

PUBLIC COMMENTS

**Two public hearings are scheduled
to hear comments on this proposed zoning plan.**

Thursday, Sept. 29th @ 7:00pm: VLH Fire, 5736 NY-414, Hector

Tuesday, Oct. 4th @ 7:00pm: Burdett Fire, 4124 LakeAve/NY-79, Burdett

(This proposed zoning draft does not apply within the boundaries of the Village of Burdett.)

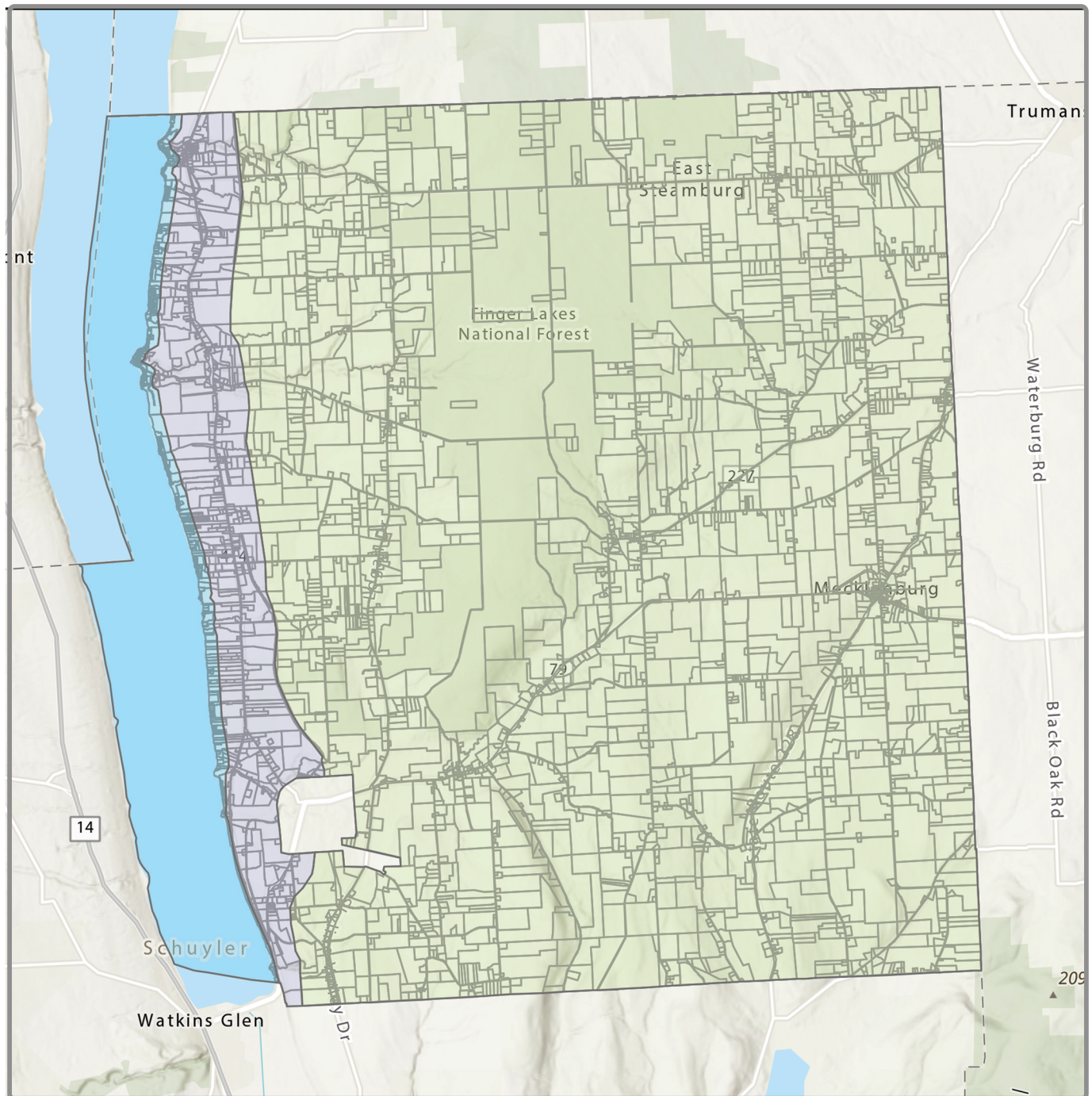
Send Written Comments to:

Email: townclerk@hectorny.us

Snail Mail: Town of Hector, 5097 NY-228, Burdett, NY 14818

Hector Zoning Districts Map 2022

(interactive map available online at <https://www.hectorny.us/planning>)



Lakefront (LF)



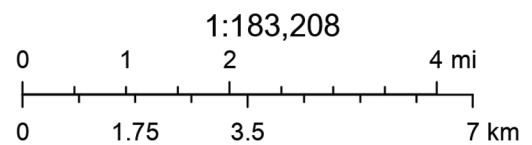
Mixed Use (MU)



Rural



Village of Burdett (*Town of Hector zoning does not apply*)



data.pa.gov, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, Esri, CGIAR, USGS

Draft Zoning Law

TOWN OF HECTOR, NY

SEPTEMBER 2022

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ARTICLE 1

TITLE, AUTHORITY, PURPOSE

1.1 Title

This Local Law (this “Law”) shall constitute and be known as the “Zoning Law of the Town of Hector” New York and shall be cited as such.

1.2 Authority

This Law is adopted pursuant to the Town Law of the State of New York and Chapter 36a of the Municipal Home Rule Law of the Consolidated Laws of New York State.

1.3 Purpose

The purpose of the Town of Hector Zoning Law is to provide a framework in which the Town can protect the environmental resources while allowing uses to coexist in a productive way. This law will further goals and objectives as stated in the 2015 Town of Hector Comprehensive Plan:

- “to preserve, enhance and celebrate those characteristics of the Town, including the unique composition of natural and scenic resources, fresh water, wineries, tourism and agriculture”;
- to support future growth in a way that “maintains its rural character and small-town charm”; and
- to “strive to have a combination of housing types available to residents of various ages, incomes, and family structures” in a manner that supports diversification and helps prevent economic segregation and discrimination.

ARTICLE 2

INTERPRETATION AND DEFINITIONS

2.1 Interpretation

- A. The following rules of construct of language shall apply to the text of this Law.
- B. Words used in the present tense include the future tense.
- C. Words used in the singular include the plural, and words used in the plural include the singular.
- D. Any gender specific words shall also be applicable to all genders with regards to applicability.
- E. The word “person” includes an individual, partnership, association, firm or corporation.
- F. The word “shall” is mandatory; the word “may” is permissive.
- G. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.
- H. A building or structure includes any part thereof.
- I. The phrases, “to erect”, “to construct”, and “to build” each have the same meaning and include “to excavate”, “to locate” and “to relocate”.
- J. Words not defined in this section or in subsection 2.2, ‘Definitions’, shall have the definition set forth in the New York State Uniform Fire Prevention and Building Code, as amended or, if not defined in the New York State Uniform Fire Prevention and Building Code, shall have their common dictionary meaning.

- K. If any section, subsection, paragraph, subdivision, sentence, clause or provision of this Law shall be held invalid, such invalidity shall apply only to the section, subsection, paragraph, subdivision, sentence, clause or provision adjudicated invalid, and the remainder of this Law shall remain valid and in full force and effect.
- L. This Law shall be interpreted in such a way wherever possible so that the meaning of the words, phrases and subsections herein shall make them consistent, valid and legal in effect.
- M. Whenever the provisions of this Law conflict with the provisions of laws, rules, requirements or ordinances of the Town, the most restrictive provisions, or those imposing the higher requirements, shall govern.
- N. Any reference in this Law to other laws, rules, codes or regulation shall include any amendments to those laws, rules or regulations.
- O. The provisions of this Law are intended to complement other applicable local, state and federal laws, ordinances, regulations, codes and rules, all of which shall apply to any subject addressed by this Law.

