadways.
 20. Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
 21. General landscaping plan and planting schedule.
 22. An estimated project construction schedule.
 23. Record of application for and/or status of all necessary permits from other governmental bodies.
 24. Identification of any permits from other governmental bodies for the project's execution.
 25. Proposed easements, restrictions, covenants and provisions for any and all homeowners' associations and commons ownership.
 26. An aerial 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.
 27. A map of site topography at no more than five feet contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 28. Other elements or information integral to the proposed development that may be considered necessary regarding the particular proposed project by the governing board.

E. Flood Permits - A development permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a development permit shall be made on forms furnished by the Zoning or Code Enforcement Officer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing criteria.

F. Validity - Building permits shall be valid for a one year period only. Within one year from the date that the building permit is granted, the exterior of the structure shall be completed, backfilling and rough grading will be accomplished, and no new building materials will be stored inside. One-year extensions shall be allowed for just cause in the A, AR, C-1, TC1, TC2, TC3, TC4, and I Districts.

G. Notification of Adjacent Property Owners - Attempts shall be made in writing, to notify property owners of land adjacent to parcels of land involved in requests for zoning permits, special use permits, variances, or zoning law amendments. The notification shall be a copy of any public notice advertising the meeting or hearing. Failure of such adjacent property owners to receive such notice, however, shall not be a basis for invalidating such a building permit; nor of contesting the actions of the Enforcement Officer, Board of Appeals, Planning Board, or the Municipal Board in regard to the issuance or withholding of such permit.

H. Decisions -

1. All decisions by the Zoning or Code Enforcement Officer to grant or deny a zoning permit shall be made in writing within 20 days from the time that the completed zoning permit form is submitted along with full payment of the required fee.
2. The decision form shall, as a minimum, include a project description, location information, reference to the section of the Zoning Law which would not be complied with, and a description of any alternatives that may be open to applicants who are denied a permit.

SECTION 704 – Fees

The Town Board, by resolution, shall establish and amend from time to time, a schedule of fees for the applications and permits required by this zoning law. The current schedule shall be on file with the Code Enforcement Officer and with the Town Clerk.



ARTICLE VIII

NONCONFORMING USES

ARTICLE VIII NONCONFORMING USES

SECTION 801 - Continuation

The lawful use of any building or land existing at the time of the enactment of this Law may be continued although such use does not conform to the provisions of this Law. However, all legally preexisting uses which do not conform to specific provisions of this Law shall not be required to comply with these provisions unless it is specifically stated within this Law that they must comply within a certain reasonable time period.

SECTION 802 - Alteration of Structures

A. Unsafe Structures - Nonconforming buildings damaged by fire, wind, and other catastrophic causes as well as structures declared to be unsafe due to general dilapidation may be restored or rebuilt for the nonconforming use it was used for last. Unsafe structures cannot be restored or rebuilt if it would result in a use which is more nonconforming than the structure was prior to becoming unsafe. When the unsafe condition was caused by fire, wind, or any catastrophic causes, the permit must be applied for within six months from the date of the catastrophe. Otherwise, the building permit need not be granted, as decided by the Zoning Board of Appeals.

B. Alterations of structures - A nonconforming structure may be added to or altered during its life to an extent of up to 50% of the market value of the building as long as the alterations do not cause the structure to be more nonconforming. If the alterations are made to bring the building into conformity with all provisions of this Law, then the 50% rule does not apply. Alterations above 50% shall be allowed if all conditions of the Law are met.

SECTION 803 - Prior Approved Construction

Nothing herein contained shall require any change in plan, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently carried on within three months of the date of such permit.

SECTION 804 - Cessation

Whenever a nonconforming use has been voluntarily discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Law.

SECTION 805 - Displacement

No nonconforming use shall be extended or enlarged to displace a conforming use on the property or adjacent property.

SECTION 806 - District Changes

Whenever the boundaries of a district or zone shall be changed so as to transfer an area from one district or zone to another district or zone of a different classification, the provisions of this article shall also apply to any uses made nonconforming as a result of the change.

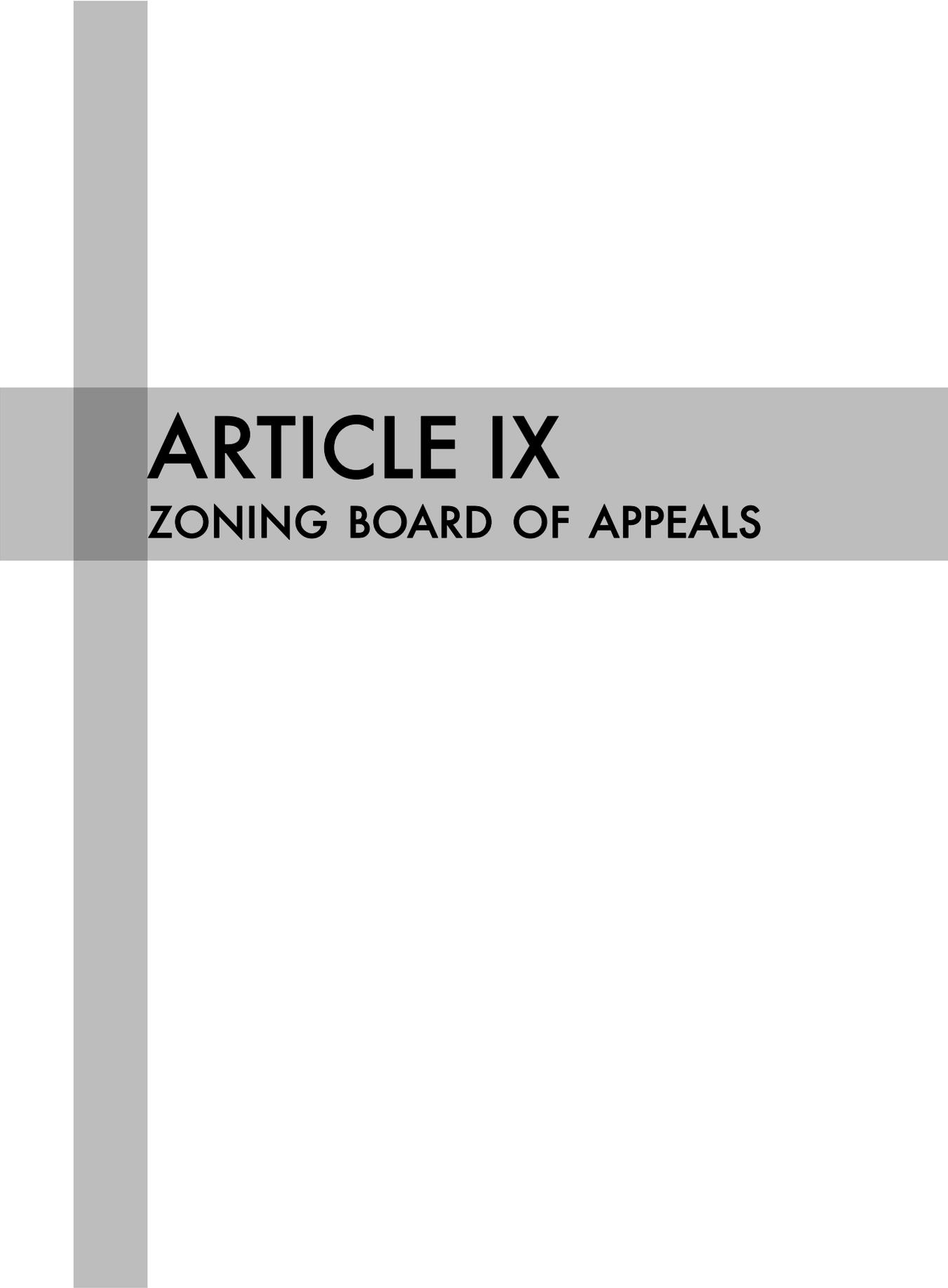
SECTION 807 - Nonconforming Yard Changes

