

# Town of Hector

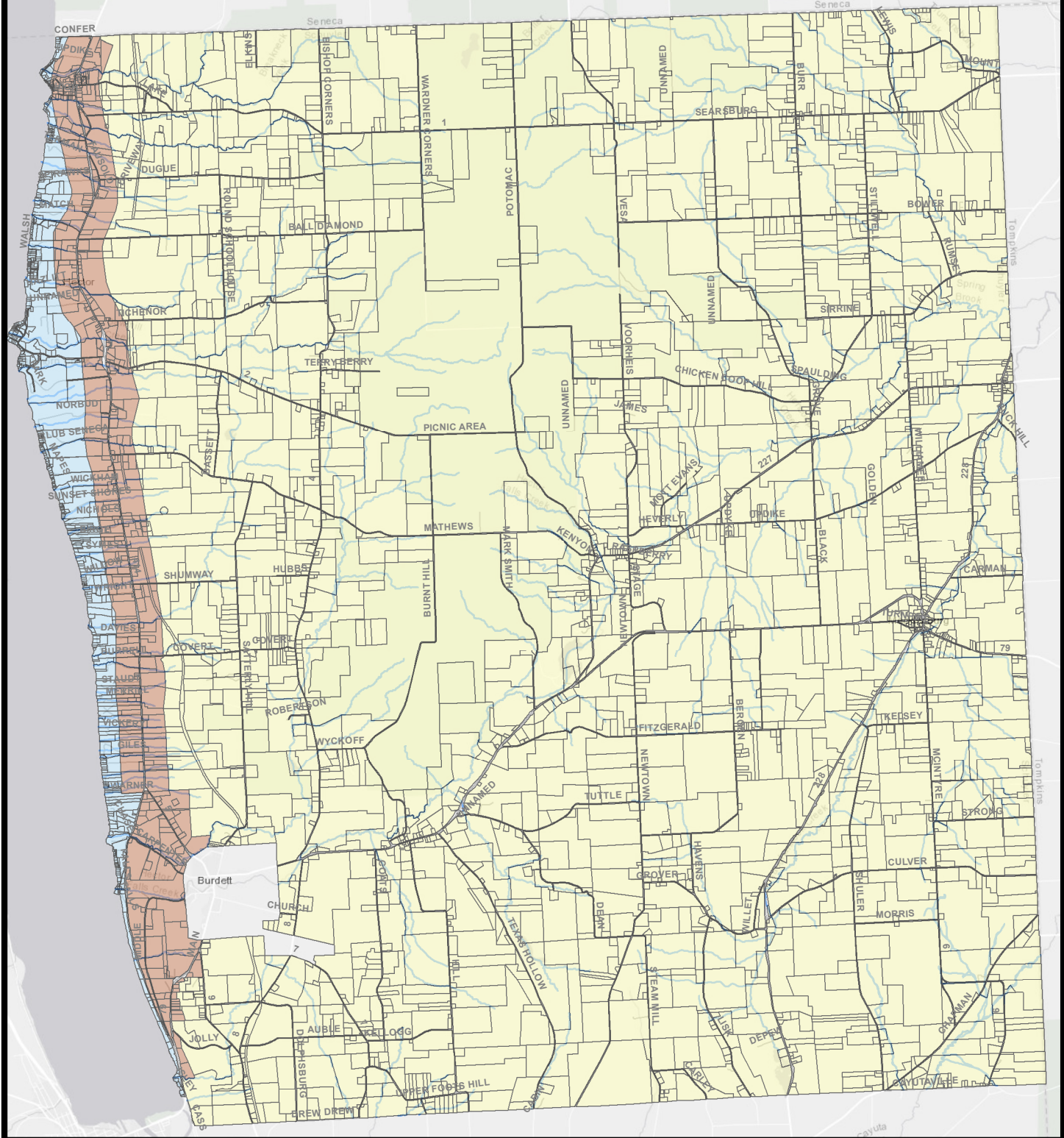
Proposed Zoning Law  
1/15/21 DRAFT





# Town of Hector Proposed Zoning Districts

## DRAFT



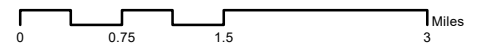
### Legend

- Low-Density Rural (LDR)
- Mixed-Use (MU)
- Lakefront (LF)
- Roads
- Streams

*Disclaimer: This map was created based on 2018 Schuyler County property parcels and proposed zoning districts provided by Schuyler County Planning Department. This map is not to be used for reference purposes or in any official capacity until approved by Schuyler County.*

Created By: Southern Tier Central RPDB GIS

Date: 3/11/2020





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## ARTICLE 1

### TITLE, AUTHORITY, PURPOSE

#### **1.1 Title**

This Local Law shall constitute and be known as the “Zoning Law of the Town of Hector,” New York, heretofore known as the “Town of Hector Zoning Law” and may be cited as such.

#### **1.2 Authority**

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, the Town Council of the Town of Hector, in the County of Schuyler, State of New York, hereby resolves, enacts and publishes as follows:

#### **1.3 Purpose**

The purpose of the Town of Hector Zoning Law is “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” as stated in the Town of Hector Comprehensive Plan (2015). The intent of this Zoning Law is to provide a flexible framework in which the Town can protect the health and sustainability of environmental resources while allowing uses to coexist in a productive way. The Zoning Law is enacted to support future growth in a way that “maintains its rural character and small-town charm”. This law will further goals and objectives as stated in the 2015 Town of Hector Comprehensive Plan.



## ARTICLE 2

### INTERPRETATION

#### 2.1 Interpretation, Separability and Conflict

- A. The following rules of construction of language shall apply to the text of this Law.
1. Words used in the present tense include the future tense.
  2. Words used in the singular include the plural, and words used in the plural include the singular.
  3. Words used in the masculine form shall also include the feminine.
  4. The word “person” includes an individual, partnership, association, firm or corporation.
  5. The word “shall” is mandatory; the word “may” is permissive.
  6. 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”.
  7. A building or structure includes any part thereof.
  8. The phrases, “to erect”, “to construct”, and “to build” each have the same meaning and include “to excavate” for a building and “to relocate” a building by moving it from one location to another.
  9. Other words not defined above or below in Subsection 2.1 Definitions, shall be as defined in the New York State Uniform Fire Prevention and Building Code, as amended or as defined and explained by their common dictionary meaning.
- B. 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.
- C. 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.
- D. Whenever the requirements of this Law are at variance with the requirements of other lawfully adopted laws, rules, requirements or ordinances of the Town, the one which has the most restrictive provisions, or those imposing the higher requirements, shall govern.
- E. Any reference in this Law to other laws, rules or regulation shall be interpreted to include any future amendments to those laws, rules or regulation.



## 2.2 Definitions

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

**Accessory Dwelling Units:** A smaller, independent residential dwelling unit located on the same lot as a stand-alone (detached) single-family home. No more than two 'Accessory Dwelling Units' are permitted per principal residential structure. If residential structure is not serviced by public sewer, all Accessory Dwelling Units must share a septic system with the principal structure and septic system must be adequately sized for the number of bedrooms total on the lot. Accessory Dwelling Units shall not be subdivided off onto their own lots at a later date.

**Agriculture:** The commercial use of land and structures for the production, preservation, nonindustrial processing, storage and sale of agricultural commodities such as crops, plants, flowers, vines, trees, sod, shrubs, livestock, honey, Christmas trees, compost, poultry or dairy products, not including agricultural industry or farms primarily for the disposal of offal or garbage. Commercial horse boarding operations, as defined herein, and the raising or breeding of horses are agricultural uses, distinguished from the business use of teaching or training people to ride a horse. (See "Riding Academy.") A produce sales facility not exceeding 800 square feet in footprint area and a riding academy operated in conjunction with a farm operation (as defined herein) shall be deemed to be agricultural accessory uses.

**Agricultural Data Statement:** An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which a subdivision, Special Use Permit or Use Variance is proposed, as provided in § 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

**Bed and Breakfast:** An owner-occupied residential building containing a one unit dwelling in which at least one (1), but not more than five (5), sleeping rooms are provided by the owner for compensation, not to exceed more than ten (10) transient guests for the accommodation of transient guests with no more than one (1) meal served daily and the entire service included in one stated price.



**Boarding house:** A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boarding house.

**Building:** Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel. A building includes attached deck(s) and porch(es).

**Building, Accessory:** A building detached from and subordinate to a principal building and used for purposes customarily incidental to those of the principal building. For example, a garage for one or two cars is permitted wherever residences (the principal use) are allowed.

**Building, Principal:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**Cemetery:** Land used or intended to be used for the burial of dead human beings or pets and dedicated for such purpose, including columbarium's, mausoleums, and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

**Church:** Any building or structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

**Craft Workshop:** A place where artists, artisans, craftsmen, and other skilled tradespeople produce custom-made art or craft products, including but not limited to baskets, cabinets, ceramics, clothing, flower arrangements, jewelry, metalwork, musical instruments, paintings, pottery, sculpture, toys, and weaving. A craft workshop with more than three (3) regular full-time equivalent employees or other staff is considered to be "light industry" or retail.

**Club, Membership:** Premises used by a not-for-profit organization catering exclusively to members and their guests for social, recreational, athletic, outdoor sportsman activities or similar purposes.

**Cultural Facility/Center:** An establishment for display, performance, or enjoyment of heritage, history or the arts. This use includes but is not limited to museums, libraries and arts performance venues by a public or private entity.

**Day Care Center:** Group care for persons away from their own homes for periods of less than 24 hours per day. Day care centers that enroll three or more persons for more than three hours a day must be licensed by the State.



**Day Care – Family:** Care provided to children in accordance with NYS Office of Children and Family Services in a caregiver’s home for periods of less than 24 hours per day.

**Dry Cleaner/Laundromat:** A location where the cleaning of clothing or fabrics with chemical solvents takes place.

**Dwelling, one-unit detached:** A building containing one (1) dwelling unit only on one lot, including a residential designed manufactured home, modular home, sectional home and house trailer.

**Dwelling, one-unit attached:** A building containing two (2) dwelling units on separate lots. This includes “zero-lot line” one-unit homes.

**Dwelling, two-unit:** A building containing two (2) dwelling units on one lot. This includes “duplex.”

**Dwelling, multi-unit:** A building or series of buildings comprising three (3) or more dwelling units with shared entrances and other essential facilities and services on one lot.

**Financial Institutions:** An establishment providing financial and banking services to consumers and clients. Typical uses include banks, savings and loans, credit unions, brokerage firms and lending institutions.

**Funeral Home:** An establishment used and occupied by a professional licensed mortician for burial preparation and funeral services.

**Gas Station:** An area of land, including structures 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.

**Group home:** A one-unit dwelling in which resides a group of mentally and/or physically challenged persons, not related by blood, marriage or adoption who maintain a common household as governed by state law. A group home includes “community residence.”

**Home Occupation:** A business use conducted as an accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling unit, and in which not more than one (1) person not residing in such dwelling unit is employed on site.



- Hospital:** A building containing beds for four or more patients, and used for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment, or care of human ailments. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports
- Incentive Zoning:** Flexibility of zoning restrictions may be offered to a developer for providing public benefits including, but not limited to, public open space, brownfield remediation, green building techniques, and historic preservation.
- Industry, Heavy:** Manufacture, assembly, treatment, processing, or packaging of products in a manner that emits or is likely to emit objectionable levels of smoke, noise, dust, odor, glare, water pollution, or vibration beyond the property boundaries.
- Industry, Light:** Manufacture, assembly, treatment, processing, or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries, including dry-cleaning plants.
- Industrial Waste Materials:** Waste produced by industrial activity which includes any material that is rendered useless during a manufacturing process.
- Kennel:** Any establishment, including cages, dog runs and structures wherein dogs are harbored, bred or boarded as a business. Establishments include, but are not limited to, rescue organizations and Humane Societies.
- Landfill:** A designated area, where solid waste may be placed for disposal, under the direction and supervision of a designated person; which area is located and operated in compliance with the requirements of New York State
- LEED:** Leadership in Energy and Environmental Design. An international green building rating system. LEED rating is available for all building types from new construction to rehabilitation of older structures and operation and maintenance.
- Lodging Facility:** Any hotel, motel, inn, or other establishment providing sleeping accommodations for transient occupants, with or without a dining room or restaurant, excluding bed and breakfast establishments.



**Manufactured/ House Trailer:** A structure, transportable, in one section on wheels, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. Distinguished from modular homes which, although assembled in a factory, do not have a permanent chassis and are constructed or installed at the building site.

**Marinas and Docks:** A facility located within 500 feet of a navigable waterway for boat storage and servicing, and which may include retail and eating and drinking facilities. Servicing may include the sale of gasoline for water vehicles.

**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.

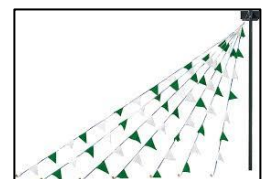
**Mixed-Use Development:** A building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

**Nurseries:** Any place where trees, bushes or plants are raised for wholesale and/or retail sale; includes greenhouses.

**Nursing or Convalescent Home:** A building where persons are lodged and furnished with meals and long-term or permanent nursing care as defined by the NYS Department of Social Services or successor. This definition includes "assisted care living units," "health care services facility," and "home for the aged" but does not include "hospital," or "halfway home."

**Office:** A business, professional, or non-profit workplace in which manufacturing processes, retail sales, construction, and warehousing do not occur on the premises, including but not limited to professional offices for attorneys, accountants, health care practitioners, architects, engineers, surveyors, consultants, sales representatives, real estate brokers, and financial planners. Office also includes business offices that support or manage manufacturing, retailing, construction, and warehousing, as well as research laboratories and other facilities in which research activities are conducted.

**Pennant Signs:** Multiple flags that hang from a string intended for advertising.





**Personal Service Business:** A business or non-profit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing, and landscape contracting, arts instruction or studio, business and educational services, catering, health club, photocopying, repair and restoration services, tailoring, typing, and word processing. Service business does not include retail business, restaurants, warehouses, offices, or other uses separately listed in the Use Table.

**Primary Street:** Primary roads are strategic roads that connect residential streets or industrial roads. These roads provide access to properties as well as other amenities in contrast with secondary streets which primarily service residential properties only.

**Private, Public, or Parochial School:** A facility offering instruction under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body meeting NYS requirements.

**Public Utility:** The infrastructure maintained by an organization supplying a community with electricity, gas, water or sewage. This does not include solar or wind energy infrastructure.

**Public Utility Substation:** A permanent structure 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.

**Recreational Business, Indoor:** A business and/or club which, for compensation and/or dues, offers indoor recreational services, including but not limited to a movie theater, billiard hall, bowling alley, arcade room, live theater, children's play facility other than a day-care center, and other places of public or private indoor entertainment.

**Recreational Business, Outdoor:** A business and/or club which, for compensation and/or dues, offers outdoor recreational services, including but not limited to public stables, golf courses and driving ranges, miniature golf, hunting and fishing, camping and other places of public or private outdoor entertainment.

**Recreational Vehicles (RV):** Both motorized and non-motorized vehicles that combine transportation and temporary living quarters for travel, recreation or camping. Not intended to be year-around or permanent residence.

**Restaurant:** An establishment where prepared food is sold for consumption on the premises or as take-out, including a bar or pub or other establishment that sells food and alcoholic beverages for on-premises consumption.



**Retail Business:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, shoe store, stationery store, convenience store, and variety store.

**Reverse Frontage Lot:** A lot extending between and having frontage on an arterial street and a minor street, and with vehicular access solely from the latter. OR a lot extending between having frontage on a body of water and a minor street where vehicular access is solely from the minor street to the perceived “rear” of the lot.

**Riding Academy:** Any establishment where more than four horses are kept for riding, driving, horseback riding lessons, or stabling for compensation, or incidental to the operation of any club, association, resort, riding school, ranch, or similar establishment. A riding academy operated in conjunction with a farm operation shall be deemed to be an agricultural accessory use

**Roadside Stand:** A light structure with a roof, either attached to the ground or movable, used for the sale of local produce on a seasonal basis, not to exceed a gross floor area of 500 square feet.

**Short-Term Rental:** A residential unit with one dwelling unit that is rented, in whole or part, to any person, group, or entity for a period of not more than 30 consecutive nights, in which at least one (1), but not more than five (5), sleeping rooms are provided by the owner for compensation, and in which one off street parking space is provided per bedroom.

**Solar Energy Systems:** See Section 8.14 for Solar Energy Systems and Solar Access Requirements.

**Storage Facility, Indoor:** A building or grouping of buildings designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property by persons other than the property owner. The wholesale storage and/or transfer of goods by commercial enterprises is not included this definition. Facilities less than 60,000 square feet are to be considered a commercial use. Facilities over 60,000 square feet are to be considered an industrial use.

**Storage Facility, Outdoor:** A lot designed for and/or used for the common, long-term and/or seasonal outdoor storage of individual or business property by persons other than the property owner.

**Storage Yards for Equipment:** A lot designed for and/or used for the long-term and/or seasonal outdoor storage of business property by the property owner.



- Streams:** A body of water with surface water flowing within the bed and banks of a channel and as mapped and defined by New York State Department of Environmental protection.  
(gisservices.dec.ny.gov/gis/erm)
- Subdivision, Major:** The division of any tract or parcel of land, with the exception of cemeteries and mobile home parks, into more than five lots, parcels, tracts or sites.
- Subdivision, Minor:** The division of any tract or parcel of land into fewer than five lots, parcels, tracts or sites, not adversely affecting the development of the remainder of the property or of adjoining parcels.
- 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/  
Co-Location:** The use of a wireless telecommunication support facilities by more than one wireless telecommunication carrier, or several wireless telecommunication support facilities 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 physicians working in cooperation and sharing the same facilities. Typically operates beyond standard medical office hours and may provide 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:** This term is employed in referring to:
- A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained, or conducted.
  - B. Any occupation, business activity, or operation conducted in a building or other structure, or on land.
- Use, Accessory:** A use customarily incidental and subordinate to the principal use or building. Accessory uses may occur as an open land use, separate building(s) or within the principal building. An accessory use does not have any greater impact on the environment than the principal use.
- Use, Principal:** The main or primary permitted use of the lot or structure.



- Vacation Resort:** Any area of land on which are located two or more cabins, cottages or group of buildings, containing living and sleeping accommodations hired out for compensation, which can include a public lobby serving the guests, and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonably or otherwise.
- Vehicle Service Station:** Any area of land, including structures thereon, that is used or designed to be used for the maintenance of motor vehicles, and which may include facilities used or designed to be used 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 Area:** A premise, including open areas other than a street or road and showrooms enclosed within a building, used for the storage, display or sale of new or used vehicles, trucks and cargo trailers.
- Veterinarian Office, Animal Hospital:** A building for the treatment of animal illness including kennels or other similar facilities for boarding animals.
- Warehouse/Wholesale Business:** A structure or premises, for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use.
- Wind Energy Conversion System:** A machine (windmill) used to convert wind energy to mechanical energy in order to power machinery or an electrical generator to make electricity.
- Wineries/ Breweries/ Distilleries:** Shall have the definitions as set forth in the New York State Alcoholic Beverage Control Law, as amended.



## ARTICLE 3

### ESTABLISHMENT OF DISTRICTS

#### 3.1 Application of Regulations

Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the allowable uses and standard for development set forth for each district by this chapter, nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, landscaping requirements and all other regulations designated in this chapter for the district in which such building or use is located. In the event of any such unlawful encroachment or reduction, such building or use certificate of occupancy shall become void.

#### 3.2 General Requirements

- A. No structure shall hereafter be erected, constructed, altered, demolished or reconstructed except in conformance with the requirements and procedures and requirement of this Law.
- B. No part of a required yard, or other open space around any structure required for the purpose of complying with the provisions of this Law, shall be included as part of a yard or other open space required for another structure.
- C. No lot shall be reduced in size so that its area or any of its dimensions or open spaces would be smaller than required by this Law.
- D. No structure or lot shall be used for any uses other than those uses permitted for the Zoning District as set forth in Section 4.4, Schedule of Uses Table.
- E. 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.
- F. A use not specifically listed as permitted shall be deemed to be prohibited.
- G. Regardless of any other provisions of this Law, any use that is noxious or offensive and constitutes a public nuisance by reason of the emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation, or which presents a hazard to public health or safety, is prohibited.
- H. 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

In order to fulfill the purpose of this Zoning Law, The Town of Hector has hereby established the following districts:

- LDR - Low-Density Rural
- LF - Lakefront
- MPC - Mixed Purpose Corridor



### **3.4 Zoning Map**

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 Zoning Law.