2.2 Definitions

The following words or phrases as used in this Law are defined as:

Adult Uses	A business that provides sexual entertainment or services to customers. Adult uses include, without limitation, X-rated video shops and bookstores, live or video peep shows, topless or fully nude dancing establishments, combination book/video and marital aid stores, non- medical massage, hot oil salons, hourly motels, body painting studios, swingers' clubs, X-rated movie theaters, escort service clubs, and combinations thereof.
Agricultural Production Facilities	Including but, not limited to any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment which is used for the commercial production or processing of crops, trees, fruit, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture.
Building	Any structure used or intended for supporting or sheltering any use or occupancy.
Building Height	The distance measured from the base floor to the highest peak of the roof, not to be measured from a walk-out basement, but excluding projections such as chimneys, silos, spires, domes, elevator shafts, solar energy equipment and other similar objects.
Community Use	A use which has the primary purpose of serving the educational, religious, recreational, or governmental needs of the general community, including but not limited to churches, educational institutions, public parks, buildings and facilities, and cemeteries.
Dark Sky Lighting	Outdoor lighting that is pointed downward and fully shielded, lighting only the areas that are intended to be lighted. Certified dark sky compliant lighting will be controlled with automatic timers, fully shielded, use yellow-toned lights labeled as 'soft' or 'warm', minimize blue light emissions, and have brightness no more than necessary.

Equipment Sales and Rental	A business that sells agricultural and construction equipment and support products.
Excessive Noise	A sound level exceeding an average of ninety (90) decibels over any period of twenty (20) consecutive minutes.
Gas Station	An area of land, including buildings thereon, or any building or part thereof, with pumps and storage tanks that is used primarily for the storage and retail sale of gasoline or any other motor vehicle fuel and for other uses accessory thereto.
Hospital	Facilities that provide care or treatment for the medical, psychiatric, obstetrical, or surgical treatment of care recipients who are incapable of self-preservation.
Industrial	Enterprises that engage in the manufacturing, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character or appearance thereof, and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprises. Not to include agricultural production facilities.
Industrial, Light	An industrial use that does not emit significant levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries, including dry-cleaning plants.
Industrial, Heavy	An industrial use that emits or is likely to emit significant levels of smoke, noise, dust, odor, glare, water pollution, or vibration beyond the property boundaries.
Industrial Waste Materials	Waste produced by an industrial use.
Landfill	A designated area, where solid waste is placed for disposal.
Lot	A tract of land consisting of a single tax parcel.
Mining	Excavation of earth materials for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal and/or the removal of such materials for sale other than what may be required in the erection of buildings on site.
Parking Lot	An outside area of ground associated with a commercial use where motorized vehicles can be left for a period of time.
Planned District	Under the consideration by the Planning Board and approval by the Town Board, the Planned District is an area of land which has gone through a process of rezoning in order to allow a use which is otherwise not permitted under this law. (See ‘Article 8: Planned District’ of this Law.)
Public Utility Substation	A permanent building or facility serving as a junction point for transferring a utility services product from transmission lines to local distribution and service lines, whether for electricity, natural gas, or domestic water supply.
Residential Housing	One or more dwelling units and any common areas, including without limitation one-family and two-family houses and multifamily dwellings.

Retail	A use primarily involving the sale of goods to the general public for personal and household consumption, including but not limited to a convenient store, drug store, grocer, hardware store, liquor store, bar or restaurant.
Solar Energy System	A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows. See section 6.5, ‘Solar Energy Systems and Solar Access’ and the ‘Hector Solar Energy Law #1 of 2021’ .
Storage Facility Indoors	A building or grouping of buildings designed or used for the commercial interior storage of property by persons other than the property owner.
Storage Facility Outdoors	A lot designed or used for the commercial exterior storage of property by persons other than the property owner.
Structure	That what is built or constructed, to include but not be limited to a ‘Building’.
Telecommunications Tower/ Facility	A structure on which transmitting and/or receiving antennae are located. This includes but is not limited to freestanding towers, guyed towers, monopoles, and similar structures.
Telecommunication Tower/Co-Location	The use of a support facilities by more than one telecommunication carrier or several telecommunication carriers on an existing structure.
Trucking Terminal	A building or part of a building or lot used for the short-term storage, transfer and/or transit of goods, wares and merchandise by the owner or others by truck or rail transport.
Urgent Care, Medical	A facility other than a hospital, where medical, mental health, surgical and other personal health services are provided exclusively on an outpatient basis by a group of health care professionals working in cooperation and sharing the same facilities. Typically operates beyond standard medical office hours and provides emergency treatment. May include educational aspects such as medical instruction and/or training as well as house a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses. Does not include hospitals.
Use	Any activity, occupation, business or operation.
Vehicle Service Station	Any area of land, including structures thereon, that is used for the maintenance of motor vehicles, including but not limited to facilities for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning, servicing, or repairing such motor vehicles, including auto body shops. Does not include vehicle fuel station or gas station.
Vehicle Sales and Rental Area	Any indoor and/or outdoor space used for the storage, display or sale of new or used vehicles, trucks and cargo trailers.
Warehouse/Wholesale	Prior to shipment, the indoor and/or outdoor storage of commercial goods not owned by the property owner.
Wind Energy Conversion System	A machine (windmill) that is over seventy-five (75’) feet in height.

ARTICLE 3

ESTABLISHMENT OF DISTRICTS

3.1 Scope

To provide a flexible framework for decision making and enable different uses to coexist productively within a diverse community.

3.2 General Requirements

- A. No structure or building or part thereof shall hereafter be erected, constructed, altered, demolished or reconstructed except in conformance with the requirements of this Law.
- B. No Lot shall be reduced in size so that its area or any of its dimensions would not meet the requirements of this Law.
- C. This Law shall be interpreted and applied so that it provides the minimum requirements for the promotion of the public health, safety and general welfare.
- D. Any use not specifically listed in Table 4.2: Use Regulations of this Law is permitted as of right.
- E. A lot where the use requires a septic system shall be sized and arranged so as to meet all New York State and Schuyler County septic regulations and be in conformance with this Law.
- F. Approval of a use under this Law shall not abrogate an applicant's responsibility to obtain all other required Local, County, State or Federal permits or approvals as appropriate.

3.3 Zoning Districts Use Established

In order to fulfill the purpose of this Law, the Town of Hector hereby establishes the following districts:

Lakefront (LF) District	From the mean high-water shoreline of Seneca Lake to seven hundred fifty (750') feet east. In areas where the centerline of New York State Route 414 is less than one thousand, five hundred (1500') feet from the shoreline, the eastern boundary shall be half the distance from the shoreline to the centerline of New York State Route 414.
Mixed Use (MU) District	WESTERN BOUNDARY: The western boundary is the eastern boundary of Lakefront District. EASTERN BOUNDARY: 1) <u>North of the Village of Burdett</u> : The eastern boundary shall be a line running generally north and south and located two thousand (2,000') feet east from the center line of New York State Route 414 and extended to include the old railroad property, whichever is greater. 2) <u>South of the Village of Burdett</u> : The eastern boundary shall be a line running generally north and south and located two thousand (2,000') feet east of the center line of New York State Route 79, New York State Route 414, Cass Road and Rock Cabin Road. 3) <u>West of the Village of Burdett</u> : The eastern boundary of the Lakefront District is the Village of Burdett's western boundary.
Rural	All land within the Town of Hector boundaries that is not in the Lakefront or Mixed Use (MU) Districts.