A permitted use which is not in conformance with yard requirements (e.g., setbacks, etc.) may be removed and replaced with another structure (same use) which is the same or more in compliance with the yard requirements without going through area variance procedures. The Code Enforcement Officer shall determine the applicability of this section to specific cases. Additionally, where an existing structure does not comply with setback requirements, additions to the structure may be made where the setbacks will not be further violated. Generally, this shall apply to the filling in of irregularly shaped structures.

SECTION 808 - Use Changes

A. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

B. A legal nonconforming use may be changed to another nonconforming use which is of such a character so as to be equal or less of a nuisance and more in conformance with the zoning law requirements. The Zoning Board of Appeals shall make all determinations as to what new nonconforming uses would be allowable through the normal use variance procedures. (Refer to [Section 904 on variances](#)).



ARTICLE IX

ZONING BOARD OF APPEALS

**ARTICLE IX
ZONING BOARD OF APPEALS**

SECTION 901 - Creation

There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Town Law. Said Board shall consist of seven (7) members of staggered 5-year terms, including a chairperson, appointed by the Town Board. Appointments shall be in accordance with the New York State Town Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Town Board appointment of a chairperson the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may also provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper. Board of Appeals members shall complete training and continuing education courses as required by New York General Municipal Law.

SECTION 902 - General Procedures (Duties)

- A. Duties** - The Zoning Board of Appeals shall act in strict accordance with procedures specified by law and this Zoning Law. The major duties of the Board shall be to hear and decide on variance requests as well as to interpret the meaning of the Zoning Law as requested. Additionally, except as otherwise specifically provided by another provision of this zoning law, it shall hear requests for special use permits, whether or not a variance is also requested, as provided in [Section 905](#).
- B. Format for Requests** - All requests shall be in writing on forms prescribed by the Zoning Board of Appeals. Specific provisions of the Zoning Law shall be referred to and as a minimum, the following information shall be provided by the person requesting the variance or interpretation.
1. property identification;
 2. project description;
 3. a drawing of sufficient detail to provide needed information sufficient to decide on the request;
 4. reasons for permit denial;
 5. proof of unnecessary hardship or practical difficulties; and
 6. hearing information.
- C. Referral to Planning Board** - On an optional basis, the Zoning Board of Appeals may request in writing a recommendation by the Planning Board. The failure of the Planning Board to submit said report shall be deemed to be an approval of the appeal or interpretation in favor of the applicant.
- D. Hearings** - All hearing procedures shall be in accordance with appropriate laws with respect to notices, timeliness, etc.
- E. Decisions** - Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings. Decisions shall be made in a timely manner in accordance with state law. As per state law, a majority of the membership are needed to pass or reject any request.
- F. Time Requirements** - All appeals to the Zoning Board of Appeals for an interpretation or a variance shall be submitted to the Zoning Board of Appeals within 30 days of the date of denial of the application.

SECTION 903 - Interpretation

The Zoning Board of Appeals shall have the power to interpret the meaning of this Zoning Law whenever called upon by the Municipal Board, Zoning or Code Enforcement Officer, or an aggrieved party. This shall include the power to reverse any order, requirement, decision, or determination of an administrative official or Board. This interpretive power shall include the determination of the location of district boundary lines.

SECTION 904 - Use and Area Variances

- A. Reasons for Variances** - The Zoning Board of Appeals has the authority to vary or modify the strict letter of the Zoning Law where a literal interpretation would cause practical difficulties (Area Variances) or unnecessary hardships (Use Variance).

B. Applicability & Limitations -

1. The Zoning Board of Appeals can decide appeals from a person who feels aggrieved by a decision of the Enforcement Officer.
2. The Zoning Board of Appeals may reverse, affirm, or modify the decision made by the Municipal Board.
3. The Zoning Board of Appeals has absolutely no power to amend the Zoning Law and must exercise great care to insure that its rulings do not, in effect, amend the Zoning Law.

C. Area Variances –

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this law, to grant area variances as defined herein.
2. 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 of Appeals shall also consider:
 - (a) 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;
 - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) whether the requested area variance is substantial;
 - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) 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.
 - (f) 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. Use Variances -

1. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officials charged with the enforcement of this law, shall have the power to grant use variances, as defined herein.
2. 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.
3. No use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship to the applicant. In order to prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under this Local Law for the district in which the applicant's property is located:
 - a. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - b. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - c. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d. The alleged hardship has not been self-created.

Failure to demonstrate any one of the requirements in Subsections 1(a) through 1(d) above is sufficient to justify the denial of a use variance.

E. Conditions and Restrictions - 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, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

F. Temporary Variances - The Zoning Board of Appeals may issue, for uses which are of a temporary nature, a Variance. Said Variance shall clearly state the conditions of the variance to include, when it shall terminate, the possibility of renewal, and other conditions deemed necessary.