### **3.5 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:

- A. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, 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 street, 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 Zoning Law.
- B. 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.
- C. 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.
- D. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
- E. In all other cases, where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing on the map, but in no instance will a district depth be less than the specified minimum lot depth shown for each district in the Density Control Schedule.
- F. In the event of a questionable District boundary, the questionable boundary shall be referred to the Zoning Board of Appeals, and they shall, to the best of their ability, establish the exact boundary.
- G. Precise District boundary determinations made by the Zoning Board of Appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the Zoning Map by the Town Board.



## ARTICLE 4 USE DISTRICTS

### 4.1 Low-Density Rural (LDR) Intent

The 2015 Town of Hector Comprehensive Plan encourages the insurance that the infrastructure necessary for successful agricultural operations is in place, and that local regulations are supportive and protective of agricultural activities. The Low-Density Rural District is intended to be developed with land uses that encourage creativity within agricultural lands in order to help financially sustain agricultural operations. Land uses include: agricultural resource lands, natural resource lands, small businesses and residential uses. This zoning district predominately includes a mix of agriculture, agriculture support and related rural businesses, lower-density rural residential type uses, and resource conservation areas. Due to the variety of uses permitted in the LDR zone, strong buffering and landscaping requirements have been established and encouraged between different types of uses. Therefore, the Low-Density Rural Zone has been established to:

1. Provide for agricultural uses and uses compatible with or supportive of agriculture within the district;
2. Avoid conflicts between agricultural and non-agricultural uses by limiting the type and number of non-agricultural uses within the district;
3. Retain tracts of land of sufficient size to encourage viable farming operations.

### 4.2 Lakefront (LF) Intent

The 2015 Town of Hector Comprehensive Plan recognized the importance of the Seneca Lake waterfront to past and future development and character in this area. This District promotes uses that are water-dependent and/or enhanced by their location along the waterfront. The Town also recognizes the importance of the lands in this District to provide employment opportunities and enhance the tax base, therefore, a mix of certain business, commercial, service sector and residential development may be permitted. All uses, and development shall be sensitive to the natural environment of the lakefront and the value that the lakefront provides to the Town as a whole. No new uses shall unduly restrict visual and/or direct access to the waterfront, or diminish the enjoyment of the waterfront by residents, employees, and/or visitors.

### 4.3 Mixed Purpose Corridor (MPC) Intent

The 2015 Town of Hector Comprehensive Plan encouraged concentrated development along the Route 414 corridor and in areas where existing infrastructure is currently available or easily extended. This district promotes uses that will allow 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. The Mixed Purpose Corridor has been established to:

1. Provide areas that include a strong cluster and mix of different uses and services, including retail, wineries/breweries, restaurants, residences, public spaces, places to work, and recreational



2. Ensure efficiency of infrastructure and costs by placing new development near existing infrastructure and future infrastructure upgrades

#### 4.4 Use Regulations – Schedule of Uses Table

“P” – Permitted

“SU” – Special Use permit required

Box is left blank – use is not permitted in that zone.

<b>AGRICULTURAL USES</b>	<b>LDR</b>	<b>MPC</b>	<b>LF</b>
Agriculture	P	P	P
Nursery	P	P	P
Riding Academy	P	P	
Roadside Stand	P	P	P

<b>BUSINESS USES</b>	<b>LDR</b>	<b>MPC</b>	<b>LF</b>
Bed and Breakfast	P	P	P
Craft Workshop	P	P	P
Club, Membership	SU	SU	SU
Crematoria	SU		
Cultural Facility/Center (Library, Art Gallery, Museum, etc.)	P	P	P
Day Care Center	P	P	P
Day Care, Family	P	P	P
Dry Cleaner/ Laundromat	SU	SU	
Financial Institution	P	P	
Funeral Home	P	P	
Gas Stations	SU	SU	
Home Occupation	P	P	P
Kennel	SU		
Lodging Facility	SU	SU	SU
Marinas and Docks			SU
Nursing or Convalescent Home	P	SU	SU
Office	P	P	P
Personal Service Business	SU	P	SU
Recreation Business, Indoor	SU	SU	SU
Recreation Business, Outdoor	SU	SU	SU
Restaurant	SU	SU	SU
Retail Business	SU	SU	SU
Short-Term Rental	SU	SU	SU
Storage Facility, Indoor (Under 60,000 sq. ft. – see definition)	SU		
Vacation Resort	SU	SU	SU
Vehicle Repair Station	SU	SU	
Vehicle Sales Area	SU		



<b><u>BUSINESS USES</u></b>	<b><u>LDR</u></b>	<b><u>MPC</u></b>	<b><u>LF</u></b>
Veterinarian Office, Animal Hospital	P	P	
Wineries/ Breweries/ Distilleries	SU	SU	SU

<b><u>COMMUNITY USES</u></b>	<b><u>LDR</u></b>	<b><u>MPC</u></b>	<b><u>LF</u></b>
Cemetery	P	P	P
Church, or other place of worship	P	P	P
Hospital	SU		
Nursery School	P	P	P
Private, Public, or Parochial School	P	P	P
Public Utility Substation	SU	SU	SU
Solar Energy System, Accessory Use	P	P	P
Solar Energy System, Primary Use	SU	SU	
Telecommunication Tower/ Facility (new)	SU	SU	
Telecommunication Tower/ Facility (co-location on existing tower)	P	P	P
Urgent Care Clinic	SU	SU	
Wind Energy Conversion System	SU		

<b><u>RESIDENTIAL USES</u></b>	<b><u>LDR</u></b>	<b><u>MPC</u></b>	<b><u>LF</u></b>
<b><u>Accessory Dwelling Units</u></b>	<b><u>SU</u></b>	<b><u>SU</u></b>	<b><u>SU</u></b>
Boarding house	SU	SU	SU
Dwelling, one-unit, detached	P	P	P
Dwelling, one-unit, attached	P	P	P
Dwelling, two-unit	P	P	P
Dwelling, multi-unit	SU	SU	SU
Group home	SU	SU	SU
Manufactured/House Trailer Park	SU	SU	SU

<b><u>INDUSTRIAL USES</u></b>	<b><u>LDR</u></b>	<b><u>MPC</u></b>	<b><u>LF</u></b>
Landfill			
Light Industry	SU	SU	
Heavy Industry			
Mining	SU		
Storage Facility, Indoor (Over 60,000 sq. ft. see definition)	SU		
Storage Facility, Outdoor	SU		
Storage Yards for Equipment, Rental or Sales	SU		
Warehouse/Wholesale Business	SU		

#### **4.5 Activities Prohibited in All Districts**

- A. No effluent or matter of any kind shall be discharged into any stream or body of surface water which:
  1. Violates established stream requirements of the NYS 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 also Town of Hector Local Law No. 1 for Flood Damage Prevention (1987).
- B. The practice of soil stripping shall be limited to incidental filling of areas within the Town to bring them up to grade, except insofar as is necessary for typical agricultural practices or incidental to excavation for basement and other structures.
  - C. 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.
  - D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall be prohibited.
  - E. Trucking Terminals

#### **4.6 Exceptions in All Districts**

- A. Public Properties: Nothing in this law shall restrict construction or use in the exercise of Governmental Use 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. Other facilities may be constructed subject to a Site Plan Approval.



## ARTICLE 5

### BULK AND DENSITY CONTROL REQUIREMENTS

#### 5.1 Intent

This Article is established in the interest of promoting public health, safety and welfare by providing open space for: the access of light and air circulation, preventing conflagration, facilitating firefighting, meeting current and future septic disposal needs, protecting water supplies and environmentally sensitive areas, providing non-congested traffic movements, and protecting views.

#### 5.2 Buildable Land Calculations

Density of a subdivision is calculated on net acreage, not gross acreage, of buildable land according to the following guidelines:

**A. Unbuildable Land.** The subdivider shall identify and subtract all acreage considered to be unbuildable as follows:

1. Steep slopes twenty-five percent (25%) or greater
2. Floodways as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as amended
3. Wetlands, including New York State designated wetlands, those regulated by the US Army Corps of Engineers and those on the National Wetlands Inventory
4. Lands covered by waterbodies
5. Stream corridors (50' setback from each streambank)

**B. Density Calculations.** The subdivider shall then calculate the acreage that is determined to be buildable and apply the bulk density control schedule minimum square footage per dwelling units or principal buildings as defined in Article 5 of the Town Zoning Law to the buildable acreage. All density values shall be rounded to the nearest whole number of dwelling units or principal buildings.



### 5.3 Bulk and Density Control Schedule

The following Bulk and Density Control Schedule regulations have been declared a part of this Zoning Law.

ZONE	USE	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	FRONT YARD SETBACK	SIDE YARD SETBACK	SETBACK FROM LAKE	REAR YARD SETBACK	MAXIMUM LOT COVERAGE	MAXIMUM BUILDING HEIGHT
LOW-DENSITY RURAL (LDR)	All permitted uses that are not Industrial Uses	2 acres	150 feet	50 feet	20 feet		50 feet	30%	35 feet
LAKE FRONT (LF)	All permitted uses	1 acre*	75 feet	20 feet	10 feet	20 feet	20 feet	70%	25 feet
MIXED PURPOSE CORRIDOR (MPC)	All permitted uses	2 acres**	150 feet	50 feet	20 feet		50 feet	50%	25 feet
ALL ZONES	Industrial uses	10 acres							

Notes:

- A. \*Perc test required for any new lot created under 2 acres of space and septic inspections (by Schuyler County Soil and Water) required at the transfer of ownership of any property.
- B. \*\*If minimum lot size can be reduced to a minimum of 1 acre if perc test and septic inspections are completed and results are favorable for a septic system.
- C. Front yard shall mean the yard in which the front door is situated.
- D. Height of all properties to be measured from the main floor (1st floor) to the peak. Not to be measured from a walk out basement on sloped land.
- E. Coverage to be considered all impervious surfaces. Gravel driveways, roads and parking lots to be consider impervious.

### 5.4 Projection into Required Yards

The following projections into required yards may be permitted:

- A. Awnings, movable canopies and overhangs – six (6) feet into required front, side or rear yard setback.
- B. Cornices, eaves, other such architectural features and roof-mounted antennas – three (3) feet into any yard
- C. Apparatus needed for the operation of active or passive solar energy systems, including detached solar collectors, solar reflectors, piping or duct work, and insulation necessary for efficient utilization thereof – three (3) feet into any yard



- D. Exterior uncovered and unenclosed handicap access facilities may project up to the lot line if required to meet the access requirements of the Americans with Disabilities Act (ADA).
- E. Except as provided in Article 9, unroofed and unenclosed paved surfaces may project up to lot line.

#### **5.5 Compliance with Density**

- A. No subdivision of a lot shall create a lot that is not in compliance with any provision of the bulk and density control schedule.
- B. If allowed, then there shall be no more than one (1) principal structure containing any dwelling unit on a lot except as may be approved under Site Plan Review for Special Use Permits.

#### **5.6 Distance between Principal Structures on Same Lot**

Where there are two (2) or more principal structures on a lot in any district, the space between such structures shall be at least equal to the height of the taller structure.

#### **5.7 General Exception to Height Requirements**

Projections such as chimneys, silos, spires, domes, elevator shaft housings, flagpoles, solar energy equipment and other similar objects not used for human occupancy are not subject to the building height limitations of this Law.

#### **5.8 Through Lot**

In the case of a lot running through from one street to another street, the front of such lot shall, for the purposes of this law, be considered the frontage upon which the majority of the buildings within the same block front in the case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on the permit application which lot line shall be considered the front lot line. The rear portion of such a lot shall, however, be a front yard for the purposes of determining required setback and locations of permitted structure and use.



## ARTICLE 6 MIXED USES

### 6.1 Intent

The provisions of mixed-use standards are to accommodate the development of well-planned sites that incorporate multiple uses and in doing so, encourage increased opportunities for pedestrian-oriented living, town infill development, and distinctive neighborhood character. Traditionally, in a “Main Street” situation, retail and/or service uses are located on the first floor and office or residential uses are located on upper floors, with minimal parking in the rear of the lot.

The character of mixed-use development is usually pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, has amenities, architectural expression, and tends to mitigate the negative effects of traffic.

To give the site planner maximum freedom, more intensive land use may be permitted for mixed use developments. The coverage, height, setbacks, and other elements of site design may be varied under circumstances in which a more imaginative use of the building site is proposed than can currently be achieved under other regulations of this Law. Each mixed-use development may be subject to the procedures and requirements for obtaining a Special Use Permit as defined in Article 11 of this law.

### 6.2 Permitted Zones

A mixed-use Development may be permitted in all zoning districts subject to the approval of a Special Use Permit and Site Plan Review by the Town Planning Board provided such use is not specifically prohibited in the district.

### 6.3 Permitted Uses

The following uses and their accessory uses may be permitted subject to the approval of a Special Use Permit and Site Plan Approval by the Town Planning Board:

- A. Residential developments such as single-family dwellings, townhouses, duplexes, and apartment houses, provided that all residences are intended for permanent occupancy by their owners or tenants;
  - 1. Accessory uses are allowed if not prohibited in the underlying zone, given that they are specifically designed to meet noncommercial facility needs; Accessory uses do not count as a separate or additional use.
- B. Neighborhood commercial and retail uses as allowed in the underlying zone.
- C. General Office uses
- D. Cultural Facilities



#### **6.4 Non-Permitted Uses**

There are general uses that have been determined to be incompatible with the overall objectives of the Town's Mixed-Use Ordinance. These uses include the following:

- A. Strip malls
- B. Regional malls
- C. Big Box commercial and wholesale structures and developments
- D. Auto-oriented uses such as auto repair, auto sales, gas stations, and car washes
- E. Gated residential developments
- F. Heavy industrial
- G. Mini storage, self-storage units

#### **6.5 General Layout and Design Standards**

Any mixed-use development proposal shall conform to the following standards which shall be regarded as minimum requirements, in addition to all applicable standards in other sections of this Law.

- A. Mixed-use Developments must occupy a single building on a single site. These uses could be combined vertically or horizontally within the same building.
- B. Mixed-use developments shall include housing on the upper story of the building.
- C. All developments shall be served by public water.
- D. Mixed-use developments shall be placed so the building is located close to an adjoining hamlet, close to major roads, close to public transit, or close to other significant developments.
- E. The main pedestrian access point to a building shall be located along the facade oriented toward the primary street with the entrance from a public sidewalk or plaza. Secondary entrances from parking lots are permitted.
- F. Mixed residential uses shall be designed to include diverse housing options.
- G. Utility lines shall be located underground when practical to minimize negative visual impacts.
- H. The design of the mixed-use planned development shall consider the relationship of the proposed site to the surrounding areas. The perimeter of the mixed-use development shall be so designed as to minimize undesirable impact of the mixed-use development on adjacent properties as well as to minimize undesirable impact of adjacent properties on the mixed-use development.



- I. Density regulations (such as minimum lot size, lot width, lot coverage, setbacks, height) on mixed use planned development areas shall be comparable to or compatible with those of the existing development of adjacent properties or if adjacent properties are undeveloped, the type of development which may reasonably be expected on such properties given the existing zoning of such properties and the land use component of the comprehensive plan.

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## ARTICLE 7 INCENTIVE ZONING

### 7.1 Authorization

The Planning Board is hereby empowered to provide for the granting of incentives subject to the conditions hereinafter set forth and such other conditions as the Planning Board deems necessary and appropriate that are consistent with the purposes of this section.

### 7.2 Purpose

The purpose of providing a system of zoning incentives shall be to protect the natural and scenic qualities of open lands, to enhance sites and areas of special character or special historical, cultural, aesthetic or economic interest or value and to enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource. Zoning incentives shall be granted as a public benefit for the greater good.

### 7.3 Conditions

The conditions referred to above are as follows:

- A. Consistency with Comprehensive Plan. That the use of zoning incentives and the designation of the districts in which incentives apply, shall be established in accordance with the Town of Hector Comprehensive Plan.
- B. Open Space Protection Areas.
  - 1. Characteristics. The open space protection areas which the zoning incentives are meant to protect shall consist of natural, scenic, recreational, or open land or sites of special historical, cultural, or aesthetic values.
- C. Incentive Award Areas.
  - 1. Incentive Award Areas, in which zoning incentives may be authorized, shall contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection and shall exhibit no significant environmentally damaging consequences from the proposed development. Such increased development shall be compatible with the development otherwise permitted by the Town and by the federal, state, and county agencies having jurisdiction to approve permissible development within the district.
- D. Mapping. Open Space Conservation Areas are coterminous with the Incentive Award Areas are other sites in which a density bonus incentive has been approved by the Planning Board.
- E. Environmental Review. Notwithstanding any other provision of law to the contrary, environmental quality review pursuant to article eight (8) of the environmental conservation law for any action in a receiving district that utilizes development rights shall be conducted
- F. Conservation Easements. One lot conservation easement per two dwelling unit bonus. A conservation easement on the equivalent of one lot shall be required for the granting of two



additional housing units in excess of the density permitted in the underlying zoning sought as part of a proposed mixed-use development.

1. The easement is noted on the deed. The above conservation easement shall be issued by the Town to the applicant proposing the mixed-use development and to the landowner whose land the easement applies in a form suitable for recording in the registry of deeds at the Schuyler County Clerk's office in the manner of other conveyances of interests in land affecting its title.
2. Easement enforcement. That the burden upon land designated as an open space protection area shall be documented by an instrument duly executed by the grantor in the form of a conservation easement, as defined in title three of article forty nine of the environmental conservation law, which burden upon such land shall be enforceable by the appropriate representative in addition to any other person or entity granted enforcement rights by the terms of the instrument. All provisions of law applicable to such conservation easements pursuant to such title shall apply with respect to conservation easements hereunder, except that the Town Council may adopt standards pertaining to the duration of such easements that are more stringent than such standards promulgated by the department of environmental conservation pursuant to such title.

G. Density Bonus Incentives.

1. An applicant may apply to the Planning Board for one or more density bonuses in exchange for providing amenities to the Town of Hector. The Planning Board may, at its discretion and subject to the standards and considerations set forth below, grant density bonuses as set forth for developments as an Incentive Award Area in exchange for an applicant providing one or more of the following amenities:
  - A. Provision of a portion of publicly accessible walking trail. Providing a portion of the established walking trail that shall contain a trailway having an average width of not less than 25 feet unless a lesser width is permitted by the Planning Board. The trailway shall not be less than 15 feet wide at any point except where space constraints require a reduction in width. The trailway shall consist principally of paved, gravel or wood surfaces, but may also include landscaped areas, sitting areas, benches, gazebos and suitable lighting facilities. The dimensions and location of the trailway may be negotiated with the Planning Board.
  - B. Provision of public park or public open space. Committing a significant portion of contiguous land to public park or public open space use, either by conveying the land to the Town for such purposes or by other means, such as covenants and deed restrictions.
  - C. Historic preservation. preserving a significant portion of a building(s) or structure(s) identified by the Planning Board as being of historical, cultural or architectural significance.
  - D. Use of green building techniques. After construction, the development would achieve LEED Gold certification or a similar level of standards. The Planning Board may modify



the LEED certification level if the applicant is able to demonstrate that the particularities of the development warrant modification due to site constraints or financial hardships that are directly related to the development of the project. At a minimum, the applicant would have to achieve LEED Silver certification or similar standard. An applicant pursuing a similar standard would have to demonstrate that the green building technologies being incorporated into the project are of similar or greater efficiency in water and energy usage and produce a carbon footprint that is similar or smaller than the LEED Gold certification.