3.4 Zoning Districts Map

- A. SCOPE. The location and boundaries of these zoning districts are hereby established on the map designated “Zoning Map of the Town of Hector”, which shall be kept on file with the Town Clerk. This map together with everything shown on it and all its amendments is hereby adopted and is declared to be part of this Law.
- B. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Zoning Map, the following rules shall apply:
- (1) Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of roads, highways, public utility easements, or watercourses, the boundaries shall be construed to be the same as these lines. Such boundaries shall be automatically moved if a centerline or right-of-way line of a road, highway, public or watercourse is moved not more than fifty (50') feet from the initial boundaries established by the Zoning Map which is part of this Law.
 - (2) Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or their projections, the boundaries shall be construed to be the same as such lines or their projections.
 - (3) Where district boundaries are indicated to be approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or their projections, the boundaries shall be construed as being parallel to them and at distances as indicated on the Zoning Map or as shall be determined by the scale shown on the Zoning Map.
 - (4) Where a district boundary line divides a lot, the regulations for the less restricted portion of such lot shall extend not more than fifty (50') feet into the more restricted portion.
 - (5) In all cases where not dimensioned, the location of boundaries shown on the Zoning Map shall be determined by the use of the scale appearing on the Zoning Map.
 - (6) In the event of ambiguity or uncertainty regarding a district boundary, the question shall be referred to the Zoning Board of Appeals for resolution. The resolution of the question by the Zoning Board of Appeals shall be considered final and conclusive and shall only be altered by amendment of the Zoning Map by the Town Board.

ARTICLE 4 USE DISTRICTS

4.1 Scope

- A. LAKEFRONT (LF) DISTRICT. The Town of Hector recognizes the importance of the Seneca Lake waterfront to past and future development and character of the town. This District allows minimal commercial development in order to protect Seneca Lake water quality and promotes uses that are water-dependent and/or enhanced by their location along the waterfront.
- B. MIXED USE (MU) DISTRICT. The Town of Hector encourages concentrated development along the Route 414 corridor and in areas where existing infrastructure is currently available or easily extended. This district promotes a mix of different commercial, residential, and tourist related uses to ensure that

new growth and development is compatible with the character of the town, while encouraging expansion within the commercial and tourism industries.

- C. RURAL DISTRICT. The Town of Hector recognizes the importance of preserving and supporting rural character. This district has minimal local regulations.

4.2 Use Regulations – Schedule of Uses Table.

Any use not specifically listed in Table 4.2 of this Law is permitted as of right.

“P”	Permitted as of right
“P w/sp”	Permitted with site plan approval
“PD”	Requires a Planned District
“X”	Specifically prohibited

TYPE OF USE	LF	MU	Rural
BUSINESS USES			
Adult Uses	X	X	PD
Gas Station	X	P w/sp	P w/sp
Retail (a building’s enclosed footprint of 8,000-11,999 sq. ft.)	X	P w/sp	P
Retail (a building’s enclosed footprint of 12,000 sq. ft. or more)	X	PD	PD
Storage Facility, Indoor (a building’s enclosed footprint 59,999 sq. ft. or under)	X	PD	P
Storage Facility, Outdoor	X	X	P w/sp
Vehicle Service Station	X	P	P
Vehicle Sales and Rental Area	X	PD	P
COMMUNITY USES			
Hospital	X	P w/sp	P w/sp
Public Utility Substation	P w/sp	P w/sp	P w/sp
Solar Energy System (Tier 3)	X	X	PD
Telecommunication Tower / Facility (new)	X	PD	P w/sp
Telecommunication Tower / Facility (co-location)	P w/sp	P w/sp	P w/sp
Urgent Care Medical	X	P	P
Wind Energy Conversion System taller than 75’	X	X	PD
INDUSTRIAL USES			
Equipment Sales and Rental	X	P w/sp	P
Landfill	X	X	X
Light Industrial	X	P	P
Heavy Industrial	X	X	X

Mining	X	X	P w/sp
Storage Facility, Indoor (a building's enclosed footprint 60,000 sq ft or over)	X	X	PD
Trucking Terminal	X	X	PD
Warehouse / Wholesale	X	X	P w/sp

4.3 Activities Prohibited in All Districts

- A. No effluent matter of any kind shall be discharged into any stream or body of surface water which:
 - (1) Violates established stream requirements of the New York State Department of Environmental Conservation or otherwise causes odors or fumes or which is poisonous or injurious to human, plant or animal life; or
 - (2) Causes an increase in projected flood heights. See [Local Law #1 of 1987, 'Flood Damage Prevention'](#).
- B. Unless conducted under proper and adequate requirements, no use shall be permitted which will produce corrosive, toxic or noxious fumes, gas, materials, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, odors, dust, waste, noise or vibration, or other objectionable features so as to be detrimental to the public health, public safety, or general welfare.
- C. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.
- D. Farms primarily for the disposal of waste or garbage.

4.4 Exceptions in All Districts

- A. PUBLIC PROPERTIES. Nothing in this law shall restrict the construction or use in the exercise of a governmental function of a governmental building or lot.
- B. PUBLIC UTILITIES. Nothing in this law shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the laws of the State of New York.
- C. RESIDENTIAL HOUSING. Nothing in this law shall restrict the construction or use of all residential housing except for compliance with [Article 5: Development Regulations: For All Uses](#) of this Law.

4.5 Pre-Existing Non-Conforming Structures, Uses or Lots

- A. CONTINUATION OF NON-CONFORMING STRUCTURES, USES OR LOTS. Any lawful structure, use or lot existing at the time of enactment of this Law, or any subsequent amendment thereof applying to such structure, use or lot, may be continued although such structure, use or lot does not conform to the provisions of this Law provided that a non-conforming structure or use is not expanded, enlarged/extended or increased beyond the building's enclosed footprint after the effective date of this Law.
- B. DISCONTINUANCE
 - (1) A structure or lot which is used for or occupied by a non-conforming use, and which is changed to or replaced by a conforming structure or use, shall not thereafter be used for or occupied by a non-conforming use or structure.

- (2) When a non-conforming use has been discontinued for a period of two (2) years, it shall not thereafter be re-established and the future use shall be in conformity with this Law.
- C. REMODELING, MAINTENANCE AND REPAIRS. Nothing in this Law shall prevent the remodeling, maintenance or repair to any non-conforming structure.
- D. CONSTRUCTION STARTED PRIOR TO THIS ZONING LAW. A structure for which a building permit was issued prior to the effective date of this law, or prior to the effective date of any subsequent amendment of this law, may be completed and used in accordance with approved plans and specifications for the structure.

ARTICLE 5

DEVELOPMENT REGULATIONS FOR ALL USES

(Permitted as of Right, Permitted w/Site Plan Approval and Planned Districts)

5.1 Scope

The Code Enforcement Officer shall be responsible for reviewing proposed uses permitted as of right for compliance with applicable provisions of in this Article 5. The Planning Board shall be responsible for reviewing proposed uses that are Permitted w/Site Plan Approval and Planned Districts for compliance with applicable provisions of this article.

5.2 Lot Requirements

A lot where the use requires a septic system shall be sized and arranged so as to meet all New York State and Schuyler County septic regulations and be in conformance with this Local Law.

5.3 Stormwater Management and Erosion Control

- A. All construction activities that disturb under one acre of land must use best management practices for erosion and sediment controls. See: '[Managing Run Off on Steep Slopes](#)' or consult with the Code Enforcement Officer.
- B. Construction activities that disturb one or more acres of land must file a SWPPP (Storm Water Pollution Prevention Plan) before work can begin.

5.4 Building Height

- A. The maximum allowed building height in the Lake Front (LF) district is forty (40') feet as measured from the base floor to the highest roof peak, not to be measured from the walk-out basement.
- B. The maximum allowed height of any structure in any district shall be limited to one hundred, ninety-nine (199') feet from base level.

5.5 Outdoor Lighting

Dark sky lighting is required for all parking lot lighting installed after the effective date of this Law.