SECTION 905 - Special Use Permits

A. Applicability - The Zoning Board of Appeals shall hear all requests for Special Use Permits for commercial projects involving 5,000 or less square feet of floor space and for residential projects involving 5 or less residential units, including projects which may also require an Area or Use Variance.

B. General Provisions - The special uses listed in this zoning law for which conformance to additional standards are required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of all requirements and standards set forth herein, in addition to all other requirements of this zoning law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

C. Standards - The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of the buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights, than would be the operations of any permitted use.

D. Conditions -

1. In granting of Special Use Permits, the Permitting Board shall attach such conditions and safeguards as it deems appropriate under this law.
2. The supplemental section of this Law entitled, General Development Conditions ([Section 601](#)), will be referred to and used as a checklist of possible conditions to be attached to the Special Use Permit being requested and this section is not all-inclusive.
3. A plan for the proposed development of a site for designated special use shall be submitted with an application for a Special Use Permit and the plan shall show the location of all buildings, lots, parking areas, traffic access, and circulation drives, open spaces, landscaping, and any other pertinent information that the Permitting Board deems necessary.

E. Administrator -

1. **Procedures** - The Permitting Board shall act in strict accordance with procedure specified by law and by the Zoning Law with regard to public hearings, notices, publications, etc.
2. **Expiration** - A Special Use Permit shall be deemed to authorize only one particular use and shall expire if the special use shall cease for more than one year for any reason.
3. **Existing Violations** - No Special Use Permit shall be issued for a property where there is an existing violation of this law.

SECTION 906 - Mandatory Referral (General Municipal Law 239 I & m)

A. Applicability - In accordance with General Municipal Law 239 I & m, before issuing a Special Use Permit or granting a variance affecting any real property lying within a distance of 500 feet of the boundary of this Municipality or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway, or from the channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, the matter shall be referred to the Chautauqua County Planning Board.

B. Response Time - Within 30 days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board, to which referral is made or an authorized agent of said agency, shall report its recommendations thereon to the Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of 30 days, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproved the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution, fully setting forth the reasons for such contrary action by the Board of Appeals.

C. Report of Action - Within 7 days after final action by the Board of Appeals, modifications or disapproval of a referred matter, the Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board which had made the recommendations, modifications or disapproval.

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ARTICLE X

MUNICIPAL PLANNING BOARD

**ARTICLE X
MUNICIPAL PLANNING BOARD**

SECTION 1001 - Creation

The Municipal Board shall appoint a Planning Board consisting of 7 members as prescribed by Law.

SECTION 1002 DUTIES : Special Use Permit & Recommendations

A. The Planning Board shall have the duties imposed upon it by law and by other provisions of this Zoning Law.

B. Recommendations

1. **Optional Reports** - The Planning Board shall submit reports within 30 days after referral on any matter referred to it.
2. **Mandatory Recommendations** - The Planning Board shall submit recommendations to the appropriate Board on all applications for:
 - a. cluster residential development;
 - b. mobile home park;
 - c. zoning amendments; and
 - d. all other uses for which a referral to the Planning Board is mandatory.
3. **Failure to Report** - When the Planning Board fails to make a recommendation/ report within 30 days from the receipt of the request, it shall be deemed that the Planning Board has no objection to the request or proposal. The 30 day requirement may be extended with the permission of the Board making the referral.

C. Review of Zoning Law - To review the Zoning Law at least every five years and make written recommendations for amendments, should they be necessary.

SECTION 1003 - Mandatory Referral

Under General Municipal Law 239 I & m, certain Special Use Permits and amendments must be referred to the County Planning Board prior to a local decisions being made. See [Article IX, Zoning Board of Appeals](#), for procedures to be followed ([Section 906](#) on mandatory referrals).

SECTION 1004 – Site Plan Review

§ 1004.1 Purpose and Intent.

The purpose of this Section is to provide regulations governing the applicability, submission requirements, and standards for review and design of uses required to obtain site plan approval. The intent is to:

- A. Ensure that the development and use of land within the Town of North Harmony does not have an adverse effect on adjacent lands or on the character of the community.
- B. It is the further intent of these regulations to protect the community from traffic congestion, noise, lighting, odor and other forms of pollution, inappropriate design, flooding, excessive soil erosion, and stormwater impacts, and to ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed, and that its impacts can be mitigated by compliance with reasonable conditions.

§ 1004.2 Authority.

The Planning Board of the Town of North Harmony is hereby authorized to grant site plan approval pursuant to Article 16 of the Town Law, as amended from time to time.

§ 1004.3 Applicability.

- A. **Uses requiring site plan approval.** Prior to the issuance of a building permit in any zoning district or a permit for a change in use or approval of a special use, the Code Enforcement Officer shall require site plan approval in accordance with the provisions of this subsection. All new land use activities shall require site plan approval, including new structures, new uses, expansions of existing structures, excavation operations and legal conversions of existing buildings to other uses except those specifically exempted below.
- B. **Level of site plan review required.** All uses requiring site plan approval, as specified above, shall comply with the review provisions of either the “minor site plan approval” process or “major site plan approval” process.
- (1) Uses qualifying for minor site plan approval. Single family dwellings, and their accessory structures, on an approved building lot meeting the dimensional requirements of the Town of North Harmony that are not part of a proposed subdivision and do not meet any of the following thresholds:
- (a) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, stream bank or watercourse;
 - (b) Located within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
 - (c) Requires a cumulative total of 10,000 square feet of land disturbance;
 - (d) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
 - (e) Contain slopes in excess of 15% within the area of land disturbance.
- (2) Uses qualifying for major site plan approval. All uses requiring site plan approval as described in the preceding section (A) that does not qualify for “minor site plan” approval and which are not exempted under the “Exempted Uses” list below.
- C. **Exempted uses.** The following land use activities are exempted from the requirements of this article, unless site plan is otherwise required as a condition of a separate Town approval:
- (1) Development between the shoreline of Chautauqua Lake and the centerline of New York State Route 394 creating less than 2,500 square feet of land disturbance in total.
 - (2) Development upland of the centerline of New York State Route 394 creating less than 5,000 square feet of land disturbance in total.
 - (3) Normal building maintenance, including the repair or maintenance of structural members.
 - (4) Agricultural land uses and structures, with the exception of roadside stands for the sale of agricultural products from a permanent structure, on farms with an approved Agricultural Environmental Management (AEM) Plan and/or an approved Comprehensive Nutrient Management Plan (CNMP) created in partnership with, and approved by, the Chautauqua County Soil & Water Conservation District.
 - (5) Incidental landscaping or grading (less than 2,500 square feet).
 - (6) Interior alterations that do not substantially change the nature or use of a residential, commercial or industrial structure.
 - (7) Exterior alterations or additions to an existing residential or commercial structure, which do not substantially change its nature or use, and will not increase the gross floor area of the existing structure by more than 15% in total within any five year period.
 - (8) Any change of use where no change to the building footprint or site is proposed.
- D. **Existing uses and structures.** This subsection does not apply to uses and structures that are lawfully in existence as of the date this subsection is adopted. Any use that would otherwise be subject to this subsection, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms herein defined before such use is resumed. Any use or structure shall be considered to be in existence, provided that such use or structure has started construction prior to the effective date of this subsection and is fully constructed and completed within one year after the effective date of these regulations.