- E. Brownfields remediation. Environmental remediation work conducted on site that is not already substantially subsidized by state or other funding but is required in order for the development to take place.
  - F. Contribution to non-site-related infrastructure improvements. As negotiated by the Planning Board, non-site-related improvements would be improvements that are not directly needed, required or related to the development of the proposed project but will be able to be utilized by the proposed project's residents or will indirectly improve the project or its site-related infrastructure. Infrastructure improvements may include sidewalk, street or water and sewer system improvements. This list is not exhaustive, and the Town Engineer or Engineer appointed by the Town Council and charged to the applicant may provide recommendations to the Planning Board.
  - G. Provision of public artwork. Incorporation of publicly accessible artwork, sculpture, monument or other permanent aesthetic structure on a development site or at a designated off-site location as negotiated by the Planning Board.
  - H. Streambank restoration or stabilization. Maximizing and facilitating streambank restoration or stabilization of tributaries or other local streams.
  - I. Dedication of 20% of the constructed dwelling, to be marketed to and affordable to households with incomes at or below 80% of the area median income (AMI), as adjusted for family size.
- 2. The Planning Board shall grant a density bonus of up to 10% for each amenity offered, provided that the Planning Board finds that the amenity is proportional to such density bonus. Notwithstanding the foregoing, such bonus(es) shall not exceed the maximum number of dwelling units specified in the "Bulk and Density Control Schedule" as part of Article 5.3.
  - 3. The bonus permitted under this subsection is a bonus in permissible density only and does not authorize deviation from or enlargement of any bulk or lot coverage restrictions.
  - 4. In awarding a bonus for the amenities listed above, the Planning Board shall:
    - A. Consider the incentives being proposed by the applicant and the degree to which the proposed amenity is compatible with the goals and objectives for the zoning district and the Town as a whole.



- B. Set forth, in detail, the amenities to be provided by the applicant, how those amenities further the purposes of the Comprehensive Plan, and, in particular, how they preserve and enhance the unique aesthetic, recreational, environmental and/or historic qualities and features of this district for the benefit and enjoyment of the entire community and otherwise promote the public health, safety and welfare of the community.
- C. Set forth, in detail, the relationship between the amenities being provided and the bonus being awarded and shall specify the rationale supporting the proportionality of the amenities to the bonus. The public benefit improvements provided shall be roughly proportional in nature and extent to the bonus granted, and their proportionality shall be demonstrated by the applicant and agreed to by the Planning Board. The cost of the improvements need not equal the value of the benefits granted.
- H. Assessed Value Adjustment. That within one year after an incentive award area is approved, the assessed valuation placed on the affected properties for real property tax purposes shall be adjusted to reflect the imposition of easements and the award of additional dwelling units as zoning incentives.

#### **7.4 Procedure**

- A. Application Content. An applicant for an incentive award shall file the following information with the Town Council in addition to information required in accordance with Article 13 Site Plan Review for Special Use Permits.
  - 1. Open Space Protection Area characteristics. The location, land area and number of residential lots for which an easement is proposed as determined through Article 5 Bulk and Density Control Requirements.
  - 2. Incentive Award Area characteristics. The location and land area of the site for which an Incentive Award Area is proposed, the projected number of dwelling units that would result on the site from such development in excess of the underlying zoning and a statement of the character of the projected housing development, if applicable.
  - 3. Impact Narrative. A narrative describing the reasonable and beneficial results anticipated from the authorization applied for with respect to the implementation of the Comprehensive Plan as amended.
- B. Planning Board Review. The Planning Board report to the Town Council shall consider all aspects of the proposal, particularly that of the degree to which the proposal implements the Comprehensive Plan.



## **7.5 Public Hearing**

A. Requirement. In every case where Incentive Zoning is requested, the Planning Board shall award such application only after:

1. A public hearing has been held.

B. Conduct. The public hearing shall be conducted within sixty-two (62) days from the day a complete application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five (5) days prior to the date of the public hearing. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Town clerk within five business days after such decision is rendered, and a copy mailed to the applicant.

## **7.6 Conditions Upon Approval**

The following conditions are in addition to those found in above.

A. Legal Transfer Documents. Execution of an instrument legally sufficient both in form and content to affect such easement upon the property designated as an Open Space Protection Area to the Town of Hector or such other governmental agency or appropriate organization.

B. Remaining Buildable Lots. Where buildable lots remain, said instrument shall specify the number of remaining buildable lots attributed to said property upon the approval of the Incentive Award Area.



## ARTICLE 8

### DEVELOPMENT REGULATIONS

#### 8.1 General

The Planning Board and Code Enforcement Officer, in reviewing Site Plans and Special Use Permits, shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses, the Enforcement Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

#### 8.2 Lot Requirements

- A. A lot shall be sized and arranged so as not to create any degree of non-conformance with this Local Law.
- B. Lot Access.
  - 1. Insofar as possible, a lot shall not have direct access with a primary street. Access shall be from a marginal access street or a street other than a primary street.
  - 2. Where a watercourse separates the buildable area of a lot from a street with which the lot has vehicle access, installation of a bridge or other structure, spanning the watercourse, shall be subject to the same design criteria and review as all other storm water drainage facilities in a development.

#### 8.3 Street Arrangements and Access Design

- A. Intent. It is the intent of this Section to assure that all development provides for safe and adequate access to a lot proposed for development. This intent is furthered by the requirement that all development that proposes to contain a new Town street, private street and/or internal drive be designed to:
  - 1. provide for:
    - A. convenient traffic access and circulation,
    - B. traffic control and safety,
    - C. access for firefighting, snow removal, and street maintenance equipment,
    - D. stormwater drainage, and
    - E. utility location.
  - 2. arrange:
    - A. separate through traffic from neighborhood traffic insofar as practical,



- B. be coordinated to compose a connected system,
- C. be laid out to provide suitable future street connection with an adjoining lot, and
- D. conform to the requirements of the Americans with Disabilities Act (ADA).

**B. Street and Drive Requirements.**

1. A development proposal, subject to Site Plan Review as provided in Article 12, shall show and detail all design features for a Town street, private street and/or internal drive sufficient to document compliance with the intent of this section.
2. A Traffic Study or Analysis, at the cost of the applicant, may be required to support design considerations and/or to validate the mitigation of any traffic impacts associated with a development.

**8.4 Off-Street Parking**

**A. General Requirements.**

1. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use which is erected, enlarged, or altered after the effective date of this law.
2. A parking space shall be considered adequate if it is not less than one hundred sixty-two (162) square feet (18X9) exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to street or alley.
3. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.
4. Where appropriate, the Zoning Board of Appeals, may upon the presentation of evidence, vary the number and circumstance of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.
5. Uses not permitted within a district shall not locate their parking within that district in which the use is not permitted.
6. The lighting of off-street parking lots shall not be directed into adjacent properties. Dark sky lighting shall be utilized in all lots.
7. All off-street parking shall be paved, surfaced or covered so as to be well-drained. Impervious surfaces shall be minimized wherever practical. Runoff water shall be redirected so that land is available to absorb storm water and to reduce polluted runoff and flooding. Constructions of pervious roadways are preferred and shall be considered during design.



8. Off Street Parking Requirements:

<u>USE</u>	<u>MAXIMUM REQUIREMENT</u>
<b>1. Residential</b>	
- One and two-family	Two space per dwelling unit
- Multi-family	One and one-half spaces per dwelling unit
- Home Occupation	One spaces for each person or employee engaged in any home occupation
<b>2. Public</b>	
- Hospitals and nursing homes	One space for every two beds <u>plus</u> one for every two employees
- Places of public assembly (churches, auditoriums, theaters)	One space for every five seats
- Elementary and intermediary Schools	One space per employee <u>plus</u> one space for every fifty students
- High schools and colleges	Five spaces for each classroom
<u>USE</u>	<u>REQUIREMENT</u>
<b>3. Commercial, Office, Business</b>	
- Tourists home, rooming house	One space per bedroom
- Motels, hotels	One space per unit <u>plus</u> one space for every five seats in any associated restaurant
- Offices (professional, personal service, public/private utility)	3 spaces per 1,000 square feet of gross office floor area
- Service Retail	4.5 spaces per 1,000 square feet of gross floor area
- Retail	4.5 spaces per 1,000 square feet of gross floor area
- Private/public membership clubs	One space per one hundred square feet of gross floor area
-Restaurants/Bars/Taverns	One space per four seats
- Roadside stands	One space per fifty square feet of area devoted to selling or display
- Wholesale	One space per employee <u>plus</u> one space per seven hundred square feet of patron serving area
<b>4. Industrial</b>	
- Industrial	Two space per three employees on the main shift



## 8.5 Off-Street Loading and Unloading Berths

In all Districts, except the LF District, any lot or structure thereon which is to be occupied by industrial, commercial, business or similar uses requiring the receipt and/or distribution by vehicles, of materials or merchandise, there shall be provided and maintained, on said lot, off-street loading berths.

- A. Dimensions for Off-Street Loading Berths. Each loading berth, either open or enclosed, shall be a minimum of 55 feet long, 12 feet wide and 14 feet high, except that business uses, utilizing vehicles not larger than panel trucks, may have berths which are a minimum of 20 feet long, 10 feet wide and 9 feet high.
- B. Location of Required Berths. Loading berths shall be located in such a way that vehicles occupying berths shall not interfere with the movement of people and vehicles on public ways and within on-site parking areas. Whenever possible loading berths shall be located to the side or rear of a building.
- C. Landscaping. Areas around loading berths shall be provided with a buffer as required in Section 8.19.
- D. Requirements.

<u>Use</u>	<u>Gross Floor Area (Square feet)</u>	<u>Unloading Berths</u>
Retail stores Wholesale establishments Storage uses Other commercial uses	3,000 – 15,000	1
	15,001 – 40,000	2
	Each additional 25,000	1 additional
Motels or hotels Office buildings	100,000 or less	1
	100,001 – 300,000	2
	Each additional 200,000	1 additional
Industrial	15,000 or less	1
	15,001 – 40,000	2
	40,000 – 100,000	3
	Each additional 40,000	1 additional

## 8.6 Accessory Structure and Use Requirements

- A. General Standards.
  - 1. Accessory buildings and uses shall not be allowed on a parcel without a principal building or principal use.
  - 2. Roadside stands selling fresh produce may only be located in the front yard.
  - 3. Small Structures may be located outside the buildable portion of the parcel, but not less than five (5) feet from any parcel line. All other accessory structures must be located within the buildable portion of the parcel.



## 8.7 Signs

- A. Intent and purpose. No sign shall be erected, altered, expanded, reconstructed, replaced or relocated on any property except in conformance with the provisions of this article and all other applicable ordinances and regulations of the Town. **All signs in excess of sixteen (16) square feet shall require a building permit and shall comply with applicable regulations of the Building Code.** Repainting or refacing an existing sign or making minor non-structural repairs is exempt from review.
- B. General sign regulations.
1. Sign area shall be measured within a continuous perimeter enclosing the entire display face of the sign, including background, framing, trim, molding and other borders, but excluding supports and uprights unless the combined width of such supports or uprights exceeds 25% of the width of the sign face being supported or unless such supports of any width are designed as an integral part of the display for the purpose of illustration or attraction (Note: the provisions concerning support measurement shall not apply to *monument* signs). Where a sign consists of two identical parallel faces which are back-to-back and located not more than twenty-four inches (24") from each other, or in a "V" arrangement where distance between the unattached ends of the "V" is forty-eight (48) inches or less, only one side of such sign shall be used in computing the area. The area of signs with more than two (2) faces or with faces which do not meet the preceding allowances shall be the sum of the areas of all the sign faces. The area of a cylindrical sign shall be computed by multiplying one-half (1/2) the circumference by the height of the sign. Where individual letters, characters or figures are mounted so as to use a building facade as a background, the area of such sign shall be determined by computing the sum of the area within the outer perimeter of each individual character or figures comprising the total message, symbol or advertisement.
  2. The maximum allowable accumulative sign area permitted on any parcel shall be calculated with respect to the principal street frontages of a parcel to which the parcel has direct access. Unless otherwise specified, the maximum allowable accumulative area shall be based on the width of the face of the principal building parallel or nearly so to the street frontages. All permanent signs, unless specifically exempted by the terms of this article, shall be counted in the calculation of maximum accumulative sign area. In no event shall the aggregate wall sign area for a building, or for an individual tenant space if the building consists of multiple attached units, be allowed to exceed 240 square feet.
  3. The height of signs shall be the vertical distance measured from the average finished grade ground elevation of the area surrounding and within ten feet (10') of to the highest point of the sign. The maximum allowable height of signs shall be as specified by the regulations established herein. If the adjoining road surface elevation is more than five (5) feet above the average finished grade where the sign will be located, then the sign height may be increased by one (1) foot for each two (2) feet of elevation difference in excess of five (5), up to a maximum additional height allowance of ten (10) feet.
  4. The bottom of all projecting or hanging signs must be at least 8' in height above ground level



5. Any sign pertaining to a nonconforming business, commercial or industrial use shall be deemed a nonconforming structure.
6. If site plan approval is required for any use or activity on same parcel where sign is to be erected, no signs shall be permitted until site plan approval has been issued for the subject use or activity.
7. No sign, other than a sign approved or installed by the New York State Department of Transportation, shall be located within or over any public right-of-way. No permanent or temporary sign shall be erected or placed in a road right-of-way or at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, or color of the sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or character in such a manner as to interfere with, mislead or confuse traffic
8. No sign, whether permanent or temporary, shall be attached to trees, utility poles or other supporting structures, unless specifically authorized by the zoning administrator.
9. Except in the case of corner and through lots, not more than one (1) permanent free-standing sign shall be permitted for each lot or parcel. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten feet (10'). Corner and through lots shall be entitled to one (1) free-standing sign for each road frontage provided, however, that this provision shall not apply along road frontages where restricted access easements are in place.
10. No sign, whether temporary or permanent, shall extend over or above the ridge line of any roof or the top of any parapet wall of a building.
11. 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, highways, or parking areas. Light shall not shine or reflect in an offensive manner on or into residential structures or motels. No exposed reflective type bulbs or incandescent lamps shall be used on the exterior surface of any sign in such a manner that will cause offensive glare on adjacent property or create a traffic hazard.
12. No communications tower, aerial array, satellite dish, or accessory facility shall display any signs, except for safety signs.



- D. Permitted signs. The following table indicates the functional class, structural class, area, height, and type of illumination of signs permitted within each of the zoning districts prescribed by this chapter.

Zoning Districts Where Permitted	Structural Class			Illumination Type		Maximum Free-standing Sign Area (sq. ft.)		Maximum Free-standing Sign Height (ft.)		Maximum Cumulative Sign Area per lot or parcel exclusive of free-standing sign
	Free-standing		Building Mounted (Marquee/ Canopy, Projecting, Wall)							
	Monument	Pole		Internal	External	Monument	Pole	Monument	Pole	
LDR	X	X	X	X	X	32	24	6	8	1 sq. ft. per linear foot of principal bldg. width
MPC	X	X	X	X	X	40	32	6	10	1.25 sq. ft. per linear foot of principal bldg. width
LF	X	X	X		X	9	9	6	8	wall sign maximum of 5 sq. ft.; hanging sign maximum of 6 sq. ft.

E. Temporary signs.

1. No temporary sign shall be placed on public property without the written consent from the Town Council or their agent. Violations will result in the immediate removal and disposal of the sign by the Town Code Enforcement Officer or Town Highway Department.
2. The following temporary signs and banners are allowed. Such signs shall not count against the normal sign area allowances for the property on which located. All temporary signs and banners shall be subject to the setback standards applicable to permanent signs. Freestanding temporary signs and banners shall be limited to one (1) per street frontage per individual parcel; building mounted temporary banners shall be limited to one per business establishment/tenant space with its own individual exterior entrance:
  - A. Banners or other temporary signs not exceeding forty (40) square feet in area and 6' in height which promote a temporary activity.
3. Such temporary signs or banners must be on the site of such business. Only one (1) building- mounted or one (1) freestanding sign shall be permitted per street frontage. The duration of such sign shall not exceed ninety (90) days in any single 12-month period. The 90-days maximum display allowance may be used as 90 consecutive days or may be



broken into as many as six (6) separate time periods during the course of a 12-month period.

4. The 90-day maximum display limit shall not apply in the case of properties having access to and from a road undergoing reconstruction, and instead the allowable display period shall be the duration of the road construction project. Properties eligible for this allowance shall be those located within the official project property as defined by and identified on the approved project plans. The project duration shall be considered to be the time between the actual commencement of land or pavement disturbing construction activity and the re-opening of all lanes of travel in their state of final completion.
  5. With the approval of the New York Department of Transportation, the code enforcement officer may authorize banners to be suspended above a state road right-of-way for a period not to exceed seven (7) days or the duration of the event being announced or promoted plus three (3) days, whichever shall be greater.
- F. Sidewalk signs. Sidewalk signs are subject to the following standards and conditions. Such signs shall not count against the normal sign area allowances for the property on which located.
1. One non-illuminated sidewalk sign is allowed per business establishment having an exterior customer/client entrance. In the event a structure, houses and/or multiple businesses sharing a common customer entrance, two sidewalk signs may be authorized provided that the two signs are no closer than 30 feet to one another. Nothing shall prevent the identification of more than one of the businesses located on the premises on a single sign.
  2. The placement of sidewalk signs shall be limited to a location within fifteen feet (15') of the front (i.e., between the imaginary extension of the side walls of the building) of the establishment to which it refers and not more than thirty feet (30') from the main customer/client entrance of the establishment.
  3. Sign area shall not exceed 6 square feet (e.g., each face of a double-sided or A-frame sign). Maximum height shall be 4 feet. Maximum width shall be 2'6".
  4. Sidewalk signs shall be constructed of durable materials, sufficient to withstand inclement weather. Sidewalk signs shall not be constructed of glass.
  5. The sign face may include permanent/fixed copy (e.g., painted on the surface) and changeable copy. Acceptable materials for changeable copy sidewalk signs may include chalk, dry-erase, removable letters, or other similar types of boards on which the messages can be easily and frequently changed.
  6. The sign shall be of sufficient weight to prevent it from becoming a hazard in windy conditions or from being overturned by contact. Weights, if required, must be incorporated into the sign design and construction. The use of sandbags, bricks or similar items to add weight to the sign is not allowed.



7. No temporary posters, letters, flyers, balloons, pennants, flags, or other attention-getting devices may be attached to the sign. Mobile or moving sign copy or sign parts shall not be permitted.
  8. The sign placement shall not prevent the sidewalk from being accessible as required by the Americans with Disabilities Act, nor shall it cause the unobstructed, clear-path of the walkway to be less than four feet (4') in width.
  9. No sign shall be located within or closer than two feet (2') from curbs, driveways, parking lots or any other vehicular circulation or parking surfaces. No such sign shall be located in conflict with sight distance/sight triangle standards.
  10. No such sign shall be permitted within a public road right-of-way.
  11. The sign must be removed from the sidewalk or display location during times when the identified business establishment is closed. Storage during non-business hours shall be indoors.
  12. When such sign is to be located on a sidewalk or walkway not under the sole control of the business owner, such as on a walkway within the common area of a multi-tenant shopping center or retail complex, the sign owner must be able to provide documentation indicating that the sidewalk owner has approved the use, design and placement of the sign.
- G. Off-premises signs. The installation of off-premises signs is subject to the following findings and conditions:
1. The function of such signs shall be limited to directional or identification purposes.
  2. The location of such signs shall be consistent with the uses existing or permitted on the site of such sign. A written authorization from the owner of the property on which such sign is proposed to be located or a recorded easement permitting the placement of the sign shall be submitted to the zoning administrator at the time of placement.
  3. Such signs shall be limited to a maximum area of eight (8) square feet and a maximum height of six (6) feet and shall comply with all other applicable provisions of this article. Not more than three (3) such signs shall be permitted for any single use.
- H. Exempt signs. The following signs may be erected, altered or maintained in any zoning district when in accordance with the general provisions for signage in the Town, except as noted, and provided further, that permits shall not be required unless specifically noted.
1. Signs erected and maintained pursuant to and in discharge of any federal, state or Town governmental function, or as may be required by law, ordinance or governmental regulation including official traffic signs and signals, warning devices and other similar signs.