5.6 Signs

- A. SCOPE. No sign shall be erected, altered, expanded, reconstructed, replaced or relocated except in conformance with the provisions of this article. If site plan approval is required for any use on same lot where signage is to be erected, no sign shall be permitted until site plan approval has been issued for the use.

B. GENERAL REQUIREMENTS

- (1) Non-lighted signs and signs thirty-two (32) sq. ft. or smaller for either a one-sided sign or each side of a two-sided sign are allowed as of right.
- (2) All lighted signs and signs larger than thirty-two (32) sq. ft. for either a one-sided sign or each side of a two-sided sign shall require a permit issued by the Code Enforcement Officer.
- (3) Sign Lighting Requirements
 - a. All lighting on signs shall be turned off between midnight and 5am or when the use to which the sign applies is not open to the public, as applicable, whichever is more permissive.
 - b. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highway, or parking areas.
 - c. Internally lit signs must not have light intensity greater than one point three (1.3) footcandles or fourteen (14) lumens/lux as measured from twenty (20') feet from the front of the sign.

C. CUMULATIVE SIGN AREA

- a. All permanent signs, unless specifically exempted by the terms of this article, shall be counted in the calculation of maximum accumulative sign area. Cumulative signage calculation shall include all faces of a free-standing sign.
- b. The maximum allowable cumulative sign area permitted on any lot shall be as follows:

Square Footage of all buildings (total enclosed footprint on a Lot)	Maximum Cumulative Permitted Signage on a Lot
0 – 4,999 sq. ft.	150 sq. ft.
5,000-9,999 sq. ft.	240 sq. ft.
10,000 sq. ft. or more	400 sq. ft.

- D. HEIGHT. The height of signs shall be measured from the average finished grade ground elevation of the area surrounding and shall be no more than twenty (20') feet in total height.
- E. MAINTENANCE AND REMOVAL. All signs shall be maintained so as to be functioning and in good condition and appearance. Any sign that is not so maintained or that refers to or is connected with a use that no longer exists shall be removed at the lot owner's expense.

F. EXEMPT SIGNS

- (1) Signs necessary or customary to a business, including, but not limited to signage on devices such as gasoline pumps, vending machines, ice machines, etc.

- (2) Signs or scoreboards within a ballpark or other similar public or private recreational use which are oriented to the facility and are not designed or intended to be legible from a public road or adjacent properties.
 - (3) Flags, emblems or insignia of the United States, the State of New York, Town, religious groups, civic organizations, service clubs and similar organizations, groups, agencies, etc.
- G. PROHIBITED SIGNS. Anything in this Law to the contrary notwithstanding, the following are prohibited:
 - (1) Billboards
 - (2) Signs on communications towers, aerial arrays, satellite dishes, or accessory facilities except for safety signs.
 - (3) Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color, but not including time, temperature and date signs, traditional barber poles, and digital message boards that do not include lights which flash, rotate, blink or flicker.
 - (4) Any sign which by reason of position, shape or color interferes with, confuses, or obstructs the view of any traffic sign, signal or device.

5.7 Sound Control

- A. SCOPE: To establish sound level requirements sufficient to allow the enjoyment and use of adjoining lots without the adverse impacts associated with unnecessary or unusually high levels of sound.
- B. GENERAL REQUIREMENTS
 - (1) A use shall not produce excessive noise exceeding an average of ninety (90) decibels over any period of twenty (20) consecutive minutes as measured from the lot line between 11:00PM and 7:00AM.
 - (2) All construction equipment in use on a construction site shall be equipped with mufflers and used in such a manner as to control the creation of excessive noise.
- C. EXCEPTIONS
 - (1) Specific sound levels determined to be temporary in nature and not in compliance with this section may be allowed in accordance with a permit issued by the Code Enforcement Officer.
 - (2) A governmental use is not restricted by the requirements of this section.

5.8 Road Arrangements and Access

- A. SCOPE: To assure that all development provides for safe and adequate access to a lot proposed for development.
- B. APPROVALS.
 - (1) Curb cuts for new roads and driveways must first receive approval from the Town of Hector, Schuyler County or New York State depending on ownership of the road requiring the curb cut.
 - (2) Any road proposed to be dedicated to the Town shall meet all applicable requirements for Town roads. As a condition to the issuance of any building permit or site plan approval for a use incorporating a road intended to be dedicated to the Town, the Town Highway Superintendent shall provide a statement to the Code Enforcement Officer or the Planning Board, as applicable,

that the plans and specifications for the proposed road meet all applicable requirement for Town roads.

- C. **GENERAL REQUIREMENTS.** All development that proposes to contain a new Town road, private road and/or driveway shall be designed to provide for:
- (1) convenient traffic access and circulation;
 - (2) traffic control and safety;
 - (3) access for firefighting, snow removal, and road maintenance equipment;
 - (4) stormwater drainage and run off from the driveway that does not run into the road;
 - (5) utility location;
 - (6) separate through-traffic from neighborhood traffic insofar as practical;
 - (7) a coordinated and connected system insofar as practical;
 - (8) a suitable future road connection with an adjoining lot insofar as practical.

5.9 Unregistered Vehicles

Two or more vehicles that are unregistered, uninspected, inoperative and unroadworthy that are stored outside on property, are in violation of New York State's General Municipal Law Sec. 136 and Property Maintenance Code Sec. 302.8.

5.10 Drive-Through Uses

- A. **SCOPE.** A drive-through use has many points of traffic conflict and the potential for creating congestion on roads, drives and internal drives. This section prescribes requirements to prevent and improve such congestion and traffic conflicts.
- B. **GENERAL VEHICULAR DRIVE-THROUGH TRAFFIC REQUIREMENTS**
- (1) All drive-throughs shall adequately screen car lights from neighboring properties.
 - (2) All uses shall provide an escape lane for the drive-through lanes.
 - (3) All drive-through lanes shall be distinctly marked and shall be separate from other internal traffic circulation drive lanes and pedestrian ways.
 - (4) Drive-through lanes shall not cross any principal pedestrian access to the principal building.
 - (5) All uses shall maintain a minimum distance of twenty (20') feet from the service window to a sidewalk, public road, or any other non-drive-through drive or lane.
- C. **VEHICULAR TRAFFIC STACKING OR QUEUING REQUIREMENTS.** A drive-through for the following specific uses, shall provide the following minimum vehicular traffic queuing or stacking distances:
- (1) Fast-food restaurants. The minimum distance between the point of commencement of the drive-through lane to the service window shall be one hundred, twenty (120') feet, with sixty (60') feet of distance from point of commencement of the drive-through lane to the order station and sixty (60') feet of distance from the order station to the service window.
 - (2) Banks and other businesses. The minimum distance from the point of commencement of the drive-through lane to the service window shall be sixty (60') feet.

- D. MULTIPLE DRIVE-THROUGH VEHICULAR TRAFFIC LANES. The Code Enforcement Officer may allow lesser distances than those specified for businesses with multiple drive-through lanes when substantial documentation supporting such reduction is provided.

ARTICLE 6

ADDITIONAL DEVELOPMENT REGULATIONS

(for uses requiring Site Plan Approval and Planned Districts)

6.1 Scope

The Planning Board in reviewing projects requiring Site Plan Approval and Planned Districts shall be guided by the considerations and standards presented in this Article.