§ 1004.4 Procedures.

- A. **Pre-application meeting.** The applicant shall meet with the Code Enforcement Officer prior to submission of a site plan for review to determine whether a minor or major site plan approval is required. At the pre-application meeting, the applicant shall provide a written statement and/or a rough sketch describing what is proposed, including an indication of all existing structures and uses, if any, on the site. The Code Enforcement Officer shall use the pre-application meeting as an opportunity to advise the applicant of the procedures for both minor and major site plan approval and the potential information to be required on either type of site plan.
- B. **Minor Site Plan Review.**
- (1) Application for minor site plan approval. Within 60 calendar days of the pre-application meeting, a complete application for site plan approval shall be made in writing to the Code Enforcement Officer. The application shall be accompanied by not less than three (3) prints of the proposed site plan (or as many additional prints as may be required for circulation purposes) and one electronic file of the proposed site plan, in a form usable by the Town (pdf or other specified format). Site plans may be provided on a drawing certified by a licensed civil engineer, registered landscape architect, registered architect or other licensed design professionals, but the Code Enforcement Officer shall not require this unless the services of such professionals are necessary to provide accurate information or are otherwise required by law. Such plans shall be submitted and shall include information drawn from the section below of items, as determined necessary by the Code Enforcement Officer at the time of the pre-application meeting.
 - (2) Minor site plan contents. A minor project site plan application shall contain the following information (see WWW.CHAUTAUQUAGIS.COM as a source for some information):
 - (a) The name and address of the applicant and any professional advisors.
 - (b) A sketch of the parcel on a location map (e.g., a tax map) showing boundaries and dimensions of the parcel and identifying contiguous properties that are within 500 feet of the proposed structure and any known easements or rights-of-way and roadways.
 - (c) Existing features of the site lying within 300 feet of the proposed structure, including land and water areas, water or sewer systems, and the approximate location of all structures within 500 feet of the proposed structures.
 - (d) The proposed location and arrangements of structures and uses on the site, including means of ingress and egress, parking, and circulation of traffic.
 - (e) A sketch of any proposed structures (including septic systems), showing exterior dimensions and elevations of front, side, and rear views; copies of available blueprints, plans, or drawings.
 - (f) A concise description of the project describing the intended use of proposed structures and any changes in the existing topography (i.e. – grading, filling, vegetation removal) and natural features.
 - (g) If the parcel contains a wetland, or floodplain, a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
 - (3) Code Enforcement Officer's review of minor site plan. The Code Enforcement Officer's review of a site plan shall include, but is not limited to, the following considerations:
 - (a) Any excavation, filling and grading proposed to be undertaken, including the depth, nature and volume of materials involved.
 - (b) The type, size and location of vegetation to be removed during site preparation.
 - (c) All temporary and permanent drainage, erosion and sediment facilities proposed.
 - (d) Adequacy of stormwater management and sanitary waste disposal facilities.
 - (e) Total cumulative impervious surface coverage as a percentage of lot area.
 - (f) Location of septic system and leach fields in relationship to wetlands, streambanks and watercourses.
 - (g) Site layout and design in relationship to natural features.
 - (h) An on-site visit to the proposed site to examine features.

(4) Site plan design criteria. The Code Enforcement Officer, in reviewing site plans, shall consider the standards set forth below:

(a) The stormwater management and erosion and sediment controls contained in Article VI, [Section 641](#) of this law.

(5) Required referral. On occasion, when applicable, the Code Enforcement Officer shall refer the plan to the Chautauqua County Planning Board for its review and approval, pursuant to § 239-m of the General Municipal Law, prior to taking final action on the site plan.

(6) Code Enforcement Officer's action on minor site plan. Within thirty (30) days of the receipt of a complete minor site plan application, the Code Enforcement Officer shall act on the minor site plan application.

(a) Determination. After review and evaluation, the Code Enforcement Officer, through an administrative review, shall make a determination to either approve, approve with modifications, or disapprove the minor site plan application. A copy of the determination shall be filed in the Town Clerk's Office and mailed to the applicant within five (5) business days of the Code Enforcement Officer's determination.

Upon a determination of either approval or approval with modifications of an application in full compliance with the submission requirements stated therein the Code Enforcement Officer shall be authorized to stamp and sign the minor site plan.

If the Code Enforcement Officer's determination includes a requirement that modifications be incorporated in the minor site plan, conformance with said modifications shall be considered a condition of approval.

If the minor site plan is not approved, the Code Enforcement Officer's determination shall state specific reasons for such decision. In such a case, the Code Enforcement Officer may recommend further study of the minor site plan and resubmission to his office after it has been revised or redesigned.

(b) Submission Requirements for Stamping. After receiving site plan approval, with or without modifications, from the Code Enforcement Officer, the applicant shall within two (2) calendar months submit a minimum of three (3) prints to the Code Enforcement Officer for stamping and signature. The minor site plan submitted for stamping shall conform strictly to the minor site plan approved by the Code Enforcement Officer except that it shall further incorporate any revisions or other modifications required by the Code Enforcement Officer.

(c) Effect of Stamping and Signature. Upon stamping and signature by the Code Enforcement Officer, the Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

(d) Expiration of Approval. The Code Enforcement Officer's approval of a minor site plan shall expire if the following circumstance occurs:

(1) A complete application for either a Building Permit or Certificate of Occupancy is not submitted to the Code Enforcement Officer within twelve (12) calendar months of the signing and stamping of the Site plan by the Code Enforcement Officer.