2. Memorial signs or tablets, cornerstones or names of buildings when cut into masonry or when constructed of bronze or other noncombustible material, but not to exceed six (6) square feet in area.
3. Non-illuminated construction signs, not exceeding thirty-two (32) square feet in area and six feet (6') in height and limited to three signs for each street frontage. No such signs shall be permitted unless a building permit has been issued or unless a site plan for the proposed development has been submitted to the Town for official review. Such signs shall be removed at the completion of construction.
4. Bulletin boards for churches or other permanent places of worship, or for public buildings, when located on the same premises as the building to which they refer, and provided that such signs shall not exceed twelve (12) square feet in area and six feet (6') in height.
5. Signs attached to machinery or equipment which is necessary or customary to a business including, but not limited to, devices such as gasoline pumps, vending machines, ice machines, etc., provided that such signs refer exclusively to products or services offered on the premises.
6. On-premises non-illuminated directional signs, not exceeding three (3) square feet in area and three feet (3') in height and not containing any advertising material or discernible business logo. Such signs shall be exempt from the 10-foot minimum setback requirement.
7. Signs displayed in the windows of establishments, however, that such signs shall not occupy more than twenty-five percent (25%) of the total area of the window in which they are displayed.
8. Menu boards which are either free-standing or wall signs providing information on food and beverages offered for drive-in sales on the premises, provided that such signs and any business logos thereon are not legible from any public right-of-way. If the aggregate of or individual area exceeds thirty-two (32) square feet per drive-thru lane, approval is required by the Planning Board.
9. Signs or scoreboards within a ball park 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 street or adjacent properties.
10. 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. One (1) corporate logo emblem flag per parcel shall be permitted; provided however, that such sign shall count toward the maximum allowable sign area for the subject parcel. Flagpoles shall conform with the height regulations of the district in which located. Placement of flags in such quantities and locations as to be for attention-getting/advertising purposes, in the opinion of the zoning administrator, shall not be considered exempt under this section.



11. Non-illuminated signs warning trespassers or announcing property as posted, not to exceed four (4) square feet per sign. Such signs may be located on trees or, with the permission of the owner, utility poles. Such signs shall be exempt from the 10-foot minimum setback requirement.
- I. Special standards for community, business/office/industrial park identification signs. Residential community or business, office or industrial park identification signs shall be erected in accordance with the following standards:
  1. Such signs must be located within the subdivision, apartment complex or other residential development being identified. The sign shall be located on one (1) of the lots within said development or on property which is owned and controlled in common by the owners of individual lots and units within the development and an affidavit affirming the responsibility for maintenance of the sign shall be filed with the application for a permit.
  2. The sign shall be of masonry, wood or other material construction, but not plastic or similar material, so as to be permanent in nature;
  3. Any external illumination shall be by lighting fixtures placed at ground level and directed in such a manner as to prevent flare onto adjacent roadways or properties.
  4. When the development includes a symmetrical design feature on both sides of the entrance street or driveway such as a decorative wall or fence, identical community identification signs may be mounted on the decorative feature on both sides of the street/drive.
- J. Abandoned signs. A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. In the event a nonconforming sign refers to a business that has not been in operation for a period of at least two (2) years, such sign shall be considered abandoned and shall be considered to be in violation of this chapter. After reasonable efforts to provide notice to the property owner of the need to remove the violation, and failure of the property owner to do so, the zoning administrator may cause the abandoned sign to be removed at the owner's expense.
- K. Electronic message signs. Signs on which lights or other illumination devices display only the temperature or time of day in alternating cycles or only motor vehicle fuel prices displayed continuously and change no more frequently than once every 24 hours. All other internally lit signs shall be prohibited.
- L. Prohibited signs. Unless specifically stated otherwise, the following signs shall not be permitted in the Town:
  1. Billboards
  2. Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical,



electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.

3. Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color,
  4. Signs include displays using incandescent lamps, light emitting diodes (LEDs), liquid-crystal display (LCD) fiber optics, light bulbs, plasma display screens or other illumination devices, or a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals that are used to change the messages, intensity of light or colors displayed by such sign.
  5. Pennants.
  6. Portable signs, except those used as temporary and complying with the regulations for temporary signage. This provision shall not be construed to prohibit signs of reasonable size and proportion as determined by the code enforcement officer, painted on or attached to automobiles, trucks, buses, trailers or other vehicles which are used in the normal course of business. It shall, however, be construed to prohibit the parking of vehicles or trailers on which signs are hung, or otherwise attached, when such parking is for display purposes intended to circumvent the provisions of this chapter. The removal of wheels and chassis assemblies from a portable message board sign with the intent of mounting it on posts shall not be sufficient to cause the sign to be permitted as a freestanding or wall sign.
  7. Any sign which by reason of position, shape or color may interfere with, be confused with, or obstruct the view of any traffic sign, signal or device.
- M. Maintenance and removal of signs. All signs shall be maintained in good condition and appearance and shall be removed from the premises when they can no longer be repaired.

## **8.8 Drive, Internal Drive and Driveway Requirements**

- A. Intent. It is the intent of this Section to assure that all development provides for safe and adequate access to a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new internal drive and/or driveway shall be designed to comply with the requirements of the Town Highway Department for all work conducted in a right-of-way.
- B. General Requirement. No person, firm or corporation shall construct or locate any driveway entrance into or exit from a road in the Town of Hector without having first met the provisions of this Section.
  1. The developer shall furnish all materials and bear the costs of all construction, and shall pay the cost of all work done and materials furnished as required to meet the conditions set by the Superintendent of Public Works, and the County and State Highway Departments.
  2. No new driveway, or alteration, or relocation made to an existing driveway, shall be made without first securing permission from the Highway Department.



3. No driveway shall have an average grade that exceeds ten percent (10%).
4. The slope of the driveway shall not exceed two percent (2%) within twenty-five (25) feet of the intersecting public street.
5. No more than two (2) driveways shall be permitted to a single lot entering/exiting on one (1) street.
6. No commercial driveway shall be located within forty (40) feet of any street intersection.
7. Maximum Width:
  - A. Residential Use: single entrance or exit shall not be more than twenty (20) feet.
  - B. Non-Residential Use: entrance or exit shall not be more than thirty (30) feet for a one-way, single entrance, nor fifty (50) feet for a two-way, double entrance commercial use.
  - C. The width shall be measured at the right-of-way line.
8. Minimum Width:
  - A. Residential Use: single entrance or exit shall not be less than ten (10) feet
  - B. Non-Residential Use: entrance or exit shall not be less than sixteen (16) feet for a one-way, single entrance, nor thirty (30) feet for a two-way, double entrance commercial use.
9. No driveway shall be approved with a sight distance of less than one hundred and fifty (150) feet in any direction.
10. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the appropriate Highway Department, a catch basin at a point near the intersection of the driveway and the street may be required. This will prevent surface water and debris from being discharged onto the street.
11. The property owner shall be responsible for the maintenance of the portion of the driveway that is located within the right-of-way. This maintenance shall include all drainage structures, pipes, ditches and other appurtenances, constructed in connection with the driveway.
12. All driveways shall be located so as to provide:
  - A. The most favorable grade and alignment conditions for the motorists using the driveway and street.



- B. No undue interference with the free and safe movement of traffic on the street.
- C. Maximum safety and convenience for pedestrians and users of the street right-of-way.

13. Non-residential drives and driveways may be required to be constructed to meet town specifications for a public street, depending on the type and proposed volume of use.

#### **8.9 Clear Vision Zone**

- A. Intent. It is the intent of this section to ensure that all development provides for safe and adequate access to and from a lot proposed for development. This intent is furthered by requiring that all development that proposes to contain a new street, drive, internal drive or driveway be designed to provide a clear vision zone.
- B. Visibility at Intersections. On a corner lot in any district, no fence, wall, hedge or other visual obstruction shall be erected, placed or maintained within the triangular area formed by the intersecting center lines in a straight line joining such center lines at points which are forty (40) feet distant from the point of intersection measured along said center lines.
- C. Visibility at Driveways. No driveway or other vehicular access to any public highway shall be constructed with less than 100 feet of visibility from a height of 5 feet above the center line of the driveway in both directions from the point where the center line of the driveway intersects with the right-of-way.

#### **8.10 Steep Slopes**

The Town of Hector contains steep slope (10% or greater) areas. Special design treatment for streets, building sites and other development may be required to preserve the natural terrain, trees, rock formation, scenic views, etc. All development on steep slopes shall be subject to the following guidelines:

- A. Tier 1 slopes (10-15%) may only be developed for low density residential, recreation, forestry, agriculture, storage, and other uses as approved by the Planning Board.
- B. Tier 2 slopes (greater than 15%) may only be developed for open space, some recreation, and other low impact activities as approved by the Planning Board.
- C. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) And road location (including cross-sections).
- D. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- E. Design principles shall include, but not be limited to, the following:
  - 1. Landscaping of areas around structures making them compatible with the natural terrain.



2. Shaping, grouping and placement of man-made structures to complement the natural landscape.
3. Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer shall first determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them. See Article 10, Subdivision of Land, for additional cluster development regulations.
4. Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
5. Encourage the use of turning circles at mid-block points and the development of off-street parking bays to avoid the use of private driveways for turning and parking movement.
6. Encourage split-level building sites.
7. Use one-way streets when consistent with traffic, safety, circulation needs, and natural topography. This guideline allows for narrower road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.
8. Land within the hill area that is in excess of twenty-five percent (25%) slope shall not be developed as individual residential lots.
9. Outstanding natural features such as the highest crest of the hill range, natural rock outcroppings, particularly desirable vegetation, etc. shall be retained.

#### **8.11 Stormwater Management and Erosion Control**

- A. Drainage Systems. The following standards are intended to ensure that storm water runoff is safely conveyed through a development site, to minimize streambank erosion, and to reduce flooding related to land development and urbanization. The standards for storm water drainage systems are as follows:
  1. Any alteration of the hydrology of the site shall be minimized and/or mitigated so as to minimize the impact on water quality, peak discharge, groundwater recharge, and drainage patterns. To the extent possible, the quantity, quality, and timing of stormwater runoff during and after development shall not be substantially altered from pre-development conditions. The recommended technical standards for the design of post-construction structures are detailed in the "New York State Stormwater Management Design Manual," as revised.



2. Any new or modified drainage channel or storm water facility shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of the development.
3. Priority should be given to maintaining natural drainage systems, including perennial and intermittent streams, swales and drainage ditches.
4. Any existing storm water management system including a swale, ditch, basin, pond, drywell, catch basin, stream or other system component shall be maintained in such a manner as to be functional.
5. No building or structure shall be erected or altered within any drainage course, including a swale, ditch, or stream. Any activity within Waters of the United States or within fifty (50) feet of a New York State protected stream will comply with all permit requirements of the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers.
6. Any disturbance or alteration of a wetland or wetland buffer area will be minimized and shall comply with all permit requirements of the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers.
7. All new buildings shall be set back a minimum of one hundred (100) feet from the bank of any perennial or intermittent stream. Site Plan Review is required for any other development within one hundred (100) feet of a streambank, such as roads, grading, shaping, or removal of woody vegetation.
8. When a land development project is within or adjacent to any area with known flooding problems or known high ground water, the elevations of buildings should be above the observed, anticipated or computed water levels. The effect of such development on upstream and downstream reaches of the watercourse and adjacent properties shall be considered and adequate protective measures shall be implemented.
9. Any development on the deltas that have formed by accumulation of sediment where streams enter Seneca Lake should be protected from the streambank erosion and flood damage that may result from natural channel alterations in these areas.
10. Utilizing the drainage guidelines outlined above, the Planning Board may require the developer to submit the following:
  - a. Stormwater Pollution Prevention Plan, the contents of which are specified in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity.
  - b. A statement of the proposed stormwater management objectives.
  - c. The soil types in all areas that will be disturbed. If those soils have limitations applicable to the proposed development (as indicated on tables in the "Soil Survey of Schuyler County, New York" or the Web Soil Survey at



<https://websoilsurvey.nrcs.usda.gov>) the developer should indicate how the project would overcome those limitations.

- d. A description of the proposed structural and vegetative stormwater measures that will be utilized to ensure that the quantity, temporal distribution and quality of stormwater runoff during and after development are not substantially altered from pre-development conditions. This will include appropriate plans, design data, calculations, and other information.
  - e. A maintenance plan, which describes the type and frequency of maintenance required by the stormwater management facilities utilized and the arrangements that will be made to ensure long-term maintenance of these facilities. Operation, maintenance, and any necessary repairs are the responsibility of the property owner or his/her designee. Storm water management facilities shall have adequate easements to permit the Town to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the system. If corrective action by the Town is required, incurred costs are the responsibility of the property owner.
  - f. A flood hazard analysis for any development located within or adjacent to the designated floodplain.
11. The Town shall inspect drainage systems and drainage structures before, during and after construction to assure that all Town specifications and requirements are met. The applicant shall promptly correct any portion of the work that does not comply.
- B. Erosion and Sediment Control. The goals for erosion and sediment control are (1) to minimize the opportunity for soil to be moved by wind, precipitation and runoff and (2) to contain sediment that does move close to its place of origin and thus prevent it from reaching a water body or damaging other lands. In order to ensure that the land will be developed with a minimum amount of soil erosion and to protect the natural character of on-site and off-site water bodies, the Planning Board shall require the developer to follow certain erosion control practices. The standards for erosion and sediment control are as follows:
- 1. Erosion and sediment control practices shall be consistent with requirements of the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity. A permit is generally required for construction activities that disturb one or more acre of land.
  - 2. The Planning Board may require the developer to submit an erosion and sediment control plan, the contents of which are specified in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity.
  - 3. The recommended technical standards for erosion and sedimentation control are detailed in the "New York Standards and Specifications for Erosion and Sediment Control," November 2016, or as most recently revised.



4. The development plan should be consistent with the topography, soils, and other physical characteristics of the site so as to minimize the erosion potential and avoid disturbance of environmentally sensitive areas.
  5. Existing vegetation on the project site should be retained and protected as much as possible to minimize soil loss from the project site. (This will also minimize erosion and sediment control costs.)
  6. Erosion and sediment control measures should be constructed prior to beginning any land disturbances. All runoff from disturbed areas should be directed to the sediment control devices. These devices should not be removed until the disturbed land areas are stabilized.
  7. The timing and sequence of construction activities shall expose the smallest practical area of land at any one time during the development. Temporary vegetation and/or mulching should be used to protect critical areas. Permanent vegetation shall be established as soon as practicable. Construction will not be considered complete until all disturbed areas are successfully seeded or stabilized with erosion control materials.
  8. The off-site impacts of erosion and sedimentation from the development site should not be any greater during and following land disturbance activities than under pre-development conditions.
  9. Sediment laden runoff should not be allowed to enter the roadside drainage system or any water body in such quantity that would result in deposition on the bottom of the water body, degrade its natural biological functions, or be harmful to the classified usage of the water.
  10. Water in streams on-site and downstream of construction areas should not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from upstream of the construction area.
  11. The Town shall inspect erosion and sediment control practices during and after construction to assure that all Town specifications and requirements are met. The applicant shall promptly correct any portion of the work that does not comply.
- C. Off-site drainage and sediment control facilities. The Town may allow storm water runoff or sediment leaving the site to exceed the Town's performance standards if the runoff is discharged into storm water management facilities off the site and all of the following conditions are met:
1. It is not practicable to completely manage runoff on-site in a manner that meets the Town's performance standards.
  2. The off-site drainage facilities and channels leading to them are designed, constructed and maintained in accordance with all Town specifications and requirements.
  3. Adverse environmental impacts on the site of development will be minimized.



4. A request to use off-site storm water management facilities and relevant information about to the proposed off-site facilities shall be submitted to the Planning Board.
- D. Driveway and road drainage. Driveways and roads shall be designed to manage runoff in a manner that protects public roads, roadside drainage, neighboring properties, and water quality. The Town Highway Superintendent shall approve the design and construction of any driveway or new road.
1. Private stream crossings should be avoided wherever possible. When such crossings are necessary, they should be adequately designed and installed to provide a stable flow path during all water level conditions. Planning Board review and Town approval are required for any bridge or culvert built as a private stream crossing on any perennial or intermittent stream. If professional engineering and/or review are necessary, incurred costs are the responsibility of the property owner
  2. Proper drainage shall be installed to prevent the discharge of surface water or debris onto a public road and to prevent increased runoff to adjacent properties. Special attention to the adequacy of structures, roadways and landscaping is required in areas with susceptibility to ponding, flooding, and/or erosion.
  3. The driveway or road shall be constructed with a suitable crown and slopes to drain surface water onto adjacent vegetated areas. In addition, the Town Highway Superintendent may require a catch basin or other measures deemed necessary to protect the road, roadside drainage system, or down-slope areas.
  4. In no case shall a driveway or road be installed so as to block, impede, or restrict the flow of surface water along a public road. In order to cross a ditch or drainage swale, any new or replaced driveway pipe shall be a minimum of eighteen inches (18") in diameter and a minimum of twenty feet (20') in length. Larger sizes may be required depending on the flow. The pipe shall be so placed as to maintain the drainage gradient of the road ditch. Smaller could be approved at the recommendation of the Town Highway Superintendent or Schuyler County Soil and Water District

#### **8.12 Utilities**

- A. **Water Supply and Sewage Disposal.** Provisions for water supply and sewage disposal shall comply with requirements of the Town of Hector, N.Y.S. Health Department and/or N.Y.S. Department of Environmental Conservation.
- B. **Underground Installation.** All utility companies (telephone, electric, etc.) Are now equipped to make underground installation of their services; underground installation shall be required when practical.



### **8.13 Industrial Use Requirements**

A. General Requirements. No Industrial Use shall be permitted, established, maintained or conducted which is likely to cause or have:

1. Fumes, gases, dusts, particulate, odors, or any other atmospheric pollutant beyond the boundaries of the lot whereon an Industrial Use is located.
2. 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 U.S. 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.
3. Noise levels greater than sixty-five (65) decibels (dbl) measured at a boundary of a lot occupied by an Industrial Use.
4. A discharge of any industrial effluent into any watercourse, open ditch, or on a land surface unless specifically permitted by written authorization from the NYS Department of Environmental Conservation.
5. A discharge of any industrial effluent must meet all County, State and Federal regulations. Shall be reviewed by NYS DEC and Schuyler County Soil and Water.
6. Open storage or stocking of any Industrial waste materials.
7. Glare or light levels in excess of the requirements set in Section 8.21.
8. Vibration perceptible beyond the lot lines whereon such Industrial Use is conducted.
9. Any other nuisance, activity or action that may be likely harmful to a person or property.

B. Buffer, Barrier and Landscape Requirements

1. Buffer and Barrier shall be provided in accordance with Section 8.19.
2. Any portions of the lot proposed for industrial development and not occupied by a structure, parking area, drive, internal drive, pedestrian ways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material in accordance with Section 8.19.

C. Other Industrial Use Activity

1. Outdoor Storage. Materials, supplies, or products shall not be stored in a front yard and any such storage located in the side or rear yard shall be screened in conformance with Section 8.20.
2. Accessory Use. Accessory uses shall conform to the minimum requirements set forth in Section 8.6 and as prescribed in an approved Site Plan.



- D. Design Requirement. A Site Plan for an Industrial Use shall include design elements that include sufficient documentation to determine compliance with the requirements of Section 8.13 and all other applicable Sections of this Law.
- E. Access to a lot containing an Industrial Use shall:
  - 1. be designed and stamped by a design engineer;
  - 2. be designed so as not to route traffic directly through a residential neighborhood on other than a primary street;
  - 3. be designed to access a street other than a Town street located within a residential neighborhood; and
  - 4. have a design based on a Traffic Study, at the cost of the applicant, that includes provisions for access by all vehicles expected or intended to use the site.

#### **8.14 Solar Energy Systems and Solar Access Requirements**

- A. Definitions. As used in this Section, the following terms shall have the meanings indicated.
  - 1. BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.
  - 2. GROUND-MOUNTED LARGE-SCALE SOLAR ENERGY SYSTEM: A Ground-mounted Solar Energy System in which 50% or more of the energy produced per year is for offsite sale and/or consumption.
  - 3. GROUND-MOUNTED SMALL-SCALE SOLAR ENERGY SYSTEM: A Ground-mounted Solar Energy System in which: (1) less than 50% of the energy produced per year is for offsite sale and/or consumption; and (2) no more than 25 kW is produced per year.
  - 4. GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity.
  - 5. NYSERDA: The New York State Energy Research and Development Authority.
  - 6. QUALIFIED SOLAR INSTALLER: A NYSERDA certified solar installer who complies with all licensing and other requirements of the Town of Hector and the State.
  - 7. ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.



8. SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with production of electrical energy.
9. SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.
10. SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

B. Solar as an Accessory Use or Structure

1. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems

- A. Permitted Districts. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- B. Height. Solar Energy Systems and Building Integrated Photovoltaic Systems shall not exceed the maximum height restrictions of the zoning district within which they are located.
- C. Aesthetics. Roof-Mounted Solar Energy System and Building Integrated Photovoltaic Systems installations shall adhere to the following requirements:
  1. Panels facing the front yard or lakeside must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
- D. Site Plan Review. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems are exempt from site plan review.
- E. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems may be installed by a Qualified Solar Installer or installed to manufacturer's specifications and inspected by a licensed electrical inspector.

2. Ground-mounted Small-Scale Solar Energy Systems

- A. Permitted Districts. Ground-mounted Small-Scale Solar Energy Systems are permitted as accessory structures in all districts.
- B. Height and Setback. No part of a Ground-mounted Small-Scale Solar Energy System shall exceed eighteen (18) feet from the lowest grade when oriented at maximum tilt. Ground-mounted Small-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district.
- C. Lot Coverage. Ground-mounted Small-Scale Solar Energy Systems shall be placed within the buildable portion of a lot.



D. Aesthetics. Ground-mounted Small-Scale Solar Energy Systems shall adhere to the following requirements:

1. Ground-mounted Small-Scale Solar Energy Systems must be placed on a lot so that the visual impact from public roads is minimized to the greatest extent possible.
2. Ground-mounted Small-Scale Solar Energy Systems must be placed on a lot so that the visual impact to the Seneca Lake viewshed is minimized to the greatest extent possible.

E. Site Plan Review. Ground-mounted Small-Scale Solar Energy Systems in all districts are exempt from site plan review.

F. Ground-mounted. Small-Scale Solar Energy Systems may be installed by a Qualified Solar Installer or installed to manufacturer's specifications and inspected by a licensed electrical inspector.

C. Solar as a Primary Use or Structure

1. Ground-mounted Large-Scale Solar Energy Systems

A. Permitted Districts. Ground-mounted Large-Scale Solar Energy Systems are permitted as a primary use in the Low-Density Residential and Mixed Purpose Corridor Districts, subject to the requirements set forth in this Section, including Special Use Permit approval. Ground-mounted Large-Scale Solar Energy Systems are not permitted in any other district.

B. Height and Setback. No part of a Ground-mounted Large-Scale Solar Energy System shall exceed twelve (12) feet from the lowest grade when oriented at maximum tilt. Ground-mounted Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district.

C. Lot Coverage and Size. Ground-mounted Large-Scale Solar Energy Systems shall be placed within the buildable portion of a lot.

D. Site Plan Review. All Ground-mounted Large-Scale Solar Energy Systems must undergo site plan review. In addition to the requirements of Section 12, site plan applications for Ground-mounted Large-Scale Solar Energy Systems must include:

1. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
2. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer shall be required.



3. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
  4. Property Operation and Maintenance Plan. The site plan application shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  5. Any other information the Planning Board deems necessary for its review.
- E. Other Application Requirements.
1. Decommissioning Plan: A Decommissioning Plan shall be submitted as part of the application to ensure the proper removal of Ground-mounted Large-Scale Solar Energy Systems. Compliance with this plan shall be made a condition of site plan approval. The Decommissioning Plan must include:
    - A. A cost estimate detailing the projected cost of executing a decommissioning plan prepared by a Professional Engineer. Cost estimates shall take into account inflation.
    - B. An expected time line of execution.
    - C. A description of how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.
    - D. An agreement from the applicant that the applicant and/or subsequent owners shall remove the Ground-mounted Large-Scale Solar Energy System in accordance with the decommission plan within six (6) months of when the Ground-mounted Large-Scale Solar Energy System is no longer in use.
    - E. An agreement from the applicant and property owner that the Code Enforcement Officer may enter the property to inspect the Ground-mounted Large-Scale Solar Energy System if he or she suspects that the system may have been abandoned.
  - F. Ground-mounted Large-Scale Solar Energy Systems shall be considered abandoned after six (6) months without electrical energy generation. The Code Enforcement Officer may, upon application from the owner, grant an extension for a period of six (6) months.
  - G. If the Town Code Enforcement Officer suspects that a Solar Energy System may be abandoned, he or she shall notify the owner of such assessment and order the decommissioning of same within thirty (30) days. The owner may refute the assessment by producing data or records to the Town Zoning Board of Appeals to prove that the Solar Energy System is active or has been active within six (6) months prior to the notice.



- I. The applicant and any subsequent owners shall provide the Town no later than February 1st of each year documents demonstrating that the Ground-mounted Large-Scale Solar Energy System is currently and/or has generated electricity during the previous calendar year.
- J. Ground-mounted Large-Scale Solar Energy Systems may only be installed by a Qualified Solar Installer.
- K. A demolition bond or escrow account, as determined by the Planning Board and approved by the Town Board, shall be required for the purpose of removing the large-scale solar energy system if the owner fails to do so upon the system's disuse for a period of six months, or has been ordered removed by the Town of Hector, because the system is no longer necessary to achieve or facilitate the applicant's permitted use. Such bond or escrow account shall be automatically renewable on each anniversary until advised by the Code Enforcement Officer in writing that it is no longer needed.

D. Agricultural Resources.

1. For projects located on agricultural lands:

- A. Any Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 25% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.
- B. Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- C. Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- D. The Town of Hector reserves the right to have New York State Department of Agriculture and Markets to review any project involving prime farmland.

E. Decommissioning.

- 1. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 12 months shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town of Hector.



2. Decommissioning shall include removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation.
3. Full restoration of the parcel to its original state prior to construction with photographs of the property prior to construction is required, unless restoration is unnecessary because the parcel is to be put into active agricultural use or approved for other development in accordance with the Town of Hector Site Plan Law within the last twelve [12] month period.
4. All safety hazards created by the installation and operation of the Solar Energy System shall be eliminated and the site restored to its preexisting condition within six [6] months of the removal of the Solar Energy System.
5. A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
  - A. Demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the property to its original state prior to construction with photographs of the property prior to construction.
  - B. A cost estimate detailing the projected cost of executing, the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation
  - C. The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - D. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
- F. Community Host Benefit
  1. A community host benefit will be required for all projects over 2MW.
- G. Permit Time Frame and Abandonment
  1. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after approval, the applicant or the Town may extend the time to complete construction for 90 days. If the owner and/or operator fails to perform substantial construction after 18 months, the approvals shall expire.
  2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town will notify and instruct the owner and/or operator of the Solar



Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification.

3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan

#### **8.15 Wind Energy Conversion Systems (Windmills)**

- A. Small Wind Energy Systems. On each lot, one wind turbine with a rated capacity of no more than 100 kW is allowed as an accessory use, subject to the permitting and review requirements of the principal use that it is accessory to, and provided that it is in conformance with Subsection C below.
- B. Large Wind Energy Systems. All other wind energy systems shall require the issuance of a Special Use Permit by the Planning Board, as well as site plan approval. The granting of a special permit shall be subject to the following additional conditions:
  1. All wind turbines and towers shall be in conformance with Subsection C below.
  2. At the end of the operational life of the wind energy system, the holder of the Special Use Permit must remove the system within six (6) months of a determination by the Code Enforcement Officer that the system is no longer being maintained in an operable state of good repair or no longer supplying power.
    - A. The Code Enforcement Officer's determination shall be in writing and shall offer the option to rectify.
    - B. Time extensions for removal may be granted by the Code Enforcement Officer in cases when the operator has demonstrated good faith efforts to repair the system.
    - C. Removal shall include turbines, towers, cabling, electrical components, accessory structures, foundations, and any associated facilities below grade.
    - D. As part of removal, disturbed earth shall be graded and reseeded, 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.
- C. Requirements Applicable to All Wind Energy Systems
  1. Wind energy systems may be any height without maximum, provided they conform to the setback requirements in item 2 below.
  2. Wind energy system must be located at a distance at least 100% of the turbine tip height from lot lines, unless written permission is obtained from the owners of the affected adjoining properties at the time of application. Turbine tip height is measured from the base of the tower to the tip of a prop at maximum vertical rotation.



3. To prevent unauthorized climbing, climbing pegs must be removed from the lower ten feet of the tower, or ladder access must be restricted.
4. A “Danger, High Voltage” sign must be installed where it is clearly visible by persons standing near the tower base. No additional signs or advertising are permitted on wind energy systems aside from manufacturer logos.
5. A demolition bond or escrow account, as determined by the Planning Board and approved by the Town Board, shall be required for the purpose of removing the wind energy system if the owner fails to do so upon the system’s disuse for a period of six months, or has been ordered removed by the Town of Hector, because the system is no longer necessary to achieve or facilitate the applicant’s permitted use. Such bond or escrow account shall be automatically renewable on each anniversary until advised by the Code Enforcement Officer in writing that it is no longer needed.

#### **8.16 Wireless Telecommunication Facilities**

##### **A. Use and Location**

1. Permitted Use. Telecommunication towers and telecommunication facilities are permitted in the following districts in accordance with the regulations in this article:
  - A. Low-Density Rural
  - B. Mixed Purpose Corridor
2. Notwithstanding any provisions of this article to the contrary, telecommunications towers shall not be permitted in the Lakefront District, even where such districts may fall into the one of the above permitted districts.
3. Approvals. No person shall construct or operate a telecommunication tower or telecommunications facility, except those approved prior to the effective date of this article, until he has obtained a visual impact assessment approval and site plan approval from the Planning Board.
4. Preference for higher-intensity use districts. It is the preference of the Town of Hector to locate telecommunication towers and telecommunication facilities in a higher-intensity use district or on higher-intensity use property, provided that there is a technologically and economically feasible and available location. A guideline for the preference, from most favorable to least favorable district/property, shall be as follows:
  - A. Property with an existing structure suitable for collocation.
  - B. Municipal or government-owned property
  - C. Mixed Purpose Corridor
  - D. Low-Density Rural
5. Existing structure/co-location. An applicant proposing to share use of an existing tall structure shall be required to submit:
  - A. A completed application for a building permit.



- B. Documentation of intent from the owner of the existing facility to allow shared use.
  - C. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
  - D. A completed short environmental assessment form (EAF) and a completed visual EAF addendum.
6. 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.
- 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. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.
    - 1. For any proposed new tower site that is not on municipal or government-owned property, the applicant must also document the physical, technical and/or financial reasons why all of the preceding uses/districts of preference are impractical (e.g., if the proposed site is in the Low-Density Rural District, the applicant must demonstrate why no municipal or government-owned property and no parcels within the Mixed Purpose Corridor District are feasible).
  - B. The applicant shall design a proposed new telecommunications tower to provide for collocation of at least three carriers or designed so that it can be retrofitted to accommodate a minimum of three carriers. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit and shall state that the applicant will:
    - 1. Respond within 90 days to a request for information from a potential shared-use applicant.
    - 2. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.



3. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not 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.
- B. Site Plan requirements. In addition to the requirements of Article 13, the site plan review for a telecommunications tower 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 complete short EAF, a complete visual environmental assessment form (visual EAF addendum) and documentation on the proposed intent and capacity of use as well as a justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.
  2. Parcel size and setbacks. All proposed telecommunication towers and telecommunication facilities shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
    - A. Parcel size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.
    - B. Telecommunication towers and telecommunication facilities shall comply with all existing setback requirements of the underlying zoning district and shall be located with a minimum setback from any property line, building, and/or structure (other than structures associated with the telecommunication facilities) equal to the height of the tower. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
  3. Visual impact assessment. All new telecommunications towers and telecommunications facilities shall be subject to the visual impact assessment requirements of Article 13.
  4. New tower design. Alternative designs shall be considered for new towers, including lattice and single-pole structures. The design of a proposed new tower shall comply with the following:



- A. Any new tower shall be designed to accommodate future shared use by at least three other telecommunications providers.
  - B. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
  - C. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law and/or regulation. The Planning Board at their discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.
  - D. The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for and the design of any new tower, at the applicant's expense pursuant to Article 16.
  - E. Accessory structures shall maximize the use of building materials, color and textures designed to blend with the natural surroundings.
  - F. 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.
5. Existing vegetation. 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.
6. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the telecommunications tower and/or telecommunications facility from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.
7. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
8. Parking. Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.



9. Fencing. The telecommunications tower and telecommunication facilities shall be adequately enclosed by a fence, the design of which shall be approved by the Planning Board.

C. Other Requirements

1. Removal. The applicant shall submit to the Planning Board a letter of intent committing the tower owner and his/her successors in interest to notify the Code Enforcement Officer within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months after such notification. 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 according to Article 16, Administration.
2. Letter of credit or other security. The applicant and the owner of record of the premises shall be required to execute and file with the Town Clerk of the Town of Hector a letter of credit or other form of security in an amount sufficient for the faithful performance of the terms and conditions of this section, the 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 its removal. The amount required shall be at the applicant's expense as determined by the Planning Board, with the advice of the Code Enforcement Officer, town engineer, and/or town attorney. In the event of default upon the performance of any of such conditions, the letter of credit or security shall be forfeited to the Town of Hector, which shall be entitled to maintain an action thereon. The letter of credit or security shall remain in full force and effect until the removal of the telecommunications tower and/or telecommunications facility, and site restoration.
3. Intermunicipal notification for new towers. In order to keep neighboring municipalities informed, protect the view sheds of Seneca Lake, facilitate the possibility of directing an applicant to an existing tall structure or existing telecommunication tower in a neighboring municipality, and assist in the continued development of county 911 services, the Planning Board shall require that:
  - A. An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders Seneca Lake, the Schuyler County Planning Department, and the Director of Schuyler County Emergency Services. 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, and a request that such municipality contact the Planning Board within thirty (30) days of the date the notification is received if such municipality believes, in its sole discretion, that another location within its municipality would be available for co-location.



1. If a municipality contacts the Planning Board within thirty (30) days of the date of the notification regarding a potential co-location opportunity within that municipality, the applicant must demonstrate why such location is not feasible in accordance with Paragraph 6(a), above.
- B. 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.

#### **8.17 Home Occupations**

A home occupation shall be permitted in any zoning district. Such use shall conform to the following standards which shall be minimum requirements:

- A. In a dwelling unit the lesser of either twenty-five percent (25%) of the total floor area or five hundred (500) square feet, may be used for, or dedicated to, the use.
- B. The use shall be conducted within the enclosed walls of a dwelling unit.
- C. There shall be no external evidence of such use except for a sign installed in accordance with Section 9.7. No stock, merchandise, packaging, equipment or displays related to the use shall be visible from outside the dwelling unit.
- D. The dwelling unit wherein the use is located shall not be altered or extended in a manner not customary or typical to a residential building in order to accommodate the use.
- E. The use shall not result in nor cause vehicular traffic volumes of greater than four (4) cars per hour or otherwise create a nuisance to abutting lots.
- F. The use shall not change the residential character of the adjoining lots.

#### **8.18 Vehicle Repair, Vehicle Sales and Heavy Equipment Vehicle Sales and/or Repair, and/or Contractor's Equipment Yard Requirements**

##### **A. Dimensional Requirements**

##### **1. Minimum Lot Size:**

- A. Minimum lot size for Vehicle Repair, Vehicle Sales and Heavy Equipment Vehicle Sales and/or Repair, and/or Contractors' Equipment Yard uses shall be the greater of either 20,000 sq. ft. or the minimum lot area requirement prescribed in Section 5.3.
- B. In those instances where a Vehicle Repair, Vehicle Sales and Heavy Equipment Vehicle Sales and/or Repair, and/or Contractors' Equipment Yard Uses is proposed as part of a Mall or Plaza, there shall be dedicated for each such use a Minimum Lot Area of 20,000 sq. ft.



- C. Addition to any required lot area and/or setback, a developer may be required to provide any additional space necessary, as determined by an approved Site Plan, to mitigate any potential impact on surrounding Lots or uses.
2. The Minimum Lot width shall be the greater of one hundred fifty (150) feet or the Minimum Lot width prescribed in Section 5.3.
3. Fuel dispensing devices shall be located at least thirty-five (35) feet from any front lot line and fifty (50) feet from any side or rear lot line. This distance shall be measured from the outermost edge of the fuel island structure.

B. General Requirements

1. Vehicle parts, including tires, frames, hubcaps, and motors, and dismantled or unregistered motor vehicles, are to be stored within a structure or otherwise screened from view from any adjoining lot or street. Accessory products that are offered for sale may be placed outside during normal business hours provided such items are stored or displayed in a rack.
2. All major repair work shall be performed within a building. Vehicles waiting to be serviced or stored on the lot shall not be parked or stored in any required yard (5.3: Bulk and Density Control Schedule, page 24). Wrecked vehicles being held for insurance adjustment or other legal purpose shall be stored and screened from view from an adjoining lot or street.
3. Parking:
  - A. No vehicle shall be parked, stored or left standing within fifteen (15) feet of a street right-of-way unless it is in a designated on-street parking area.
  - B. In addition to any required parking, a developer may be required to provide any additional parking areas necessary, by an approved site plan, to mitigate any potential impact on a surrounding lot or use.
  - C. Where parking areas abut a residential use, they shall be screened from such use and include a barrier that shall;
    1. be composed of densely-planted plant material, not less than ten (10) feet in depth and eight (8) feet in height from finished grade,
    2. include a fence,
    3. be of materials consistent with the character of adjacent residential Lots,
    4. be maintained in perpetuity, or to a time when the adjoining residential use no longer exists.



4. No vehicles offered for rent or sale shall be placed, stored or parked within ten (10) feet of a street right-of-way.
5. All storage and display areas shall be provided with a paved or gravel surface and shall be adequately drained.
6. All outdoor lighting shall conform with Section 8.21.
7. No twenty-four (24) hour operation use shall be permitted within one hundred (100) feet of an existing Residential Use.
8. Oil and other materials which are environmentally hazardous, shall be stored, controlled and disposed of in accordance with the Rules and Regulations of the NYS Department of Environmental Conservation.
9. Notwithstanding the requirements set forth in Section 5.3, a canopy, as an accessory structure, may extend to within fifteen (15) feet of the street right-of-way.
10. Where such uses incorporate a drive-through use, on-site traffic circulation shall comply with Section 8.20.
11. Site layout shall accommodate safe delivery of merchandise without blocking or impeding traffic on the site or on the adjoining streets.

**8.19 Buffer Yard, Landscaping and Barrier Requirements**

- A. Intent. The preservation and promotion of nature is a desirable and important means of protecting the public health, safety, and welfare and that a healthy environment indicates a healthy community, which is consistent with the town comprehensive plan. The use of buffers and transition yards is a method of preserving and enhancing nature while providing citizens an assurance of protection from negative intrusions such as visual and noise impacts from uses on adjoining developments. More specifically, this section is intended to provide requirements that will ensure greater compatibility between different characters of land uses by requiring a transition yard between residential and non-residential uses and a screen or buffer between the uses in order to minimize the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion and other objectionable activities or impacts conducted on or created by an adjoining or nearby use. This section will provide consideration of those physical and visual elements of a development or use and to require treatment of the land with landscaping using plant materials and/or manmade features. Such plant materials and/or manmade features are to be arranged to enhance the appearance, to screen or effectively separate different types of uses, and to eliminate or minimize impacts on adjoining uses.
- B. Application of Buffer Yards.
  1. When a use other than a residential use abuts a residential use, a buffer yard shall be provided.



2. The buffer yard provisions of this section shall apply to all uses requiring site plan approval or as a mitigation for impacts associated with a development in any districts in the Town of Hector.
3. When provisions of this section require buffer yards, such yards shall be in addition to any setback required in Article 5.