6.2 Industrial Use Requirements

A. GENERAL REQUIREMENTS.

- (1) No Industrial Use shall be permitted, established, maintained or conducted which is likely to cause or have:
 - a. Fumes, gases, dusts, particulates, odors, or any other atmospheric pollutant beyond the boundaries of the lot whereon an Industrial Use is located.
 - b. Excessive smoke or similar atmospheric pollutant beyond the boundaries of a lot on which the Industrial Use is located. Excessive smoke shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the United States Bureau of Mines. When the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart, it is then deemed to be excessive.
 - c. A use shall not produce excessive noise exceeding an average of ninety (90) decibels over any period of twenty (20) consecutive minutes as measured from the lot line.
 - d. A discharge of any industrial effluent must meet all County, State and Federal regulations and shall be reviewed by New York State Department of Environmental Conservations, Schuyler County Soil and Water, Schuyler County Watershed and/or New York State Department of Health.
 - e. Open storage or stocking of any Industrial waste materials.
 - f. Vibration perceptible beyond the lot lines whereon such Industrial Use is conducted.
 - g. Any other nuisance, activity or action that is harmful to a person or property.
- (2) Access. Access to a lot containing an Industrial Use shall be designed:
 - a. by a licensed design professional using a traffic study,
 - b. so as not to route traffic directly through a residential neighborhood on other than a primary road,
 - c. in a manner to avoid being adjacent to dwelling units.

6.3 Buffer yard, Landscaping and Barrier Requirements

A. GENERAL REQUIREMENTS

- (1) Additional set back. Buffer yards shall be required for Business, Community and Industrial uses, as set forth below. The distances set forth below shall be the distance between the street line(s) and property line(s) bounding the front, side and rear yards of a lot and the nearest building or improvement on the lot. Buffer yards shall be in addition to any setback required by law. Buffer yard depth in feet based on proposed use shall be:
 - a. Business Use 15 feet
 - b. Community Use 15 feet
 - c. Industrial Use 50 feet
- (2) Landscape plan. A landscape plan for buffer yard shall be submitted to the Planning Board as part of all site plan applications.
- (3) Existing site vegetation. Existing site vegetation may be used to meet some or all the landscaping requirements of this section provided it meets or exceeds the minimum level of protection afforded.
- (4) Alternative designs. Alternative designs may be submitted as part of a landscape plan provided they meet or exceed the minimum height requirements and other applicable requirements of this section and are approved by the Planning Board.
- (5) Reduction. Buffer yard depth requirements may be reduced by no more than fifty (50%) percent if the Planning Board finds that the applicant has submitted, to the greatest extent possible, an application which details an adequate buffer alternative and is in compliance with all other regulations outlined in this Law.
- (6) Perpetuity. The maintenance of a required buffer yard shall be a continuing condition for approval of a site plan or planned district.

- B. HEIGHT REQUIREMENTS. Where a buffer yard is required by this section, the buffer yard shall be provided with landscaping as specified in the following table:

BUFFER YARD PLANTING REQUIREMENTS					
Proposed New Use	Existing Use adjacent or proximate to the Proposed New Use				
	Residential	Agricultural	Business	Community	Industrial
Business	A	X	X	A	B
Community	B	A	A	X	B
Industrial	C	A	B	B	X

Plantings shall include shrubbery and/or small trees that at maturity will be a minimum height or a height that will provide intervening vegetation to the full height of the proposed use structure as viewed from an eye level elevation of five feet six inches at any point on the abutting use setback line.

“X” No landscaping required.

“A” Six (6’) feet at maturity.

“B” Eight (8’) feet at maturity.

“C” Ten (10’) feet at maturity for a one-story residence and twenty (20’) feet at maturity for a two-story residence. Planning Board can recommend shorter than required footage should there be a viewshed concern.

6.4 Adult Use and Entertainment Development

- A. SCOPE. It is the purpose of this law to regulate the creation and/or operation of Adult Uses in order to: preserve the character and quality of life, restrict minors’ access to Adult Uses, and maintain the general welfare and safety for the Town of Hector residents and the general public.
- B. LOCATION. The below distances of separation shall be measured in a straight line from the nearest exterior wall of the portion of the structure containing the Adult Use. No Adult Use shall be allowed:
 - (1) More than a two hundred (200’) foot setback from all Lot lines.
 - (2) Within five hundred (500)’ feet of the property line of a Lot used for Residential Housing;
 - (3) Within one thousand (1,000’) feet of the property line of a Lot containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground;
 - (4) On the same Lot as another Adult Use;
 - (5) Within one thousand (1,000’) feet of the property line of another Lot containing an Adult Use, whether or not such other Adult Use is located in the Town of Hector; or
 - (6) Within one thousand (1,000’) feet of the property line of a Lot containing an establishment with a liquor license.
- C. DISPLAY PROHIBITED. All Adult Uses shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity” or the advertisement of said anatomical areas and/or acts.
 - (1) "Specified Anatomical Areas" is defined as:
 - a. Less than completely and opaquely covered: (I) human genitals, pubic region, (II) buttock and (III) female breast below a point immediately above the top of the areola.
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - (2) "Specified Sexual Activities" is defined as:
 - a. Human genitals in a state of sexual stimulation arousal;

- b. Acts of human masturbation, sexual intercourse or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- D. BUILDING MATERIAL AND COLOR RESTRICTIONS. Building materials are to be consistent with the surrounding architecture and colors are to be muted and in harmony with the surrounding architecture and landscape.

6.5 Solar System Energy Requirements and Solar Access

The Town of Hector has adopted a Solar Energy Systems law separate and apart from this zoning law. For all development standards and requirements for Tier 3 Solar Energy Systems, refer to [Local Law #1 of 2021 'Hector Solar Energy'](#).

6.6 Wind Energy Conversion System (Windmills) over Seventy-five (75') High - General Requirements

- A. HEIGHT. Wind Energy Conversion Systems' height shall not exceed one hundred ninety-nine (199) feet as measured from the base of the tower to the tip of a prop at maximum vertical rotation.
- B. SETBACK. A Wind Energy Conversion System must be located a distance equal to or greater than the System's height from all Lot lines.
- C. CLIMBING PEGS. To prevent unauthorized climbing, climbing pegs must be removed from the lower ten (10') feet of the tower, or ladder access must be restricted.
- D. SIGNS. A "Danger, High Voltage" sign must be installed where it is clearly visible by persons standing within fifty (50') feet of the tower base. No additional signs or advertising are permitted on Wind Energy Conversion Systems aside from manufacturer logos.
- E. SECURITY. A bond, letter of credit or cash escrow account, as determined by the Planning Board, shall be required for the purpose of providing for payment of the costs of removal of the Wind Energy Conversion System if the owner fails to do so as required herein. Any bond or letter of credit shall be automatically renewed and maintained, and any cash escrow shall be maintained, until authorized to be terminated or released by resolution of the Town Board following the written notification by the Code Enforcement Officer in writing that such security is no longer needed.
- F. REMOVAL. The owner of the Lot upon which a Wind Energy Conversion System is located must remove the System, or cause the System to be removed, within one hundred eighty days following the termination of the System's functionality. For purposes of this Law the functionality of a Wind Energy Conversion System shall be deemed terminated upon the earlier to occur of (1) the System's failure to generate material quantities of marketable energy for a period of six months, as determined by the Code Enforcement Officer, or (2) any non-compliance with any applicable, law, regulation, code, rule or order, and/or any condition of site plan or planned district approval, which continues in existence sixty (60) days following written notice of violation from the Code Enforcement Officer. For purposes of this Law, removal of a Wind Energy Conversion System shall mean the complete removal from a Lot of all above-grade structures and improvements in accordance with applicable laws and regulations, and the grading and re-seeding of all disturbed earth, except that internal roads or other site improvements may be retained if the Code Enforcement Officer approves a written request from the property owner to retain the improvements.

- G. DECOMMISSIONING AGREEMENT. As a condition to the approval of any site plan application for a Wind Energy Conversion System, the Lot owner and the System developer shall enter into an agreement in favor of the Town which shall provide for the security and System removal requirements set forth herein and such other terms and conditions as the Planning Board shall require as a condition to approval of the site plan. Such agreement shall be recorded in the records of the Schuyler County Clerk's Office and shall be a continuing obligation of the Lot owner.