Upon prior written request to the Code Enforcement Officer, the time period for either submission of an application for a Building Permit or Certificate of Occupancy may be extended for a maximum period of six (6) calendar months from its otherwise specified termination date.

C. Major Site Plan Review

(1) Sketch plan conference. A sketch plan conference between the Permitting Board and the applicant shall be held to initially review the basic site design concept and generally determine the extent of site plan review necessary for the proposed project. All required materials for the sketch plan conference shall be submitted to the Code Enforcement Officer at least ten (10) days prior to the regularly scheduled Permitting Board meeting and forwarded to the Permitting Board members at least seven days prior to the regularly scheduled meeting in order to be placed on the monthly agenda for consideration by the Board. At the sketch plan conference, the applicant shall provide a written statement and/or a rough sketch describing what is proposed, including an indication of all existing structures and uses, if any, on the site. The Permitting Board shall use the sketch plan conference as an opportunity to advise the applicant of the information to be required on the site plan and in accompanying reports. The Permitting Board shall additionally employ the conference as an opportunity to discuss with the applicant the extent of the SEQR review process required for the application.

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- (a) The sketch plan shall be clearly designated as such and shall identify all existing and proposed (see WWW.CHAUTAUQUAGIS.COM or zoning maps for some information):
 - 1. Zoning classification and required setbacks.
 - 2. Lot lines.
 - 3. Land features, including environmentally sensitive features.
 - 4. Land use(s).
 - 5. Utilities.
 - 6. Development, including buildings, pavement and other improvements, including setbacks.
 - 7. Location and nature of all existing easements, deed restrictions and other encumbrances.
 - (b) Sketch plans shall be drawn to scale.
 - (c) It is the responsibility of the applicant to provide a sketch plan that depicts a reasoned and viable proposal for development of the lot.
 - (d) The Permitting Board, upon review of the sketch plan, may waive requirements for application materials for developments for which, due to character, size, location or special circumstances, such information is not required in order for the Permitting Board to properly perform site plan review.
 - (e) Members of the Permitting Board may suggest modifications to, but shall not approve or disapprove, the sketch plan. Comments made by individual Board members during sketch plan review shall not be interpreted as constituting approval or disapproval by the Board, nor shall they be interpreted to limit the scope of any subsequent review or approval of a derivative plan.
- (2) Application for major site plan approval. Within 90 calendar days of the sketch plan conference, a complete application for site plan approval shall be made in writing to the Permitting Board. The application shall be accompanied by not less than eight (8) prints of the proposed site plan (or as many additional prints as may be required for circulation purposes under SEQR) and one electronic file of the proposed site plan, in a form usable by the Town. Site plans shall be provided on a drawing certified by a licensed civil engineer, registered landscape architect, registered architect or other licensed design professionals, as may be necessary to comply with the professional licensing regulations administered by the New York State Education Department. Such plans shall be submitted at least 10 days prior to a scheduled regular meeting of the Permitting Board and shall include information drawn from the following checklist of items, as determined necessary by the Permitting Board at the time of the sketch plan conference:
- (a) A site plan drawn at a scale of 100 feet to one inch or larger showing the following information:
 - 1. LEGAL DATA.**
 - (i) Title of drawing, including name and address of applicant and person(s) responsible for preparation of such drawing;
 - (ii) North arrow, scale and date;
 - (iii) An area map keyed to the real property tax maps, showing the parcel under consideration for Site plan review, and all properties, subdivisions, streets, power lines and easements within five hundred (500) feet of the boundaries thereof;
 - (iv) Accurate boundaries of the property plotted to scale, including reference to specific data sources;
 - (v) The locations, names and existing widths of adjacent streets/roads, right of ways and curb lines.
 - (vi) The locations and owners of all adjoining lands as shown on the latest tax records and tax map identification numbers.
 - 2. NATURAL FEATURES.**
 - (i) Existing contours with intervals of 20 feet or less, including the source of the information.
 - (ii) Approximate boundaries of any areas subject to flooding or stormwater overflows.
 - (iii) The location of existing watercourses, New York State and federal wetlands, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured at breast height above the base of the trunk and other significant existing features.
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- (iv) Land exceeding a slope of 15%.
 - (v) FEMA special flood hazard zone boundaries and designations, including the flood hazard zone, Community Panel Number and the effective date as shown.
 - (vi) Soils classification mapping from "Soils Survey of Chautauqua County" data (available at Chautauqua County Soil & Water Conservation District).

3. EXISTING STRUCTURES AND UTILITIES AND OTHER FEATURES.

- (i) The location of uses and outlines of all existing structures, drawn to scale.
- (ii) Paved areas, sidewalks and vehicular access between the site and public Streets.
- (iii) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.
- (iv) Locations, dimensions, grades and flow direction of existing sewers, drainage ditches, culverts and water lines, as well as other underground and aboveground utilities within and adjacent to the property.
- (v) Other existing development, including fences, retaining walls, landscaping and screening.

4. PROPOSED DEVELOPMENT.

- (i) The location, type of construction and exterior dimensions of proposed buildings or structural improvements. [NOTE: Elevations and/or sections illustrating front, rear and side profiles drawn to the same or larger scale as the site development plan may be required by the Permitting Board. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal.]
- (ii) The location and design of all uses not requiring structures, such as off-street parking and loading areas.
- (iii) The location, direction, power and time of use for any proposed outdoor lighting.
- (iv) The location, size and design for all proposed permanent outdoor signs.
- (v) The location and arrangement of proposed means of access and egress, including sidewalks and other pedestrian access, driveways, fire lanes and other emergency zones or other paved areas; and profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water and sewer lines. For commercial and industrial structures, identify the amount of gross floor area proposed for retail sales, services, offices and other uses.
- (vi) Any proposed screening and other landscaping, including types and locations of proposed street trees, as well as a planting schedule.
- (vii) The description of the water supply system, location of well(s) and/or all proposed water lines, valves and hydrants and of all sewer lines and alternate means of water supply and sewage disposal and treatment.
- (viii) An outline of any proposed easements, deed restrictions or covenants.
- (ix) Any contemplated public improvements on or adjoining the property.
- (x) Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties on the street.
- (xi) A drainage plan showing existing and proposed watercourses, proposed detention/retention facilities and calculations of the impact to existing drainage created by the proposed development. [NOTE: Contour intervals of one or two feet may be appropriate for grading and drainage plans.]
- (xii) Location of outdoor storage and waste receptacles and proposed screening for such.
- (xiii) Location and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (xiv) Location, design and construction materials of all energy-generation and distribution facilities, including wind, electrical, gas and solar energy.
- (xv) If the site plan indicates only a first stage, a supplementary plan shall indicate ultimate development.
- (xvi) The percentage of open space provided and the location and development of all proposed buffer areas, including indication of proposed vegetative cover.
- (xvii) Any setbacks or other dimensional information required by this article.
- (xviii) Record of applications and approval status of all necessary permits from federal, state, county and local agencies.
- (xix) Estimated project construction schedule.
- (xx) Estimate of the total cost of proposed site improvements.
- (xxi) Estimate of total cumulative area of disturbance in square feet.