C. Buffer Yard Requirements.

1. Minimum Requirements. Where a non-residential use abuts a residential use without an intervening road, a minimum side or rear yard setback in the other district that is measured from a lot line coincident with the boundary of the abutting use shall be increased more than the minimum yard setback specified in Article 5 for that district by a buffer yard which will have a depth equal to the number of feet as follows:

<b>Proposed Use</b>	<b>Buffer Yard Depth in Feet</b>
Agricultural	25
Business	15
Community	25
Industrial	50

2. No principal structure, principal use, accessory structure, or accessory use shall be located within any required transition yard.
3. No drive shall be located within a required buffer yard if there is an adjoining lot in common ownership on which such drive may be located without being in a transition yard. Otherwise, a drive or parking space as an accessory use may be located within the required buffer yard only as approved in a site plan.
4. The buffer yard shall be the minimum yard requirements (setbacks) for the proposed principal use and structures as prescribed in Article 5 plus the buffer yard depth and such buffer yard shall be landscaped in accordance with subsection E of this section.
5. A buffer yard shall be shown on drawings required in an application for site plan approval.
6. A buffer yard required to mitigate an impact associated with a development shall be designed by a design professional and constructed in accordance with said design.
7. The owner and all future owners shall maintain a required buffer yard in perpetuity.
8. Such buffer yard depth requirements may be reduced by no more than fifty (50) percent if the planning board finds that the applicant has, to the greatest extent possible, submitted an application which details an adequate buffer alternative and is in strict compliance with all other regulations outlined in the Town of Hector Zoning Law.



A. Landscaping Requirements.

1. Where a buffer yard is required by this section, the buffer yard shall be provided with a landscape type as specified in the following table:

Use Category	Existing or Approved Residential Use	Existing or Approved Agricultural Use	Existing or Approved Business Use	Existing or Approved Community Use	Existing or Approved Industrial Use
Proposed Residential Use	A	B	B	C	D
Proposed Agricultural Use	A	A	A	A	A
Proposed Business Use	B	B	A	B	C
Proposed Community Use	C	B	B	A	C
Proposed Industrial Use	D	D	C	C	A

2. Landscaping Type Description.

- A. Buffers may be landscaped with plantings of choice. No landscape plan is required. Buffers may not include the spreading of manure.
- B. Planting shall include shrubbery and/or small trees that at maturity will be a minimum of six feet 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.
- C. Planting shall include hedges, shrubbery, and/or small trees that at maturity will be a minimum of eight feet 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.
- D. Planting shall include hedges, shrubbery and/or small trees that at maturity will be a minimum of ten (10) feet 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 and/or the second story of a residential use.

3. Landscape Plan.

- A. Whenever landscaping is required pursuant to this section and a site plan approval is required, a landscape plan shall be submitted to the planning board.



- B. In those instances where a landscape plan is required to be submitted to the planning board, the landscape plan shall be prepared and stamped by a New York State licensed landscape architect, authorized to practice landscape architecture in accordance with New York State Law and shall be designed in accordance with the requirements of this section.
  - C. A variety of plants may be substituted for plantings required under this section; however, the performance of the substitute vegetation shall be equal to that of those approved in any site plan and as follows:
    1. Evergreen trees may be substituted for shade trees or small trees without limitations.
    2. Evergreen shrubs may be substituted for deciduous shrubs without limitation.
  - D. The size and character of all plantings shall be in accordance with the provisions of the American Standard for Nursery Stock, (ASNS) latest edition (currently November 6, 1996), which is adopted by reference in this chapter.
  - E. Plantings adjacent to roads or within parking areas shall be those recommended in the handbook Urban Trees Site Assessment Selection for Stress Tolerance Planting, published by Urban Horticulture Institute, Cornell University.
  - F. Invasive or Rampant Plants. The use of invasive or rampant plants is prohibited. Examples of such plants include, but are not limited to: purple loosestrife, oriental bittersweet, kudzu, exotic wisterias, such as Chinese and Japanese wisteria, mile-a-minute weed, Russian olive, multi-flora rose, white poplar, and black locust.
4. Plant Requirements. Plant branching, root size, and proportions at time of planting shall be as described in the ASNS Standards according to the specified plant size. Minimum required planted size shall be as follows:

Plant Type (Per ASNS)	Minimum Size (approximate size when planted)	Mature Size
Shade Tree – Type 1 & 2	1.5" caliper	30'-80' height
Small Tree – Small Upright Tree, Type 3	6' height	20'-35' height
Small Tree – Small Spreading Tree, Type 4	5' height	20'-30' height
Small Tree – Multi-Stem Tree	6' height	20'-30' height
Evergreen Tree – Coniferous Evergreen – Cone – Type 4	5' height	35'-75' height
Deciduous Shrub	15" height	3'-15' height
Evergreen Shrub – Coniferous Evergreen (CE) – Broad, Globe & Upright – Type 3	18" height	4'-15' height
CE – Broad Upright – Type 5	18" height	15'-20' height
CE – Columnar – Type 6	36" height	15'-20' height



Broadleaf Evergreens (BE) Semi-spreading – Type 2	15" height	4'-6' height
BE – Broad Upright – Type 4 & 5	18" height	6'-15' height

\* Callery Pear (*Pyrus Calleryana*) shall be sized as per Shade Tree, Type 1 and 2.

\*\* Japanese Yew (*Taxus cuspidata*) shall be sized as per CE, Type 3.

**Notes:**

- Bare root stock may be allowed as a portion of the required planting upon review of planting plan and determination that the landscaping meets the intent of this section.
- Dwarf plants, vines, and ground covers may be used as part of an overall planting plan but will not be counted as part of the buffer yard planting requirements.

5. Landscaping Minimum Requirements. The following minimum requirements shall apply to the preservation, installation, and maintenance of all landscaping required by this section:
  - A. All disturbed soil areas of the site shall be replanted or re-seeded in accordance with the approved plan.
  - B. All planting will be done at an appropriate time of the year in accordance with the standards and policies of the Schuyler county Soil and Water Conservation District (SCSWCD). No planting will be allowed if the ground is frozen and shall be completed in accordance with generally accepted horticultural practices for the town's geographic area.
  - C. Shade or evergreen trees shall not be planted closer than five feet to a property line.
  - D. Plantings required by this section shall fit with the character of the surroundings and be composed of native, naturalized and disease resistant species capable of survival without extraordinary measures and be cold hardy in accordance with USDA plant hardiness Zone 5.
  - E. The owner and future owners shall be responsible for the maintenance, repair and replacement of all landscaping required under this section in perpetuity and the area shall be kept free of refuse and debris.
6. Credit for Existing Vegetation. To the greatest extent possible, existing site vegetation shall be saved during construction and thereafter. Existing site vegetation may be used to meet some or all of the requirements of subsection E of this section provided that the existing site vegetation provides or exceeds the minimum level of protection afforded by the requirements of this section. If applicable, the planning board may consider credit for preservation of qualifying existing site vegetation on a one-to-one basis with the landscaping requirements of this section. New plantings where existing vegetation is used as part of the required landscaping shall be compatible with the existing landscape in character and type.



7. Alternative Designs. For good cause shown, the developer may submit alternative designs as part of a landscape plan provided the alternative design meets or exceeds the minimum requirements of this section, and that such alternative design is accepted and approved by the planning board.

**F. Barrier Requirements.**

1. When a specific impact is identified that cannot be practically mitigated under the landscaping requirements of this section, as determined by the planning board, a barrier may be required that meets or exceeds the following requirements:

<b>Use Category</b>	<b>Existing or Approved Residential Use</b>	<b>Existing or Approved Agricultural Use</b>	<b>Existing or Approved Business Use</b>	<b>Existing or Approved Community Use</b>	<b>Existing or Approved Industrial Use</b>
<b>Proposed Residential Use</b>	-	B	A	B	D
<b>Proposed Agricultural Use</b>	A	-	A	A	A
<b>Proposed Business Use</b>	A	A	-	A	B
<b>Proposed Community Use</b>	B	A	A	-	B
<b>Proposed Industrial Use</b>	D	C	B	B	-

2. Barrier Description.

- A. The barrier shall comply with the requirements of Section 8.9 and shall provide protection against impacts associated with a development to a minimum height above finished grade of six (6) feet as measured at the common property line between the existing and proposed use.
- B. The barrier shall comply with the requirements of Section 8.9 and shall provide protection against impacts associated with a development to a minimum height above finished grade of eight (8) feet as measured at the common property line between the existing and proposed use.
- C. The barrier shall comply with the requirements of Section 8.9 and shall provide protection against impacts associated with a development to a minimum height above finished grade of ten (10) feet as measured at the common property line between the existing and proposed use.
- D. The barrier shall comply with the requirements of Section 8.9 and shall provide protection against impacts associated with a development to a minimum height above finished grade of twelve (12) feet as measured at the common property line between the existing and proposed use.



3. The barrier shall be provided for in the buffer yard.
4. When a barrier is required, the barrier shall be illustrated on the drawings required in an application for site plan approval.
5. A barrier shall be designed to provide the degree of continuous protection to a use commensurate with the specific adverse impact associated with a development.
6. A barrier shall be designed by a design engineer such as a landscape architect and constructed in accordance with the design.
7. The requirements of Section 8.9 shall be considered in the design of any barrier.
8. The owner and future owners shall maintain a required barrier in perpetuity.

#### **8.20 Drive-Through Uses**

- A. Intent. A drive through use has many points of traffic conflict and the potential for creating congestion on streets, drives and internal drives. This section prescribes requirements to prevent and improve such congestion and traffic conflicts.
- B. General Vehicular Traffic Requirements
  1. A principal or accessory use, which contains a drive-through use, shall provide a drive or internal drive dedicated to the drive-through use and which complies with the requirements of Sections 8.8 and 8.9 as well as the following minimum requirements:
    - A. A drive or internal drive for a drive-through use shall be distinctly marked and shall be separate from other internal traffic circulation drive lanes and pedestrian ways.
    - B. Drive or internal drive for a drive-through use shall not cross any principal pedestrian access to the principal building.
  2. All uses shall maintain a minimum distance of twenty (20) feet from the service window to a sidewalk or right-of-way or any other drive or internal drive.
  3. All uses shall provide an escape lane for the drive through lanes.
- C. Vehicular Traffic Stacking or Queuing Requirements. A drive through use, for the following specific principal or accessory uses shall provide the following minimum vehicular traffic queuing or stacking distances:
  1. For a Fast Food Restaurant, the minimum distance shall be one hundred, twenty (120) feet between start of lane to service window, sixty (60) feet from start of lane to order station and sixty (60) feet from order station to service window.
  2. For a bank and other business not using order stations the minimum distance shall be sixty (60) feet from start of lane to service window.



- D. Multiple Drive-through Vehicular Traffic Lanes. The Planning Board may allow lesser distances than those specified in Sub-Section 8.20 C for businesses with multiple drive-through lanes when substantial documentation supporting such reduction is provided in an approved Site Plan.
- E. All drive throughs shall adequately screen car lights from neighboring properties. In areas of particular concern, buffer barriers as outlined in Section 8.19 shall be fully utilized.

#### **8.21 Outdoor Lighting**

- A. Intent. It is the intent of this section to require that outdoor lighting conserves energy, provide security and utility, and not adversely impact the night-time environment. Proposed outdoor lighting plans shall to the maximum degree possible show that they do not adversely impact the character of the community or cause excessive glare to traffic or pedestrians. Only dark skies lighting is permitted.
- B. General Requirement
  - 1. A development plan shall show and detail design features for outdoor lighting sufficient to document compliance the intent of this Section.
  - 2. A plan for outdoor lighting prepared by a design engineer may be required to fully support design considerations and/or to validate the mitigation of any lighting impacts associated with a development.
- C. Special Use Requirement. When an application for Building Permit, Variance and/or Special Permit, includes a lot where, in the determination of the Code Enforcement Officer, a significant impact associated with outdoor lighting is likely to occur as a result of a development the application shall be referred to the Planning Board as a Site Plan application under Article 13.
- D. Restrictions. Other than for in an approved Site Plan, the following types of lighting are prohibited as outdoor lighting:
  - 1. Mercury Vapor lights.
  - 2. Any light source created by a laser or any similar high intensity light is prohibited for outdoor lighting, unless approved by the Planning Board as a tourist related use.
  - 3. Searchlights.

#### **8.22 Sound Control**

- A. Intent. This section is intended to establish sound level requirements sufficient to permit the enjoyment and use of adjoining Lots without the adverse impacts associated with unnecessary or unusually high levels of sound. The sound level requirements established in this section are considered to be minimum requirements and more restrictive requirements may be imposed to mitigate any measurable adverse sound impact associated with a development.



## B. General Requirements

1. Unless specifically authorized in an approved Site Plan a use on a lot shall not produce a sound level that exceeds an average of 65 Decibels (dbl) over any twenty (20) minute period between 8:00 AM to 10:00 PM and of fifty-five (55) Decibels (dbl) at all other times and measured at a lot line of the lot.
2. A sound level, deemed by a Public Health authority to be dangerous to the public at large, in the vicinity of a use creating such sound, shall be prohibited.
3. 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.
4. An Outdoor Sound System located in either any within one thousand (1000) feet of a residential lot shall not be operated at any time after 11:00 PM or earlier than 8:00 AM local time.

## C. Exceptions

1. Sound levels of construction activities for a development pursuant to an approved Site Plan or building permit may exceed the limits established in sub-section 8.22 B1, provided such sound does not occur in any of the following circumstances:
  - A. after 10:00 PM, local time,
  - B. after construction activity has been completed,
  - C. after a Certificate of Compliance or Occupancy for the development has been issued, or
  - D. in violation of Sub-Section 8.22 B2
2. Specific sound levels in excess of the requirements of sub-section 8.22 B may be approved in a Site Plan.
3. A Governmental Use is not restricted by the requirements of this section.

### **8.23 Uses, Adult Entertainment Development**

- A. Intent. It is the purpose of this law to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as herein defined, in order to achieve the following:
  1. To preserve the character and the quality of life in the Town of Hector's neighborhood and business areas.
  2. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and



traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.

3. To restrict minors' access to adult uses.
4. To maintain the general welfare and safety for the Town of Hector's residents and the general public.

B. Location Within Allowed Zoning Districts. No adult uses shall be allowed:

1. Within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town of Hector;
2. Within one thousand (1,000) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground, within the Town of Hector;
3. On the same parcel as another Adult Use and Entertainment Establishment;
4. Within one thousand (1,000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Town of Hector; or
5. Within one thousand (1,000) feet of the property line of an establishment with a liquor license.
6. The above 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 and Entertainment Establishment.

C. Display Prohibited. All adult uses and entertainment establishments 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.

D. Signs. The sign section of the Town of Hector's Zoning Law will apply.

E. Building Material and Color Restrictions.

1. 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.
2. Noise impacts shall be strictly limited through building construction or physical location or by the installation of walls or other sound barriers.



**8.24 Outside Storage of Recreational Vehicles, Boats, or other Utility or Service Vehicles**

- A. One recreational vehicle or living unit, boat, or other utility or service vehicle or equipment less than thirteen (13) feet in height and less than forty (40) feet in length may be stored in a driveway no closer than twenty (20) feet to the edge of pavement of a public street.
- B. No recreational vehicle or living unit, boat, or other utility or service vehicle or equipment shall be stored in any front yard or within three (3) feet of any lot line
- C. No recreational vehicle or living unit, boat, or other utility or service vehicle or equipment shall have a permanent connection to sanitary sewer facilities, electricity, water, or gas.
- D. A Special Use Permit may be granted by the Zoning Board of Appeals to allow relief from the conditions above. These permits shall be granted for a defined time period, as determined by the Zoning Board of Appeals.

**8.25 Regulation of Unlicensed Vehicles**

- A. Two or more vehicles that are unlicensed, unregistered, uninspected, inoperative and unroadworthy stored outside on a property is in violation of General Municipal Law Sec. 136 and the State Property Maintenance Code Sec. 302.8.
- B. The Code Enforcement Officer shall issue a citation ordering for the removal of these vehicles considered to be junk.



## ARTICLE 9

### NON-CONFORMING USES, BUILDINGS AND LOTS

#### **9.1 Continuation of Non-Conforming Structures, Uses, 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. Nothing herein contained shall be construed to render lawful any use not lawfully conforming to provisions of the Town of Hector Zoning Law.
- B. A non-conforming structure or use is not expanded, enlarged/extended or increased other than provided for in Section 9.6.
- C. All non-conforming signs shall be removed within ten (10) years of the effective date of this Local Law.

#### **9.2 Discontinuance**

- A. 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.
- B. When a non-conforming use has been discontinued for a period of one (1) year, it shall not thereafter be re-established and the future use shall be in conformity with this Law.

#### **9.3 Necessary Maintenance and Repairs**

- A. Except as specified in Section 9.6 a non-conforming structure, use or lot may be maintained, repaired or restored to a safe condition.
- B. Nothing in this Law shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Code Enforcement Officer.
- C. Any maintenance, repair or restoration of a non-conforming structure shall comply with the applicable provisions of the *NYS Uniform Fire Prevention and Building Code*.

#### **9.4 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.

#### **9.5 Existing Non-Conforming Lots**

Any lot held in single and separate ownership and use from an adjoining lot prior to the adoption of this Law, and whose area is less than the specified minimum lot requirements in Section 5.3 of this Law may be considered as complying with such minimum lot requirements and no variance shall be required, provided that the following minimum conditions are met:



- A. Such Lot does not adjoin any other Lot or Lots held by the same owner where the aggregate area of such adjoining lot is equal to or greater than the minimum lot area required in Section 5.3.
- B. Adequate sewage disposal is approved by the appropriate agency for the non-conforming lot and a copy of such permit is provided to the Town prior to commencement of any construction thereon.
- C. For Residential Use listed in Section 4.7 such lot shall have a minimum area of at least three thousand five hundred (3,500) sq. ft. and minimum width of thirty (30) feet at the required setback line and have the following minimum yard setbacks:
  - 1. Side Yard: 3 feet
  - 2. Rear Yard: 10 feet
  - 3. Front Yard: 10 feet
- D. Accessory structures shall be located as follows:
  - 1. A minimum of three (3) feet from any lot line.
  - 2. Behind the rear line of a residential building.
  - 3. In accordance with all other requirements specified in Section 8.6.
- E. In any District where residences are permitted, such undersized non-conforming lot may be used for not more than one (1) one-unit dwelling.

**9.6 Extension, Alteration or Modification of a Non-conforming Structure, Use and/or Lot**

Any existing non-conforming structure, use and/or lot or any non-conforming structure, use and/or lot previously approved in a Site Plan shall comply with all applicable provisions of this law when such non-conforming structure, use and/or lot is proposed to be extended, altered, or modified in a manner that:

- A. Increases the lot area being dedicated to or used for an existing or approved non-conforming structure, use and/or lot by more than fifty (50%) percent of that which is existing or approved in a previously approved Site Plan, or
- B. Has a verified estimated cost of construction or installation for such extension, alteration or modification that exceeds fifty (50%) percent of the assessed value of the non-conforming structure use and/or lot at the time that such construction or installation is proposed.
- C. A non-conforming building is renovated or structurally altered during its life to an extent exceeding, in aggregate, a value that is fifty (50) percent of the replacement cost of the building.



Repair or Reconstruction of Damaged Non-Conforming Structure. A non-conforming structure damaged by fire, flood or other causes may be rebuilt to the prior non-conforming bulk or to a bulk that is more conforming.

**9.7 Reduction in Lot Area**

A building permit shall not be issued for any lot that is reduced in area so that it creates a Non-Conforming Bulk or Density in Violation of this Law.

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## ARTICLE 10

### PLANNED DISTRICTS

#### 10.1 Intent

This Article is intended to provide an opportunity for centers of commercial activities, small light industrial activities, planned residential development, and campus style, professional office/research complexes without causing detrimental effects to neighboring uses or the health, safety and general welfare of the community through the greater efficiencies that are associated with a larger-scale planned project. The planned development shall be considered a rezoning and shall be subject to all procedures and requirements set forth in this Article and Article 11, Subdivision of Land.

#### 10.2 Permitted Uses

As defined in Schedule of Uses Table (Section 4.4). Uses are dependent on the zoning district in which the planned development is located.

#### 10.3 Standards Governing Planned Districts

Any development proposal to be considered as a planned district shall conform to the following standards, which shall be regarded as minimum requirements:

- A. **MINIMUM SIZE.** This provision shall apply only to lands situated in whole or in greater part in an existing District. Such land shall be a contiguous parcel, a minimum of five (5) acres in size and shall have a minimum of 250' of frontage along a major road and a minimum depth of 200'. Adjacent property owners may petition jointly if their aggregate holdings meet these requirements and they agree to a coordinated development plan.
- B. **DIMENSIONS.** The dimension standards outlined in the density control schedule may be varied subject to site plan review process by the Town Planning Board.
- C. **LOT COVERAGE.** The maximum lot coverage by all buildings, and structures including accessory buildings is fifty percent (50%). Setback and height limits shall be reviewed as part of the overall site plan review process and may be waived accordingly.
- D. **PERIMETER LANDSCAPING.** Except for points of access and egress, the land abutting the major road(s), or residentially zoned areas or existing homes, shall be landscaped along the entire length of such property line(s). Perimeter planting shall be required along all exterior lot lines except those between two (2) or more parcels which are the subjects of a joint application under a coordinated plan.
- E. **ARCHITECTURAL TREATMENT.** The design of the structure must be of a consistent architectural style and treatment compatible with surrounding areas. Facades visible from main roads shall be similar to the front.
- F. **SIGNS.** Signs shall be of a uniform type in both lettering and design. Clear, legible signing is encouraged.