6.7 Telecommunication Towers/Facilities

- A. LOCATION. It is the preference of the Town of Hector to locate telecommunication towers and facilities where there is technological and economic feasibility and the greatest need for service. The prioritized preference, from most favorable to least favorable district and property, shall be as follows:
- (1) District:
 - a. Rural District
 - b. Mixed Use (MU) District
 - (2) Property:
 - a. Property with an existing structure suitable for co-location.
 - b. Municipal or government-owned property
- B. NEW TOWERS CONSIDERED; REPORT REQUIRED. The Planning Board may consider a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers cannot provide coverage to required areas based on propagation maps.
- (1) Inventory of Existing
 - a. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant.
 - b. The report shall document opportunities and good faith efforts for shared use of existing tall structures and existing or approved towers, as an alternative to a proposed new tower. Documentation of the written requests and responses shall be provided, along with any physical, technical and/or financial reasons why shared usage is not practical for each case.
 - (2) Prioritization. For any proposed new tower site that is not in a prioritized location, the applicant shall document the physical, technical and/or financial reasons why location in a prioritized location is impractical.
 - (3) Co-location. The applicant shall design a proposed new telecommunications tower to provide for co-location of a minimum of at least three carriers. The applicant shall submit to the Planning Board the written agreement of the owner of the proposed new tower binding such owner and any successors in interest to engage in good-faith negotiations for the shared use of the proposed tower by other telecommunications providers. This agreement shall be filed with the Code Enforcement Officer prior to issuance of a building permit and shall state that the applicant will:

- a. Respond within ninety (90) days 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 telecommunications providers.
 - c. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include but not be limited to: a prorated share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation and all of the costs adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (4) Intermunicipal Notification. In order to keep neighboring municipalities informed, to protect view sheds, to facilitate the possibility of directing an applicant to an existing tall structure or existing telecommunication tower in a neighboring municipality, and to assist in the continued development of county 911 services, the Planning Board shall require:
- a. Applicant to notify in writing the legislative body of each bordering municipality, the Schuyler County Planning Department, and the Director of Schuyler County Emergency Services. Such notification shall include:
 - i. the exact location of the proposed tower;
 - ii. a general description of the project including but not limited to the height of the tower and its capacity for future shared use;
 - iii. a request that such bordering municipality respond by contacting the Hector Planning Board within thirty (30) days of the date that the notification is received, if such municipality believes in its sole discretion that another location within its municipality would be available for co-location.
 - b. If a bordering municipality with possible co-location contacts the Planning Board within thirty (30) days following the date of the notification and the applicant finds the co-location unfeasible, the applicant must demonstrate to the Planning Board why such location is not feasible.
 - c. Documentation of receipt of this notification shall be submitted to the Planning Board at the time of application. The Planning Board shall not approve a site plan for a new tower prior to thirty (30) days from the date such notification is received.
- C. **SITE PLAN REQUIREMENTS.** In addition to the requirements of [Article 7, 'Site Plan Approval'](#), the developer shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wires and anchors, antennas, parking and landscaping and fencing, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

- (1) Supporting Documentation. The applicant shall submit:
- a. a completed short Environmental Assessment Form (EAF) and visual EAF addendum,
 - b. documentation on the proposed intent and capacity of use,
 - c. justification for any site clearing,
 - d. a copy of its Federal Communications Commission (FCC) license.
- (2) Lot Size and Setbacks.
- a. Lot size for new telecommunication towers and/or telecommunication facilities shall be determined by the amount of land required to meet the setback requirements and shall be located on a single lot. If the land is to be leased, the entire area required shall be leased from a single lot owner unless the Planning Board determines that this provision may be waived.
 - b. Telecommunication towers and/or telecommunication facilities shall comply with all existing setback requirements of the underlying zoning district and shall be located with a minimum setback from abutting lots and road lines at a distance:
 - i. equal to the height of the tower,
 - ii. sufficient to substantially contain all on-site ice-fall or debris from tower failure,
 - iii. which preserves the privacy of any adjoining residential properties.
- (3) New Tower/Facilities Site Design Requirements.
- a. Any new tower shall be designed to accommodate future shared use by at least three other telecommunications providers.
 - b. The maximum height of any new tower shall not exceed one hundred and ninety-nine (199') feet from ground level.
 - c. Existing on-site vegetation shall be preserved to the maximum extent practicable. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the site plan.
 - d. Existing roads, public or private, shall be used to the maximum extent practicable. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to reduce soil erosion potential.
 - e. Access and parking shall be provided to assure adequate emergency and service access. No parking spaces shall be located in any required yard.
 - f. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - g. Accessory structures shall maximize the use of building materials, color and textures designed to blend with the natural surroundings.

- h. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
- i. The facilities shall be enclosed by a fence.

D. MAINTENANCE AND REMOVAL

- (1) Letter of Intent. Prior to the issuance of any building permit, the applicant shall submit to the Planning Board the written agreement obligating the tower owner and any successors to notify the Code Enforcement Officer within thirty (30) days of the discontinuance of use of the tower.
- (2) Security.
 - a. A bond, letter of credit or cash escrow account, as determined by the Planning Board, shall be required for the purpose of securing the tower owner's compliance with applicable laws, compliance with the conditions of the permit or approval issued hereunder, the maintenance of the tower during its lifetime and for payment of the costs of removal of the tower if the owner fails to do so as required herein. Any bond or letter of credit shall be automatically renewed and maintained, and any cash escrow shall be maintained, until authorized to be terminated or released by resolution of the Town Board following the written notification by the Code Enforcement Officer in writing that the telecommunications tower/facility has been removed and the site restored, and that such security is no longer needed.
 - b. The amount required shall be at the applicant's expense as determined by the Planning Board. In the event of default upon the performance of any conditions for which the security is held, the security shall be forfeited to the Town of Hector, which shall be entitled to maintain an action thereon.
- (3) Removal. Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months after delivery of the notification described in (D)(1) above or one hundred fifty (150) days following substantial cessation of the tower's use for telecommunications purposes. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this section and shall be punishable in accordance with [Article 12, 'Remedies'](#).

ARTICLE 7

SITE PLAN APPROVAL

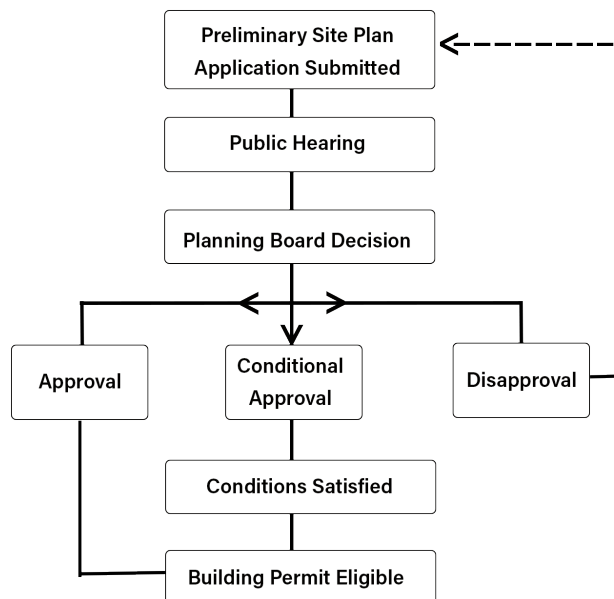
7.1 Scope

All uses in [Table 4.2: Use Regulations](#) denoted with 'P w/sp' (Permitted with Site Plan Approval) and 'PD' (Planned District) shall require a site plan. The power to approve, conditionally approve, or disapprove site plans as required by this Law is vested to the Planning Board.

7.2 Summary of Process

The following is a summary of the Site Plan Approval process detailed thereafter in this article.