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5. Any other information required by the most current checklist prepared by the Permitting Board in order to conduct its review.
 6. Any other information deemed by the Permitting Board to be necessary to determine conformity of the site plan with the spirit and intent of this article.
- (b) Required fees and supporting materials. An application for site plan review and approval shall not be considered complete until accompanied by the applicable fee and escrow deposit, in accordance with the fee schedule established and annually reviewed by the Town Board, and the supporting materials requested by the Permitting board from the lists described below in Section 1004.4 C(2)(b) and above in Section 1004.4C(2)(a).
1. Supporting materials. The following materials shall be submitted as requested:
 - (i) A copy of the deed to the property as most recently filed and/or a copy of the executed contract of sale.
 - (ii) A copy of each covenant, easement or deed restriction in effect or intended to cover all or part of the tract.
 - (iii) Written offers of easement to the Town of North Harmony or other public agencies for purposes of stormwater drainage, utility rights-of-way, etc.
 - (iv) Identification of all necessary permits from federal, state, county or local agencies, approvals required from said agencies for the project's execution, and proof of Special Use Permit and/or variance approvals if applicable.
 - (v) As applicable, soil logs from on-site borings or test pits, percolation test results, and stormwater runoff calculations.
 - (vi) Plans to prevent: the pollution of surface or groundwater; erosion of soil both during and after construction; excessive runoff; impacts on the water table; and flooding of other properties.
 - (c) Environmental Assessment Form. A complete application for Site plan review and approval shall also be accompanied by a Short or Full EAF as required by SEQR. To avoid delay, applicants are advised to familiarize themselves with the New York State SEQR requirements for environmental assessment, to determine whether their proposed project meets the thresholds for a Type 1 Action and therefore requires that a Full EAF be submitted to accompany the application for Site plan approval.
- (3) Permitting Board review of major site plan
- (a) Factors for consideration during site plan review. The Permitting Board' review of a site plan shall include, but is not limited to, the following considerations:
 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
 2. Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrians from vehicular traffic, sidewalks, linkages, control of intersections with vehicular traffic and pedestrian convenience.
 3. Location, arrangement, appearance and sufficiency of off-street parking and Loading areas.
 4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between the proposed use and adjoining uses or properties.
 6. In the case of an apartment complex or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.
 7. Adequacy of stormwater management facilities.
 8. Protection of adjacent properties from noise, glare, unsightliness or other objectionable features.
 9. Adequacy of water supply and sewage disposal facilities.
 10. Overall impact on the neighborhood, including compatibility of design and effect on the environment.
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- (b) Site Plan Design Criteria. The Permitting Board, in reviewing site plans, shall consider the standards set forth below:
1. All buildings in the plan should be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
 2. Individual buildings as related to each other and to structures in the surrounding area in architecture, design mass, materials, placement and connections to harmonize visually and physically.
 3. Treatment of the sides and rear of all buildings, where appropriate, shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
 4. The design of buildings and the parking facilities shall take advantage of the natural topography of the project site, where appropriate.
 5. All buildings shall be accessible to emergency vehicles.
 6. Landscaping shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
 7. Primary landscape treatment shall consist of shrubs, flowers, ground cover and shade trees and shall combine with appropriate walks, walls and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town's environment.
 8. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
 9. There should be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
 10. Roads, pedestrian walks and open space should be designed as integral parts of an overall site design, be properly related to existing and proposed buildings and be appropriately landscaped.
 11. Buildings and vehicular circulation areas should be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
 12. The light level at the lot line should not exceed 0.2 foot candles measured at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses; light standards should be restricted to a maximum of 20 feet in height.
 13. Parking facilities should be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
 14. Parking facilities shall utilize low-impact and on-site stormwater techniques where feasible, and be designed with regard for orderly management, topography, landscaping and ease of access and shall be developed as an integral part of an overall site design.
 15. Any above-grade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.
 16. Off-street parking and loading requirements required in the Town of North Harmony Zoning Law.
 17. Drainage of the site and surface waters flowing there from shall utilize natural drainage pathways where feasible and in the best public interest; shall not adversely affect adjacent properties or public roadways; and shall strive to not increase runoff downstream from the project site.
 18. The stormwater management and erosion and sediment controls contained in Article VI, Section 641 of this law.
 19. All buildings in the plan shall be sited, to the extent feasible under the law, in a manner which continues the existing setback pattern of nearby surrounding properties and minimizes negative impacts on scenic views from surrounding properties.
 20. If a project under review is deemed to be a Type I Action pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), the project shall also be required meet all the necessary review criteria specified within the Chautauqua Lake Local Waterfront Revitalization Plan.

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- (c) Referral to other agencies and boards. The Permitting Board may refer the site plan for review and comment to local and county officials or their designated consultants, in addition to representatives of State agencies including, but not limited to the Soil & Water Conservation District, the New York State Department of Transportation, the State Department of Environmental Conservation and the State Department of Health.
 - (d) Required referral. Prior to taking final action on the site plan, and where applicable, the Permitting Board shall refer the plan to the Chautauqua County Permitting Board for its review and approval, pursuant to § 239-m of the General Municipal Law.
 - (e) Public hearing. The Permitting Board shall conduct a public hearing on the application for a major site plan approval. The public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the complete application and shall be advertised in the official newspaper of the Town at least five (5) calendar days before the public hearing.
 - (f) Waiver of requirements. The Permitting Board may waive any specific requirements set forth in Section 1004.4 C (a) of this Zoning Law for the approval, approval with modifications or disapproval of a major site plan submitted for approval. The grant of any such waiver shall be accompanied by a finding that compliance with the requirement is either not requisite in the interest of the public health, safety and general welfare or inappropriate to the particular site plan.
- (4) Permitting Board action on major site plan. Permitting Board Action on Site Plan. Within sixty-two (62) days of the close of a public hearing, the Permitting Board shall act on the major site plan application.
- (a) Action by Resolution. The Permitting Board shall act by resolution to approve, approve with modifications, or disapprove the Site plan application. A copy of the resolution shall be filed in the Town Clerk's Office and mailed to the applicant within five (5) business days of the Permitting Board's actions. A resolution of either approval or approval with modifications shall include authorization to the Permitting Board Chairman/Supervisor to stamp and sign the Site plan upon the applicant's compliance with the submission requirements stated therein.