- G. **PARKING.** The parking requirements of Section 8.4 shall govern generally though the Town Planning Board in its site plan review process will take due account of the particular use groupings in assessing potential overlap of space standards. Single, large parking areas should be avoided and instead, the lots should be broken into smaller units through the provision of islands and plantings. The design shall reflect the difference between through aisles for the relatively unobstructed conduct of traffic through the area and interior aisles for the purpose of providing access to the individual parking stalls. Provision for safe and direct pedestrian movements from the parking areas to the buildings shall be required. Parking shall be screened from highways and residential areas with evergreen landscaping, low berms, and/or opaque fences or walls.
- H. **ACCESS.** Access points to the major road(s) shall be minimized and spaced no closer together than two hundred (200) feet.

#### **10.4 Procedures for Establishing a Planned District**

- A. A developer or his authorized agent may petition the Town Planning Board for Sketch Plan review, as defined in Section 11.6, Major Subdivision, prior to submitting a full application.
- B. Upon receipt of the site plan approval by the Planning Board, the Town Board shall advertise and conduct the required public hearing on the rezoning request.
- C. A decision on the rezoning shall be rendered by the Town Board and the applicant shall be notified of such decision as specified in Article 11, Subdivision of Land.

#### **10.5 Special Provisions Applying to Planned Districts**

- A. The tract of land for the project may be owned, leased or controlled by a single person or corporation or by a group of individuals or corporations. An application must be filed by owners of all property included in the project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- B. For the purposes of regulating development and use of property after the zoning change has been enacted, any modifications of the approved site plan shall be handled as a site plan amendment for action by the Planning Board.



## ARTICLE 11

### SUBDIVISION OF LAND

#### 11.1 Authority

- A. Planning Board Authority. The Town Council of the Town of Hector, in accordance the provisions of the Town Law of the State of New York, has heretofore created a Planning Board and has assigned to it the responsibility and authority to review and approve, modify and approve or disapprove plans for land subdivision.
- B. Undeveloped Plats. Pursuant to the above authority, using procedures set forth in these regulations, the Planning Board has the power and authority to pass and approve the development of plats already filed in the Clerk of Schuyler County if such plats are entirely or partially undeveloped.
- C. Section 278 Authority. The Town Planning Board is also granted the authority to allow an applicant to either propose a clustered subdivision layout or require an applicant to provide a clustered subdivision layout as provided in Section 278 of the Town Law of the State of New York.

#### 11.2 Purpose

- A. The purpose and intent of the Subdivision Regulations of the Town of Hector is to provide for the orderly growth and development of the Town as has been expressed in the Town of Hector Comprehensive Plan. These subdivision regulations provide for:
  - 1. adequate facilities for the housing, transportation, distribution, comfort, convenience, health, safety and welfare of the Town's population and protection of the Town's natural, cultural, historical, and agricultural resources;
  - 2. recognition that the natural and agricultural resources within the Town are an irreplaceable asset which shall be preserved to the extent possible while considering subdivision applications;
  - 3. establishment of requirements for action on subdivision plats, including a description of maps and supporting materials that the Planning Board requires to carry out its responsibilities under these regulations; and
  - 4. the review and approval procedures designed to safeguard the community.

#### 11.3 Policy

- A. In cases where the Planning Board finds that a proposed subdivision may adversely affect the preservation of natural or cultural resources and/or prime farmland or farmland of statewide importance, according to the soil survey prepared for Schuyler County by the U.S. Department of Agriculture, the Planning Board may require an applicant to submit a plan for a conservation subdivision as provided for in Section 278 of New York State Town Law and Section E of this Article.



- B. All reviews of applications specified in these regulations shall be coordinated with involved agencies and boards at the local, County and State levels to ensure consistent, well-designed subdivisions and decision-making that will benefit the Town of Hector.
- C. It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Town and in a manner that is reasonable and in the best interests of the community. The Planning Board will be guided in its consideration of an application for the subdivision of land by the following general requirements:
1. Physical Characteristics - Land must be buildable and free of hazard. The physical characteristics of the land to be subdivided shall be such that it can be used for natural resource conservation or building purposes without danger to health and safety or peril from fire, flood, or other menace. Proper provision shall be made for stormwater management, water supply, sewage and other needed improvements and, consideration be given to the future development of adjoining lands. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, lot sizes and arrangement and the future development, and, natural and cultural resources of adjoining lands. All parcel developments shall meet Town, County, State, and Federal regulations and requirements.
  2. Natural and Historic Features - Land is to be subdivided in a way that protects the natural, cultural and scenic resources of the Town for the benefit of all residents. To the extent possible, all existing features of the landscape, such as trees of significant DBH caliper, vegetative communities, rock outcrops, important ecological communities, surface and groundwater resources, unusual glacial formations, flood courses, cultural and historic sites, viewsheds, and other such irreplaceable assets shall be preserved thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only. Provision shall be made for maintaining undeveloped natural areas and corridors to mitigate any adverse environmental impacts of a proposed subdivision, and to sustain biodiversity in order to implement the Town's policies of protecting environmental and cultural resources pursuant to the Town Comprehensive Plan and other applicable local laws.
  3. Conformity – Subdivision plans shall be properly related to and conform to the Town Comprehensive Plan. Proposed development shall be planned such that it is compatible with sound development patterns of adjacent and neighboring properties within the Town of Hector. Subdivided lots shall be of such character that they can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
  4. Traffic Safety and Streets – Proposed public roads shall compose a convenient system and shall be of such width, grade and location as to accommodate present and prospective traffic, and shall meet town highway specifications and other local laws of the Town of Hector.
  5. Parks and Open Space – Park areas of suitable location, size and character for playground and other recreational or open space purposes shall be shown on the subdivision plat in



proper cases and when required by the Planning Board. Provision shall be made for adequate permanent reservations of open space, pedestrian trails, viewing areas, and parks, and such areas shall be shown on the plat.

6. Protection of Agricultural Infrastructure and Significant Agricultural Lands – Consideration will be given to maintaining agricultural viability and protecting significant agricultural lands by minimizing adverse impacts on agricultural land remaining from the subdivision, prime and unique agricultural soils, adjoining or nearby agricultural land and operations, existing natural buffers, and agricultural infrastructure including but not limited to surface and subsurface agricultural drainage systems, farm equipment access points, and equipment lanes.

D. Subdivisions Straddling Municipal Boundaries.

Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Hector Town Attorney and the Highway Superintendent of the adjoining municipality, that the access road is adequately improved or that a performance security has been duly executed and is sufficient security to ensure access has been constructed. In general, lot lines shall be laid out so as not to cross municipal boundary lines.

E. Resubdivision.

Whenever any resubdivision of land in the Town of Hector is proposed, the subdividing owner or their authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.

F. State Environmental Quality Review Act.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.

#### **11.4 Lot Line Adjustments**

- A. An applicant may request that the subdivision review process be waived when a proposed subdivision is a lot line adjustment that meets the following criteria:
  1. It does not create an additional lot;
  2. It is a minor modification of an existing lot line; or is the conveyance and merger of a portion of one parcel to an adjoining parcel;
  3. It does not create a non-conforming lot or cause any other parcel to become nonconforming; and
  4. It complies with all applicable zoning requirements of this Law and applicable New York State Department of Health regulations and Schuyler County Watershed Protection Agency requirements pertaining to well and septic system distances from parcel



boundaries.

B. Submission requirements.

1. To request a lot line adjustment waiver, the applicant shall submit:

- A. A waiver application that shall be signed by the parcel owners, or their duly authorized agents, of both affected parcels.
- B. A plat or map of the parcels affected by the proposed adjustment, showing all existing buildings, the location of existing utility or other easements or rights-of-way, of wells and of septic systems. The map shall show the existing lot lines and the location of the proposed new lot line, and the existing and new setback distances to any existing buildings. The map shall have the title "LOT LINE ADJUSTMENT between properties of (name) and (name)", and shall include a restriction to the effect that the land added to the existing parcel, and the existing parcel are combined to form a single, undivided lot.

C. Planning Board Review and Approval.

- 1. Upon submission of a complete application, the Planning Board shall, within 62 days, review the application and shall either approve or deny the application. Approval may be granted when the Planning Board determines that the proposed adjustment meets all requirements for a Lot Line Adjustment and would not adversely affect the site's development or neighboring properties, would not alter the essential characteristics of the neighborhood or adversely affect the health, safety or welfare of Town residents.
- 2. No public hearing shall be required.
- 3. If the waiver is granted, the applicant shall file a map with the Schuyler County Clerk within 62 days of the approval date. The map shall be signed and stamped by the Planning Board. No person shall file plans for any lot line adjustment without first obtaining the Planning Board's signature and stamp on the plans.
- 4. If the Planning Board denies the request for waiver, the applicant may proceed with the minor subdivision review process as set forth in this Article.

**11.5 Minor Subdivision**

A. Application.

- 1. Within 6 months after classification of a proposal as a minor subdivision by the Planning Board, the subdivider shall submit a subdivision plat as an application for approval of a minor subdivision plat. Said application shall contain the requirements listed in Section 11.9 H, Final Plat, of these regulations and shall conform to the general requirements and design standards specified in Section 11.8 of this Article.
- 2. Fees as specified in the Town fee schedule for each minor subdivision shall accompany the application.



3. A subdivider is only allowed one (1) minor subdivision of said land every 3 years.
4. The Planning Board shall have the authority to modify survey requirements for minor subdivisions such that only the land being subdivided must be surveyed. The balance of the land, so long as the subdivision does not result in an undersized lot, does not need to be surveyed unless requested by the Planning Board.
5. Number of copies
  - A. Four (4) surveyor stamped original copies and one digital copy of the subdivision plat shall be presented to the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.
6. Referral to Schuyler County Planning under GML 239
  - A. When applicable, the Planning Board shall refer preliminary and final plats to the Schuyler County Planning Department, and no further action on the application shall be taken until the earlier of:
    1. The Planning Board's receipt of a recommendation from the Schuyler County Planning Department; or
    2. 30 days have elapsed from Schuyler County Planning Department's receipt of the referral without the Planning Board receiving such a recommendation.
7. Public Hearing
  - A. A public hearing shall be held by the Planning Board within 62 days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least 5 days before such hearing. The Town Clerk will send written notice to adjoining property owners at said property owners addresses as recorded on the latest completed assessment roll of the Town. The notice shall describe said application, state where and by what date written comments will be received on the application under consideration and the date, time, and place of the public hearing.
- B. Action on Subdivision Plat.
  1. The Board may require when it deems it necessary for protection of public health, safety, or welfare, that a Minor Subdivision comply with all or some of the requirements specified in Section 10.6: Major Subdivision.
  2. The Planning Board shall, within 62 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.



3. Upon granting conditional approval, with or without modification to the plat, the Planning Board shall empower a duly-authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within 5 days of the resolution granting conditional approval, the plat shall be certified by the Code Enforcement Officer as conditionally approved, a copy filed in its office.
4. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally-approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.
5. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void; the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.
6. Filing of approved plat. Approval of the plat shall expire within 62 days from the date of such approval unless within such 62-day period such plat shall have been duly recorded by the owner in the office of the Schuyler County Clerk. If the plat is not filed within this period, the approval shall expire as provided in Section 276 of the New York State Town Law.

#### **11.6 Major Subdivision**

- A. Pre-Application Procedure. Prior to filing a formal application for approval of a subdivision plat pursuant to this Section, the applicant shall follow the pre-application procedure. This procedure consists of a Pre-Application Meeting, submission of a Sketch Plan and submission of a Resource Analysis. All applicants are required to attend a Pre-application Meeting prior to submitting the Sketch Plan.
  1. Pre-Application Meeting
    - A. The Pre-application Meeting is an opportunity for the applicant to present and discuss a Sketch Plan for the proposed subdivision. The conceptual discussion shall guide the layout of the subdivision that will be shown in subsequent plan submission(s).
    - B. In preparation for this meeting, the applicant should become familiar with this Article and all other relevant provisions of this Law, the Comprehensive Plan and SEQRA requirements in order to have a general understanding of the subdivision review process.
    - C. No statement, comment or other communication made during this informal review shall be binding upon any party.
    - D. The pre-application process is required solely to assure that Town development goals are recognized as they may apply to the site in question. This should help expedite



the process by getting the review off to a cooperative start, before the applicant has made a substantial investment in the application process.

- E. At the pre-application meeting, the Planning Board will decide if a Preliminary Plat is required of the applicant. If not, the application will move to a public hearing and final site plan. A public hearing may then be set by the Town Clerk or Code Enforcement Officer.

## 2. Resource Analysis for Major Subdivisions

- A. Prior to, or in conjunction with, a submission of a Sketch Plan, an applicant for a major subdivision shall submit a resource analysis and participate in a discussion with the Planning Board to determine a Sketch Plan for the proposed subdivision. The submission requirements for a Resource Analysis are included in Section 11.9 C. This will provide an opportunity for the owner and the Planning Board to discuss the appropriate range of and intensity of development; the general locations intended for development; areas planned to remain undeveloped; and general access alignment.
- B. To verify that all necessary information is discussed and reviewed in this process, the applicant shall complete a Resource Analysis and provide a copy to the Planning Board upon completion. In its review, the Planning Board members may schedule a field visit to the site, and this site walk may be necessary before the assessment can be accepted as complete.
- C. The Planning Board will make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board and indicate to the applicant the priority resources to be preserved. Any requirements of this Law which the applicant requests to be waived should be discussed at this time.
- D. The Resource Analysis and Sketch Plan discussion does not allow filing of a plat with the County Clerk or authorize the sale or lease of, or any offer to sell or lease any lots in such subdivision or any part thereof. The Resource Analysis and Sketch Plan discussion allows the applicant to proceed with the application.

## 3. Sketch Plan

- A. The purpose of the Sketch Plan is to review and discuss the proposed subdivision and reach general agreement on the requirements of this Article.
- B. Prior to filing a formal application for approval of a subdivision plat, the applicant shall submit one (1) digital copy or seven (7) hard copies of the Sketch Plan at least 10 days prior to the regular meeting of the Planning Board, and a filing fee as specified by the Town Fee Schedule shall accompany the submission.
- C. Required information for the Sketch Plan is specified in Section 11.9, Subsection E: Sketch Plan, of these regulations.



- D. The Subdivider or his/her duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this Article for street improvements, drainage, sewerage, water supply, fire protection and other improvements, as well as the availability of existing services and other pertinent information. At such meeting the Planning Board shall also discuss other requirements of this Zoning Ordinance.
- E. In the event that the Sketch Plan is unacceptable, the applicant will be asked to submit a Preliminary Plat. Reasons for recommended modifications or rejection of the Sketch Plan shall be reflected in the minutes of the Planning Board. The Planning Board may, in its discretion, choose to provide a written summary of these determinations.

B. Major Subdivision

- 1. Pre-Application procedure. Prior to filing an application for the approval of a plat, the applicant shall comply with the Pre-Application procedure as described in Section 11.6 A by attending a Pre-Application Meeting, providing a Sketch Plan and preparing the Resource Analysis.
- 2. Application procedure. If indicated by the Planning Board during the Pre-Application Meeting, the applicant shall file an application for the approval of a Preliminary Plat. The application shall:
  - A. Be made on forms available at the office of the Code Enforcement Officer.
  - B. Include all land that the applicant proposes to subdivide.
  - C. Be accompanied by 3 copies of the Preliminary Plat and supplementary material described in Section 8, Subsection G: Preliminary Plat, of these regulations.
  - D. Comply in all respects with the requirements specified in Section 11.8: General Requirements and Design Standards, of these regulations and with the provisions of Sections 276 and 277 of the New York State Town Law.
  - E. Be submitted to the Chairperson of the Planning Board.
  - F. Be accompanied by fees as specified by the Town fee schedule.
- 3. Study of Preliminary Plat (if required).
  - A. The Planning Board will carefully study the practicability of the Preliminary Plat, taking into consideration the results of the Resource Analysis and Sketch Plan discussions, the requirements of the community, the best use of the land being subdivided and the policy set forth in Section 11.3: Policy.
  - B. Particular attention will be given to the proposed arrangement, location and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shape and layout; future development of



adjoining lands as yet unsubdivided; the requirements of the Town Comprehensive Plan, this Law and the Official Map; and matters enumerated in Section 277 of the New York State Town Law.

4. Applicant to Attend Planning Board Meeting

- A. The applicant shall attend a regular meeting of the Planning Board to discuss the Preliminary Plat and the Board's tentative conclusions.

5. Referral to Schuyler County Planning under GML 239

- A. Notice to the Schuyler County Planning Department; impact upon action by Planning Board on application. When applicable, the Planning Board shall refer Preliminary and Final Plats to the Schuyler County Planning Department, and no further action on the application shall be taken until the earlier of:
  - 1. the Planning Board's receipt of a recommendation from the Schuyler County Planning Department; or
  - 2. 30 days have elapsed from Schuyler County Planning Department's receipt of the referral without the Planning Board receiving such a recommendation.

6. Approval of the Preliminary Plat

- A. The Planning Board shall approve, with or without modification, or disapprove such Preliminary Plat; and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form.
- B. Within 5 days of the approval of such Preliminary Plat it shall be certified by the Chairperson of the Planning Board as granted preliminary approval, a copy filed in the office of the Code Enforcement Officer, a certified copy mailed to the owner and a copy forwarded to the Town Board. Failure of the Planning Board to act within the time periods prescribed herein shall constitute approval of the Preliminary Plat.
- C. When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to the Preliminary Plat; the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare; and the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the subdivision plat. Approval of a Preliminary Plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these



regulations. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing. At this time, the Town Clerk or Code Enforcement Officer may set a public hearing.

- D. Approval of the Preliminary Plat may not be revoked by the Planning Board unless a substantial change in the character of the area or the availability of new information about the site and its surroundings indicate the unsuitability of the development, as shown on the Preliminary Plat. Before revocation the applicant shall be informed, in writing, of the reasons therefore and shall be given an opportunity to be heard before the Planning Board.
- E. Approval of a Preliminary Plat shall expire six (6) months from the date of approval. Extensions for periods of six (6) months may be granted by the Planning Board upon application. Such applications for extensions may be granted unless changed conditions or new information indicate the unsuitability of the development as shown on the Preliminary Plat.

#### 7. Final Plat

- A. Application procedure. Within 6 months after tentative approval of the Sketch Plan or Preliminary Plat is granted, as determined at the Pre-Application Meeting, the applicant shall file with the Planning Board an application for approval of a Final Plat. The application shall:
  - 1. Be made on forms provided by the Planning Board at the time tentative approval of the Preliminary Plat was granted.
  - 2. Include the entire subdivision or a section thereof which derives access from a street improved to Town standards or for which street a performance bond for such improvement is held by the Town.
  - 3. Be accompanied by eight (8) copies of the plat, as described in Section 10.9, Subsection H: Final Plat.
  - 4. Comply in all respects with the Sketch Plan or Preliminary Plat, as tentatively approved.
  - 5. Comply with the improvement requirements of Section 11.10: Required Agreements and Improvements, of these regulations.
  - 6. Be presented to the Clerk of the Planning Board at least 10 days prior to a regular meeting of the Board.
- B. Public hearing. Within 62 days of the submission of a plat in final form for approval, a hearing shall be advertised at least once in a newspaper of general circulation in the Town at least 5 days before such hearing. The Town Clerk shall send written notice to adjoining property owners at said property owners addresses as recorded on the



latest completed assessment roll of the Town. The notice shall describe said application, state where and by what date written comments will be received on the application under consideration and the date, time, and place of the public hearing.