- **SKETCH PLAN.** Informal meetings/conversations with the Code Enforcement Officer, designated member(s) of the Planning Board, or the Planning Board as a whole. Not required, but recommended.
- **PRELIMINARY SITE PLAN.** Submit a formal application at least fifteen (15) days prior to a regularly scheduled Planning Board meeting. Preliminary Site Plan may be used as the Final Site Plan if no changes are required.
- **REVIEW & PUBLIC HEARING.** Planning Board reviews application, certifies its completion and schedules a public hearing within forty-five (45) days of certification. Thereafter it has up to another forty-five (45) days to approve, conditionally approve, or disapprove the Preliminary Site Plan.
- **FINAL SITE PLAN.** After approval or conditional approval of the Preliminary Site Plan, a Final Site Plan shall be submitted. Preliminary Site Plan may be used as the Final Site Plan if no changes are required.
- **DECISION ON FINAL SITE PLAN.** Within forty-five (45) days of Final Site Plan submission, the Planning Board shall make a decision.
- **BUILDING PERMIT.** Upon approval of Final Site Plan, a building permit may be applied for.



7.3 Process

- A. **SKETCH PLAN.** Sketch plan meetings are optional. The purpose is to encourage early and informal consultations with the Code Enforcement Officer and/or the Planning Board to identify requirements listed below that will be applicable to the project in order to streamline the site plan approval process.
- B. **PRELIMINARY SITE PLAN**
 - (1) Application Requirements. Application shall be made in writing in triplicate to the Code Enforcement Office and/or Planning Board fifteen (15) days prior to a scheduled Planning Board meeting. The Planning Board shall certify that the application is complete. Specific requirements listed below may be waived if the Planning Board deems them unnecessary for review of the project.

Requirements are (as applicable to the use or project):

- a. Map. An area map showing the portion of applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all properties, their ownership, uses thereon, subdivisions, roads, zoning or special districts, easements and adjacent buildings within five hundred (500') feet of applicant's property, together with the additional details listed below.
- b. Additional Details
 - i. Title of drawing, including name, date and address of applicant.
 - ii. A topographic map (USGS topo map) of the site.
 - iii. North point and boundaries of project plotted to scale of not more than one hundred (100') feet to one (1") inch.
 - iv. A soils overlay, if general site grades exceed 15% or if portions of the site have susceptibility to erosion, flooding or ponding.
 - v. Description of sewage disposal and water systems to identify any potential conflicts with neighboring properties.
 - vi. Location, description, design and size of:
 - a) existing and proposed buildings and land uses;
 - b) existing and proposed contours at intervals of not more than five (5') feet of elevation;
 - c) existing or proposed site improvements including roads, drains, culverts, retaining walls, fences and easements, whether public or private;
 - d) existing natural features such as water bodies, watercourses, wetlands and flood hazard areas. Features to be retained should be noted;
 - e) buffer areas and other landscaping;
 - f) parking and truck-loading areas, with access and egress drives thereto;
 - g) signs and lighting facilities;
 - h) energy distribution facilities, including electrical, gas and solar energy;
 - i) stormwater management facilities;
 - j) control measures of sediment sink/settling pond and interceptor swales, etc;
 - k) drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities;
 - l) lines and dimensions of all property which is offered, or to be offered, for dedication for public use if any, with the purpose indicated thereon, and of all property if any that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

- (2) Planning Board Review. Planning Board reviews the Preliminary Site Plan application to ensure its compliance with this Law and may consult with local, county, state and federal agencies as well as designated private consultants. The Planning Board at its discretion may combine the process of Preliminary Site Plan and Final Site Plan Approval. Such a combined process shall include one public hearing.
- (3) Public Hearing. The Planning Board shall schedule a public hearing to be held within forty-five (45) days following certification of a completed application. Ideally the public hearing will be held at the same Planning Board meeting in which the Preliminary Site Plan is being reviewed.
- (4) Notification of Decision. Within forty-five (45) days of the public hearing at which a Preliminary Site Plan is considered, the Planning Board shall make a decision in writing stating whether it is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient written statement. The Planning Board's statement may include conditions of revision for the Final Site Plan. If the preliminary layout is disapproved, the Planning Board's statement shall contain the reasons for disapproval and recommendations for resubmission of the Preliminary Site Plan.

C. FINAL SITE PLAN APPLICATION

- (1) Upon approval or conditional approval of Preliminary Site Plan the applicant may submit Final Site Plan.
 - a. The Final Site Plan shall conform to the approved Preliminary Site Plan and shall incorporate any conditionally approved revisions as required.
 - b. The Final Site Plan must be submitted within one hundred eighty (180) days following the approval or conditional approval of the Preliminary Site Plan, in failing to do so, the Planning Board may require the Preliminary Site Plan to be re-submitted.
 - c. The Planning Board at its discretion may combine the process of Preliminary Site Plan and Final Site Plan Approval. Such a combined process shall include one public hearing.
 - d. A performance bond or other security may be required as a condition to approval of a Final Site Plan.
- (2) Notification of Decision. Within forty-five (45) days following the submission of the Final Site Plan, the Planning Board shall render a decision.
 - a. Upon approval and conditional approval, the Planning Board shall endorse on a copy of the Final Site Plan and shall forward the endorsed Final Site Plan to the Code Enforcement Officer. Upon receipt of the endorsed Final Site Plan the Code Enforcement Officer shall be authorized to accept an application for a building permit, and may issue such permit upon completion of the submission of the application and satisfaction of all requirements for issuance.
 - b. Upon disapproval of a Final Site Plan, the Planning Board shall notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes shall suffice for this notice. The Planning Board shall also so inform the Code Enforcement Officer, who shall not accept an application for a building permit.

- D. ADJUSTMENT OF DATES. The time period requirements may be adjusted upon the consent of the Planning Board and the applicant.
- E. AMENDMENTS. Any material changes to the use and/or the site that is subject to an approved Final Site Plan shall require an amendment to the Final Site Plan. An amendment to a Final Site Plan shall be subject to the review and approval of the Planning Board. The process for obtaining Planning Board approval of an amendment to a Final Site Plan shall be the same as the process for obtaining approval of the Final Site Plan, as set forth in (A) through (C) above.
- F. APPEALS. The applicant or any interested person may appeal a decision of the Planning Board through the Zoning Board of Appeals. See [Article 9: 'Zoning Board of Appeals'](#).

ARTICLE 8

PLANNED DISTRICT

8.1 Scope

Planned Districts are intended to provide an opportunity for development of uses that are otherwise prohibited and which do not cause detrimental effects to neighboring uses or the health, safety and general welfare of the community. The Planned District shall be considered a rezoning, shall be subject to all procedures and requirements set forth in Articles 5 through 8.

8.2 Requirements

- A. MINIMUM LOT SIZE. To be eligible for treatment as a Planned District, land shall be a contiguous parcel and a minimum of five (5) acres in size. Adjacent property owners may petition jointly if their aggregate holdings meet these requirements and they agree to a coordinated development plan.
- B. PERIMETER LANDSCAPING. Except for points of access and egress, the Planned District land abutting road(s), or residentially zoned areas or existing residential uses, shall be landscaped along the entire length of the abutting property line(s) in accordance with [section 6.3, 'Buffer Yard, Landscaping and Barrier Requirements'](#).

8.3 Process for Establishment

- A. SITE PLAN APPROVAL. An applicant for a Planned District shall follow the process of [Article 7, 'Site Plan Approval'](#) to obtain site plan approval for the subject Lot(s). Upon satisfaction of all conditions of approval of the Final Site Plan, the Planned District shall be conditionally approved by the Planning Board, subject to the necessary rezoning of the Town Board.
- B. REZONING. The applicant shall request for a rezoning from the Town Board. The Town Board shall consider the request and may complete the creation of the Planned District by adoption of a local law amending this Law.

8.4 Special Provisions

- A. An application of a Planned District must be signed by owners of all property which is to be included in the proposed Planned District. The Planning Board may require an applicant to provide an attorney's opinion of title certifying that all owners of the subject property have joined the application.