If the Permitting Board's resolution includes a requirement that modifications be incorporated in the Site plan, conformance with said modifications shall be considered a condition of approval. If the Site plan is disapproved, the Permitting Board's resolution shall state specific reasons for such decision. In such a case, the Permitting Board may recommend further study, or modification, of the Site plan and resubmission to the Permitting Board after it has been revised or redesigned.
 - (b) Submission Requirements for Stamping. After receiving site plan approval, with or without modifications, from the Permitting Board, the applicant shall within six (6) calendar months submit a minimum of eight (8) prints, and one (1) electronic file to the Permitting Board for stamping and signature by the Chairman/Supervisor. The site plan submitted for stamping shall conform strictly to the Site plan approved by the Permitting Board except that it shall further incorporate any revisions or other modifications required by the Permitting Board and shall be accompanied by the following additional information:
 - (1) Record of application for and approval status of all necessary permits from Federal, State and County officials.
 - (2) An estimated project construction schedule and if a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvement cost estimate.
 - (c) Effect of Stamping by Permitting Board. Upon stamping and signature by the Chairman/Supervisor, the Permitting Board shall forward a copy of the approved site plan to the Code Enforcement Officer and the applicant. The Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.
 - (d) Expiration of Approval. Permitting Board approval of a site plan shall expire either of the following circumstances occurs:
 - 1. The site plan is not submitted for stamping and signature to the Chairman/Supervisor within 180 calendar days of the Permitting Board's resolution of Site plan approval, with or without modifications.
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2. A complete application for either a Building Permit or Certificate of Occupancy is not submitted to the Code Enforcement Officer within 180 calendar days of the stamping and signing of the Site plan by the Chairman/Supervisor.

Upon prior written request to the Permitting Board, the time period for either submission of the Site plan or submission of the complete application for a Building Permit or Certificate of Occupancy may be extended for a maximum period of 180 calendar days from its otherwise specified termination date.

§ 1004.5 Reimbursable costs.

Reasonable costs incurred by the Permitting Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in [1004.4 C \(2\) \(b\)](#) herein.

§ 1004.6 Guaranty of site improvements.

- A. General. Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been provided by the applicant for improvements not yet completed.
- B. Performance guaranty options. In order that the Town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking and access roads will be constructed in accordance with Town standards and/or any site plan approval modifications, the Permitting Board may require that the applicant enter into one of the following agreements with the Town:
 - (1) Furnish bond executed by a surety company (licensed in New York State) equal to the cost of construction of such improvements as shown on the plans. Such bond shall be based on an estimate furnished by the applicant, confirmed by the Code Enforcement Officer or Town Engineer and approved by the Permitting Board.
 - (2) Deposit a certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
 - (3) Provide the Town with a letter of credit that is of sufficient amount to cover up to 110% of the total cost of improvements as shown on the site plan.
- C. Conditions.
 - (1) The performance guaranty shall be to the Town and shall provide that the applicant, his/her heirs, successors, assigns or his/her agent will comply with all applicable terms, conditions, provisions and requirements of this article and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
 - (2) Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency manner of execution and surety.
 - (3) Certified checks shall be made payable to the Town of North Harmony and will be placed in an escrow account established by the Town for this purpose.
 - (4) Letters of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.
- D. Extension of time. The construction or installation of any improvements or facilities (except for improvements or facilities related to Stormwater Management and Erosion and Sediment Control as required by [Article VI, Section 641](#) of this law), other than roads, for which a guaranty has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed and approved by the Town Highway Superintendent within two years from the date of approval of the site plan, during which time they will be maintained in a manner consistent with the provisions of Article VI, [Section 641](#) of this law. The applicant may request that the Permitting Board grant him or her an extension of time to complete such improvements, provided that the applicant can show reasonable cause for inability to complete said improvements within the required time. The extension shall not exceed six months, at the end of which time the Town may use as much of the bond or check deposit to construct the improvements as necessary. The Permitting Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.

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- E. Schedule of improvements. When a certified check or performance bond is issued pursuant to the preceding subsections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the Town of all construction and installation covered by the check deposit or performance bond.
- F. Inspections. Inspections during the installation of improvements shall be made by the Code Enforcement Officer to ensure conformity with the approved plans and specifications as contained in the contract and this article. The applicant shall notify the Code Enforcement Officer when each phase of improvements is ready for inspection. Upon acceptance, final completion of installation and improvement, the Permitting Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Town of the portion of the performance bond or certified deposit as designated in the contract to cover the cost of such completed work.
- G. Phased development. The Permitting Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, 10% of the check deposit or performance bond shall be withheld from the applicant until 60 days following the completion, inspection and acceptance by the Town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Code Enforcement Officer.



ARTICLE XI
MUNICIPAL BOARD

**ARTICLE XI
MUNICIPAL BOARD**

SECTION 1101 - Duties: Amendments & Special Use

The Municipal Board shall have the following duties with respect to the Zoning Law.

A. Amendments -

1. The Municipal 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.
2. The Municipal 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.

B. Special Use Permit -

1. **Applicability** - The Municipal Board shall hear all requests for Special Use Permits/ Site Plan Reviews for commercial projects involving over 5,000 square feet of floor space and for residential projects involving more than 5 residential units.

2. **Special Use Permit Provisions –**

- a. **General Provisions** - The special uses listed in this Zoning Law for which conformance to additional standards are required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Zoning Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- b. **Standards** - The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights, than would be the operations of any permitted use.

c. **Conditions -**

- (1) In the granting of Special Use Permits, the Permitting Board shall attach such conditions and safeguards as it deems appropriate under this law.
- (2) The supplemental section of this law entitled, General Conditions, will be referred to and used as a checklist of possible conditions to be attached to the Special Use Permit being requested. It should not be assumed that this section is all inclusive.
- (3) A plan for the proposed development of a site for designated special use shall be submitted with an application for a Special Use Permit, and plan shall show the location of all buildings, lots, parking areas, traffic access, and circulation drives, and any other pertinent information that the Permitting Board deems necessary.