- B. Once a Planned District has been established, any use or development of the subject property not in accordance with the approved site plan shall require a site plan amendment subject to approval by the Planning Board.

ARTICLE 9

ZONING BOARD OF APPEALS

9.1 Establishment

Pursuant to New York State Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five (5) members, shall designate a chairperson, and also provide for such expenses as necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

9.2 Staff

The Zoning Board of Appeals may employ such clerical or other staff assistance as necessary, and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made available for that purpose by the Town Board.

9.3 Powers and Duties

The Zoning Board of Appeals shall have the following powers and duties:

- A. **APPEALS.** The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed and shall issue such order, requirement, decision, interpretation or determination as in its opinion ought to have been made by the Code Enforcement Officer or the Planning Board, and to that end shall have all the powers of the Code Enforcement Officer and the Planning Board.
- B. **VARIANCES.** The Zoning Board of Appeals, on an appeal from a decision or determination of the Code Enforcement Officer, shall have the power to grant area and use variances as defined herein.
- C. **RULES OF PROCEDURE, BYLAWS AND FORMS.** The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, bylaws, and forms as necessary for the proper execution of its duties and to secure the intent of this Article.

9.4 Variances

A. USE VARIANCE

- (1) Definition. An authorization by the Zoning Board of Appeals for use of land for a purpose which is not otherwise allowed or is prohibited by the applicable zoning regulations.
- (2) Criteria for Review. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate the following to the Zoning Board of Appeals; that for each and every permitted use under this chapter for the particular district in which the property is located:
 - a. the applicant cannot realize a reasonable return, provided that lack of return is substantial and 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 is not self-created.

B. AREA VARIANCE

- (1) Definition. An authorization by the Zoning Board of Appeals for use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations.
- (2) Criteria for Review. In making the 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 general welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider the following:
 - a. whether an undesirable change will be produced in the character of the neighborhood or community 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 is relevant to the decision, but shall not necessarily preclude the granting of the variance.

C. GRANT OF VARIANCES

- (1) Minimum Variance. The Zoning Board of Appeals, in granting an area or use variance, shall grant the minimum variance that it deems 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 health, safety and general welfare of the community.
- (2) Reasonable Conditions and Restrictions. The Zoning Board of Appeals shall, in granting an area or use variance, have the authority to impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of property.

- D. REFERRAL TO PLANNING BOARD. The Zoning Board of Appeals shall refer all area and use variances to the Town of Hector Planning Board at least thirty (30) days prior to the scheduled hearing date. The Planning Board shall report its recommendation to the Zoning Board of Appeals at least five (5) days prior to the hearing date.

ARTICLE 10

AMENDMENTS

10.1 Procedure

This Law may be amended by local law.

10.2 Advisory Report by Planning Board

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of thirty (30) days from the date of receipt of notice or such longer time as have been agreed upon by it and the Town Board, the Town Board may act without such report.

10.3 Decision by Town Board

- A. Town Board shall set the public hearing as required and shall render its decision within sixty-two (62) days of the receipt of the Planning Board's report.
- B. If the Town Board deems advisable, it may require as a condition for approval that the amended area be put to use within a reasonable length of time.

ARTICLE 11

ADMINISTRATION

11.1 Enforcement

- A. No building permit shall be issued except where all applicable provisions of this Law have been complied with.
- B. This Law shall be enforced by the Code Enforcement Officer who shall:
 - (1) keep the Planning board and Town Board advised of all matters pertaining to the enforcement of this Law (other than routine duties); and
 - (2) shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused and other actions taken.

11.2 Permits

Whether Permitted as of Right, Permitted w/Site Plan Approval or Planned District, no structures or land shall be used, no building or structure shall be erected, added to or structurally altered until required building permit(s) have been issued by the Code Enforcement Officer. No such permit shall be issued for any building where the construction, addition or alteration or use thereof would be in violation of any of the provisions of this Law or any other applicable Town laws.

11.3 Notice of Compliance

- A. No building or structure hereafter erected, structurally altered, or extended shall be used, or changed in use until a notice of compliance or occupancy shall have been issued by a Code Enforcement Officer in accordance with this Law.
- B. All notices of compliance or occupancy for new or altered structures shall be applied for coincident with the application for a building permit for the applicable work. Such certificate of compliance shall be

issued within thirty (30) days after the erection or alteration shall have been approved as complying with the provisions of this Law.

11.4 Deposit for Professional Fees

The Planning Board and Town Board may retain such attorneys, engineers, consultants and other professionals as they shall deem necessary to conduct the review functions provided for by this Law. The Planning Board and Town Board may require as a condition of acceptance of an application, a deposit in such sums as the Board determines necessary to cover the costs of such professionals and any other costs to be incurred by the Board in connection with the application or request. The Town Board and/or Planning Board may require any depleted deposit to be replenished as a condition to continuing with review of an application, and the applicant's failure to replenish the deposit within the time period required by the applicable Board shall be grounds for denial of the application.

ARTICLE 12

REMEDIES

12.1 Penalty

- A. Any person, firm, company or corporation owning, controlling or managing a use, building, structure, or lot on which there has been placed, or there exists anything in violation of any of the provisions of this Law; and any person, firm, company or corporation who shall assist in the commission of any violation of this Law or any conditions imposed by the Planning Board; or who shall build, contrary to the plans or specifications submitted to the Planning Board and certified as complying with this Law, shall be guilty of an offense and subject to a fine of not less than two hundred fifty (\$250.00) and not more than seven hundred dollars (\$700.00).
- B. Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each week such a violation, omission, neglect or refusal shall continue.
- C. The Code Enforcement Officer and/or their designated agent is authorized to issue appearance tickets requiring any party accused by the Code Enforcement Officer of violating any provision of this Law to appear before a court of appropriate jurisdiction to answer such charges.

12.2 Alternative Penalty

In case of any violation or threatened violation of any of the provisions of this Law or conditions imposed by the Town Board or Planning Board, in addition to other remedies provided in this Article, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, in order to prevent the occupancy of such building, structure or lot, or to prevent an illegal act, conduct, business or use in or about such lot.

12.3 Recoupment of Costs

- A. Whenever in connection with the enforcement of any provision of this Law applicable to any specific Lot or Lots, and/or in connection with any remedial or abatement action authorized by this Law or other applicable law, the Town shall incur any cost or expense attributable to such enforcement, remediation or abatement action, the amount of such cost or expense shall be assessed against the affected Lot(s) as herein provided.

- B. Upon completion of any such enforcement, remediation or abatement action, the cost or expense thereof to the Town shall be fixed and determined by the Code Enforcement Officer and thereafter transmitted to the Town Board. Upon receipt of such transmittal, the Town Board may pass a resolution to confirm the amount of such cost or expense, whereupon the amount of such cost or expense shall constitute a special assessment against the affected Lot(s).
- C. The special assessment in 12.3(B) shall be paid, shall accrue interest, and shall be included within the annual tax levy pursuant to New York State Town Law and Real Property Tax Law and shall otherwise be considered a special assessment for purposes of all general and local laws.
- D. The Town may assess costs pursuant to this section in addition to, and cumulatively with, the exercise of any other enforcement mechanisms provided by this law and otherwise.

ARTICLE 13

FEE SCHEDULE and REMITTANCE

13.1 Fee Schedule

A schedule of fees for all permits and application as required in this Law shall be set by resolution the Town Board from time to time.

13.2 Fee Remittance

- A. An application for a permit or other action for which a fee has been established in accordance with section 13.1 of this Law shall be accompanied with such appropriate fees in order for such application to be deemed complete.
- B. No action such as to grant permission, comment on, approve or disapprove an application pursuant to this Law shall be taken without receipt by the Town of the appropriate fee.