- d. **Procedures** - The Permitting Board shall act in strict accordance with procedure specified by Law and by the Zoning Law with regard to public hearings, notices, publications, etc.

- e. **Expiration** - A Special Use Permit shall be deemed to authorize only one particular use and shall expire if the special use shall cease for more than one year.

- f. **Existing violation** - No Special Use Permit shall be issued for a property where there is an existing violation of this Law.

C. Site Plan Review -

1. **Applicability** – The Municipal Board shall retain the approval power for conducting the site plan review and approval process for all commercial uses involving more than 5,000 square feet of floor space or residential uses involving more than five (5) residential units.
2. **Basis for Review and Approval** – The Municipal Board shall utilize the site plan review process contained in Article X, [Section 1004](#) of this Law.

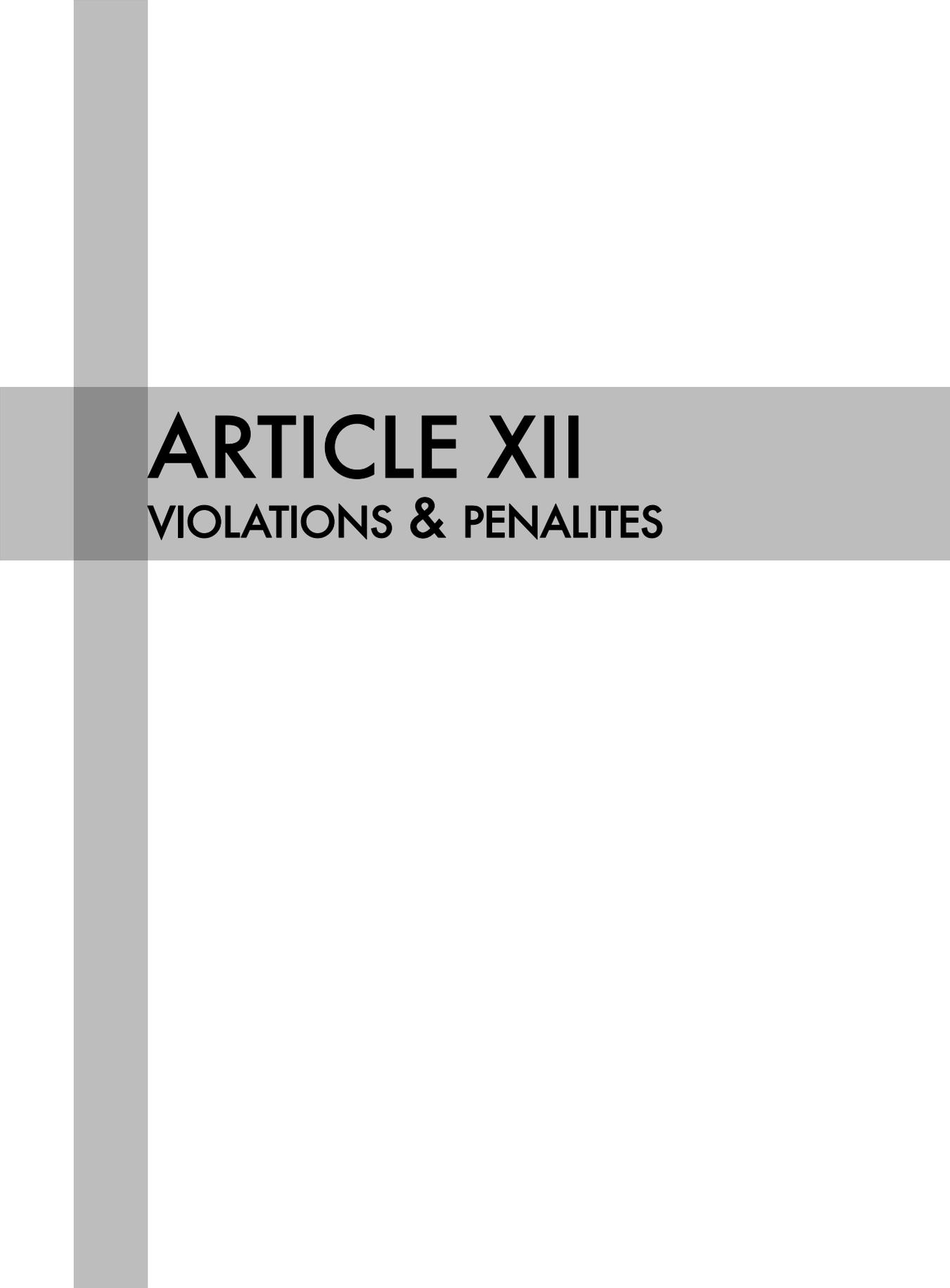
Section 1102 - Referral to Municipal Planning Board

- A. **Prior to action on** Special Use Permits, Zoning Amendments, and Special Use Permits/Site Plan Review Permits, the Municipal Board shall advise the Planning Board of the proposed action.
- B. **The Planning Board** shall have 30 days in which to review the proposed action and return their recommendation to the Municipal Board. After the 30 days has expired, the Municipal Board may act without receipt of a recommendation from the Planning Board.

Section 1103 - Mandatory Referral

General Municipal Law 239 l. & m, must be followed when amending a Zoning Law. The Mandatory Referral Section found in the Zoning Board of Appeals Article IX, [Section 906](#) should be consulted for the procedure to be followed.

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ARTICLE XII

VIOLATIONS & PENALITES

**ARTICLE XII
VIOLATIONS & PENALTIES**

SECTION 1201 Violations

Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer, who shall properly record such complaint and immediately investigate. However, the Municipal Board shall be responsible for insuring compliance with this Law when it is brought to their attention that a violation may exist, even though no formal complaint is filed.

SECTION 1202 Penalties

Any violation of any provision of this Law by any person(s) shall be punishable by fine or other penalties as specified by law. Each week of continued violation shall constitute a separate additional violation.



ARTICLE XIII

LEGALITY

**ARTICLE XIII
LEGALITY**

SECTION 1301 Repealer

Any previously adopted Zoning Law or regulation of the municipality, together with all changes and amendments thereto, are hereby repealed and declared to be of no effect.

SECTION 1302 Effective Date

This Local Law shall take effect 10 days after the date of its publication and posting as required by Law.