- C. Action on proposed subdivision plat. The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.
  - 1. Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly-authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within 5 days of such resolution, the plat shall be certified by the Chairperson of the Planning Board as conditionally approved, a copy filed in the office of the Code Enforcement Officer and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements that, when completed, will authorize the signing of the conditionally-approved final plat. Upon completion of such requirements, the plat shall be signed by said duly-authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally-approved plat may be submitted for signature, if in its opinion, such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.
- D. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.
- E. Filing of approved plat. Approval of the plat shall expire within 62 days from the date of such approval unless within such 62-day period such plat shall have been duly recorded by the owner in the office of the Schuyler County Clerk. If the plat is not filed within this period, the approval shall expire as provided in Section 276 of New York State Town Law.
- F. Division of plat into 2 or more sections. The Planning Board may permit the plat to be divided into 2 or more sections, subject to such conditions as it deems necessary to assure orderly development of the subdivision. Approval of the sections shall be granted concurrently with the approval of the plat. The approved plat, or any approved section thereof, shall be recorded within 62 days of approval, subject to any conditions imposed, and shall encompass at least 10% of the total number of lots shown on the plat. Approval of any other sections not recorded shall expire unless recorded before the expiration of the period to which such plat is entitled under the provisions of Section 265-a of the Town Law. In the event the applicant does not



record all approved sections, the entire plat shall be filed with the Town Clerk within 30 days from the recording of the plat or any approved section thereof, and the applicant shall file with the Planning Board a raised seal copy of the plat certified by the County Clerk to be a true copy of the recorded plat.

- G. Public acceptance of proposed streets and park areas. The approval by the Planning Board of a plat shall not be deemed to constitute or imply the acceptance by the Town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future title, dedication, and provision for the cost of grading, development, equipment and maintenance of any park or playground area.
- H. As-built drawings of required improvements. Drawings showing the location of all required improvements as built shall be certified by a licensed land surveyor and filed with the Planning Board at least 30 days prior to the acceptance of the improvements by the Town.
  - 1. Issuance of building permits. A building permit for erection of a structure in a development laid out subsequent to the adoption of these regulations shall not be issued unless the street giving access to the proposed building appears on a recorded plat approved by the Planning Board and unless such street has been suitably improved or bonded to cover the full cost of improvement.
  - 2. Improvements in streets. No public municipal street utility or improvement shall be constructed by the Town in any street or highway until it has become a public street or highway and is duly placed on the Official Map. However, subject to the discretion of the Town Board, a subsurface utility or improvement operated from revenue by the Town or by a special district may be constructed by the Town in a private street, provided that a public easement satisfactory to the Town Board is obtained for such utility or improvement.

## **11.7 Conservation Subdivision**

### **A. Applicability**

- 1. These regulations apply to all properties within the Town. The use of conservation subdivisions is intended to protect tracts of environmentally and scenically significant undeveloped land in the Town, including road corridors and buffer areas, and implement the Town of Hector Comprehensive Plan.
- 2. Conservation subdivisions result in the preservation of contiguous open space and important scenic and environmental resources, while allowing compact development and more design flexibility than traditional subdivisions. Conservation subdivisions must satisfy the standards in this chapter. The procedure for approving conservation subdivisions is described in this Section. Subject to the criteria of these regulations, the implementation of conservation subdivision is the primary method of subdivision unless the findings set forth in this chapter allow for a traditional subdivision.



3. For major subdivisions the Planning Board may require, at its discretion, a Conservation Subdivision as outlined herein whereby at least 40% of the land is permanently preserved. Conservation Subdivision requirements may be applied to minor subdivisions if desired by the applicant.

#### B. Purpose

1. To permanently protect open space and recreational opportunities, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, in a manner that is consistent with the Town of Hector Comprehensive Plan;
2. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
3. To minimize the total amount of disturbance on the site;
4. To further the goals and policies of the Town of Hector Comprehensive Plan;
5. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
6. To achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in the countryside by requiring conservation subdivisions instead of traditional subdivisions.

#### C. Resource Analysis

1. The Resource Analysis required in this Article shall be used to determine the amount of constrained land and other unique features with conservation value.
2. The Planning Board shall make a final determination as to which land has the most conservation value and should be protected from development. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the Conservation Findings).
3. The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the Resource Analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
4. The outcome of the Resource Analysis and the Planning Board's Conservation Findings shall be used as the basis for Sketch Plan Review.

#### D. Sketch Plan Review



1. At the conclusion of the Resource Analysis process a Sketch Plan shall be submitted.
  2. The Sketch Plan shall show the following:
    - A. Preferred locations for intensive development as well as acceptable location for less dense development.
    - B. Proposed lot locations and roads.
    - C. Land to be permanently preserved and recommended conservation uses, ownership, and management guidelines for such land.
    - D. Land suitable for stormwater management facilities, which may be located within the preserved land area
    - E. At least 40% of the total acreage shall be preserved by and shown as such on the Sketch Plan, based upon the Conservation Findings. The Planning Board may require more based on the findings of the Resource Analysis.
- E. Lot Sizes in Conservation Subdivisions
1. The Planning Board shall determine appropriate lot sizes in the course of its review of a Conservation Subdivision based upon the criteria established in this section and the requirements of the Schuyler County Department of Health and the Schuyler County Watershed Protection Agency. Town services, if available, and/or private water/sewage systems may be used to meet these requirements. In order to permit a clustered lot configuration, wells and septic systems may also be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.
- F. Other Area and Dimensional Requirements
1. There shall be no required area, bulk, or dimensional standards in a Conservation Subdivision with the exception of building height and building length as stated in Section 5.3: Bulk and Density Control Schedule and where such subdivision abuts an existing residence, all side and rear yard setbacks are required as stated in Section 5.3: Bulk and Density Control Schedule for the zone where the Conservation Subdivision is located.
  2. The applicant shall specify dimensional requirements for a proposed Conservation Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat. The Planning Board may vary bulk requirements to accommodate a Conservation Subdivision. The Planning Board may consider an application to develop a portion of a parcel if a Resource Analysis is provided for the entire parcel.

G. Permanent Open Space in Conservation Subdivisions



1. Open space set aside in a Conservation Subdivision shall be permanently preserved as required by this Section. Developed lands shall not impact the conservation value of the permanent open space.
2. Open space permanently preserved shall be done in the manner described in Section 10.8 I: Reservations and dedications, of this Article.

#### **11.8 General Requirements and Design Standards for Subdivision**

- A. Compliance Required. The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in Section 11.3, Policy, of these regulations and the following standards.
- B. Preservation of Existing Features. Existing features which would add value to residential development, such as scenic views from roadways and public trails, ridgelines, water resources, steep slopes, active farmland, rock outcrops, forested areas, stonewalls, hedgerows, wildlife nesting or migration areas and similar irreplaceable assets, shall be preserved, to the greatest extent possible, through harmonious design of the subdivision.
- C. Streets.
  1. General planning standards.
    - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to the proposed uses of the land to be served by such streets.
  2. Relation to topography.
    - A. Streets shall be logically related and conform insofar as possible to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.
  3. Visibility at intersections.
    - A. Within the triangular area formed at corners by the intersecting street lines, for a distance of 30 feet from their intersection and the diagonal connecting the endpoints of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Fences, walls, hedges or other landscaping shall not obstruct such visibility.
  4. Block Length.
    - A. Blocks shall ordinarily not exceed one thousand feet (1000') in length. Where it is necessary for blocks to exceed this length, pedestrian ways and/or easements may be required near the center of the block.



5. Rear Lanes.

- A. Rear lanes may be provided in any districts as private accessways.
- B. Intersections of rear lanes and sharp changes in alignment shall be avoided.
- C. Dead-end rear lanes shall be avoided when possible, but, if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning Board and Highway Superintendent.

6. Design Standards.

- A. Subdivision streets shall be designed to reflect the rural character of the Town of Hector. Roads will meet the specifications of the Town Highway Supervisor.

7. Continuation of streets into adjacent property.

- A. Streets shall be arranged to provide for the continuation of streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly, where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turn-around, a minimum of 50 feet in radius, shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.

8. Permanent dead-end streets (cul-de-sac).

- A. Where a street does not extend to the boundary of the subdivision and it's not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet.

9. Street names.

- A. All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and in spelling from the other street names in the Town so as not to cause confusion. A street that is a continuation of an existing street shall bear the same name.

10. Sidewalks, Bike Lanes and Curbs.

- A. Sidewalks, bike lanes and curbs shall be provided when considered necessary and appropriate, as for pedestrian safety. Sidewalks and curbs shall be made of concrete unless other materials are approved at the discretion of the Planning Board. Sidewalks shall be constructed in accordance with provisions of the Americans with Disabilities Act (ADA).



11. Improvements.

- A. Improvements shall be as indicated in Section 11.10: Required Agreement and Improvement, of this Article.

12. Private roads.

- A. The Planning Board may approve paved or unpaved private roads to provide access to lots in subdivisions, provided that the Planning Board finds that the proposed subdivision will protect the rural, scenic character of the Town. The private road requirements are as follows:
  - 1. The maximum number of lots gaining access through any portion of a private road shall be 4.
  - 2. Written approval from the Highway Superintendent shall be secured before approval of any private roads. The Planning Board shall have discretion to determine whether a performance bond must be posted by the applicant to ensure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.
  - 3. All new private roads must meet Town standards. Existing private roads that may not meet current Town standards are considered pre-existing nonconforming and will only be required to be brought up to current Town standards, should the road be dedicated to the Town.
- B. The subdivision plat shall show the road clearly labeled "private road."
- C. Road design shall comply with the Town Highway standards for private roads.
- D. The Planning Board may waive the requirement of a private road maintained by a HOA if it finds, after consulting with the attorney for the Planning Board or the Town Attorney, that a common drive maintained pursuant to a recorded maintenance agreement, executed by the applicant as a condition of subdivision approval, will provide the same protections to lot owners and the Town as would a private road owned by a HOA.

D. Blocks.

1. General planning standards.

- A. The length, width and shape of blocks shall be determined with due regard to:
  - 1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - 2. Zoning requirements as to lot sizes and dimensions.



3. Need for convenient access, circulation and control safety of street traffic.
4. Limitations and opportunities of topography.
2. Irregular-shaped blocks or oversize blocks indented by cul-de-sac, parking courts or loop streets and containing interior block parks or playgrounds will be acceptable when properly designed, as determined by the Planning Board. Such blocks shall include adequately screened off-street parking, facilities for pedestrian access from streets to all lots, proper easements for utility lines and satisfactory provision for maintenance of park and open space, where included.
3. Non-residential blocks intended for commercial or industrial use shall be of such length and width as is suitable for their prospective use. Such blocks shall include adequate provisions for off-street parking and servicing.
  - A. Design standards.
    1. Block lengths for residential access roads shall not be less than 400 feet; blocks abutting on designated arterial streets shall be not less than 500 feet.
    2. Blocks over 800 feet in length may be required to have a crosswalk, if necessary, to facilitate pedestrian circulation to a school, park, recreation area, or other similar neighborhood facility.
4. Non-residential blocks.
  - A. Driveways.
    1. The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be 10%. In cases of unreasonable hardship affecting a particular property, the approving authority may permit construction of a driveway that exceeds this standard provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed 15%.
    2. The minimum width of the driveway at the street pavement line shall be 15 feet, tapering to a minimum of 10 feet at the right-of-way line.
    3. Clear visibility shall be provided in both directions at all exit points so that the driver of a motor vehicle will have an unobstructed view of the highway from the driveway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the motor vehicle in the driveway.
    4. Shared driveways are encouraged where appropriate to maintain rural character and provide an economical and attractive method of serving up to 3 homes.



E. Lots.

1. Number of Lots.

- A. The maximum density (number of lots) allowed for residential units is calculated by a formula based upon the acreage of “unconstrained land” on the property, as determined by the resource analysis.
1. To determine unconstrained acreage, the resource analysis shall subtract from the total (gross) acreage of the proposed development parcel the acreage of “constrained land.” Constrained land includes NYS Department of Environmental Conservation and Army Corps of Engineers wetlands, watercourses, one-hundred-year floodplains, public and private road rights-of-way, utility easements, steep slopes (containing an average grade of 15% or more, and which slopes are 5,000 square feet or more of contiguous sloped area), lands designated for protection by an official plan or unit of government, and lands currently under conservation easement.
  2. To determine the “base” number of allowable residential units on the site, divide the unconstrained acreage by the minimum lot size requirement of Section 5.3: Bulk and Density Control Schedule for the Zone in which the subdivision is located. Round down fractional units. The resulting number is the maximum allowable residential units allowed on the site.
  3. The number of lots permitted by this section shall not be reduced as a result of the resource analysis required in Section 11.7C: Resource Analysis or as a result of the reservation of parkland or open space during the subdivision process.

F. Lot Standards.

1. Lots shall be arranged in a manner that protects land of conservation value and protects the scenic resources of the Town. Compact development is encouraged if it advances the protection of significant resources.
2. The minimum lot size, lot width and other dimensional standards of Article 5: Bulk and Density Control Requirements may be waived at the discretion of the Planning Board for any subdivision that meets the policy standards of Section 11.3 of this Article, except where such subdivision abuts an existing residential lot, a public trail, and/or an agricultural use and provided that there is adequate lot area for the siting of on-site wells and on-site sewage treatment and disposal systems where planned.
3. Where lot width requirements have been waived, the minimum road frontage for each lot shall not be less than 50 feet.
4. Side lot lines shall be substantially at right angles or radial to street lines.
5. Through lots or reverse-frontage lots shall be avoided except where essential to overcome specific disadvantages of topography and orientation. An easement of suitable width, across which there shall be no right of access, may be required along the line of lots abutting such



road or other disadvantageous use. As an alternate, where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street.

6. The plat shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be ceded to public use at the time of final plat approval. All new private roads must meet town standards.

G. Density Bonuses.

1. The maximum density permitted in Subsection E (1): Number of Lots, may be increased through density bonuses designed to advance important goals of the Comprehensive Plan.
  - A. In accordance with § 261-b of the Town Law of the State of New York, the Town Board of the Town of Hector is empowered to provide for a system of zoning incentives or bonuses in exchange for specific social, economic, or cultural benefits or amenities as the Town Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in the Comprehensive Plan.
  - B. These density bonuses may be combined to result in a total density bonus not exceeding 25%. The density permitted by this section shall not be reduced as a result of the Resource Analysis required in Section I (above) or as a result of the reservation of parkland during the subdivision process. Density bonuses are given at the discretion of the Planning Board based upon written findings by the Planning Board documenting the expected public benefit. Density bonuses are calculated by first determining the allowable base density under Section F, Subsection 6-a and then multiplying that number by 100% plus the percentages that follow:
    1. If the applicant allows public access to protected open space on the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as a trail connector or access to an important natural area): a maximum of 25% density bonus.
    2. If the applicant preserves at least 50% of the parcel as working farmland (including the creation and preservation of new working farmland): a maximum of 25% density bonus.
    3. If the applicant preserves at least 50% of the parcel as permanent open space: a maximum 25% density bonus. The requirements for permanent open space are provided in Subsection 11.7: Preservation of Open Space.

H. Preservation of Open Space.

1. If the arrangement of lots results in large expanses of preserved open space, the preserved open space may be included as a portion of one or more large lots, or may be contained in a



separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), utility company, a non-profit organization, or the Town or other governmental entity, as long as it is permanently protected from development by a conservation easement held by a unit of government or qualified conservation organization.

2. Permanent Preservation by Conservation Easement.

- A. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry and silviculture, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the New York State General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, may be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The conservation easement shall be recorded in the Schuyler County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's Office. The Town shall maintain a current map which displays all lands under easement or deed restricted.
- B. The conservation easement shall limit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation). Access roads, driveways, wells, local utility distribution lines, underground sewage disposal facilities, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry and silviculture shall be conducted in conformity with applicable New York State Department of Environmental Conservation best management practices.

3. Ownership of Open Space Land.

- A. Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
  - 1. The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.
  - 2. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
  - 3. The open space restrictions must be in perpetuity.



4. The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
5. Property owners must pay their pro rate share of the costs in subsection (2) (d) above and the assessment levied by the HOA must be able to become a lien on the property.
6. The HOA must be able to adjust the assessment to meet changed needs.
7. The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the Town. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder, or to pay its real property taxes.
8. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
9. The attorney for the reviewing board shall find that the HOA documents presented satisfy the conditions in Subsections (a) through (h) above and such other conditions as the Planning Board shall deem necessary.

I. Reservations and Dedications.

1. Public sites, parks, playgrounds and recreational areas.

- A. The Planning Board shall require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes, to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat "reserved for park, playground or recreational purposes." In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for parks, playgrounds and recreational areas cannot be properly located therein, or if in the opinion of the Board, is not desirable, the Board may waive this requirement. The Board shall then require the payment of a park fee in accordance with the Town's fee schedule.

2. Dedications.

- A. Where a dedication is required, it shall be accomplished as follows:

1. Subdivider shall provide not less than 10% of the gross area of the subdivision as shown on the preliminary layout. Where such dedication would amount to less than 2 acres, the subdivider shall, in lieu thereof, pay a fee to the Town for each lot in his subdivision, to be computed as follows: average value of one (1) acre of undeveloped land adjacent to a public road within 1/4 mile of any point within that subdivision, divided by 50 dwelling units, equals the fees per lot.

2. Moneys received by the Town from such payments shall be placed in a parkland



acquisition and development fund, such moneys to be expended for acquiring parklands.

3. Easements for pedestrian access.

- A. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 20 feet in width.

4. Responsibility for ownership of reservations.

- A. Ownership shall be clearly indicated on all reservations.

### **11.9 Required Data and Documents**

A. Compliance Required.

- 1. Any subdivider who proposes to develop a subdivision in the Town of Hector shall submit plats and documents as provided in this Section.

B. General Requirements.

- 1. The following general requirements are applicable to the Sketch Plan, preliminary layout and the subdivision plat submittal.
  - A. Sketch Plans and plats shall be clearly and legibly drawn at an adequate scale to provide detail of 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more.
  - B. Drawings shall be submitted on uniform size sheets not larger than 36" x 48". When more than one (1) sheet is required to show the plat, an index map of the same size shall be submitted.
  - C. All submissions shall indicate the proposed subdivision name or identifying title; the words "Town of Hector, Schuyler County, New York"; the name and address and seal of the land surveyor responsible for the plat; and the date, approximate true North point and graphic scale.

C. Resource Analysis Assessment Data and Documents

- 1. Pre-applications for a major subdivision shall be submitted to the Planning Board in 3 copies and shall include a resource analysis with the following information:
  - A. The proposed subdivision name or identifying title, and the words "Town of Hector, Schuyler County, New York."
  - B. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).



- C. Aerial map at a scale of 1" = 400' or larger, showing the location of the proposed subdivision parcel with respect to all streets and property within 1,000 feet of the applicant's parcel and superimposed with 10' contours, NYSDEC wetlands, NWI wetlands, floodplains, streams, water bodies, NYSDEC Natural Heritage Program data, and public trails.
- D. A list including general location of features known to exist on the parcel including but not limited to historic buildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife habitats and viewsheds. This list is a preliminary step in identifying natural features and is subject to modification and interpretation of the reviewing bodies.
- E. Provide an 8½" x 11" soils map indicating if Prime and/or Statewide important soils, as defined by the Soil Survey of Schuyler County, New York, exist on the property.
- F. General subdivision information necessary to explain and/or supplement the Aerial Map.

D. SEQRA

- 1. New York State Environmental Quality Review Act (SEQRA) classification should be determined by the Planning Board and discussed with the applicant at completion of the Pre-Application Meeting.
- 2. The Planning Board shall initiate the New York State Environmental Quality Review Act (SEQRA) process, as defined in Article 8 of the Environmental Conservation Law and Part 617 of the New York Code of Rules and Regulations, upon completion of the Sketch Plan phase of the Pre-Application process, and when a Preliminary Plat application is determined to be complete. The Planning Board shall review the short or full Environmental Assessment Form, and if applicable, the draft Environmental Impact Statement submitted by the applicant with the Preliminary Plat application materials. The applicant shall be informed by the Board as to whether the application will be subject to additional environmental review as specified in the SEQR regulations. All requirements of SEQR shall be completed prior to any approval of the Preliminary Plat by the Planning Board.
- 3. Any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing any required environmental impact statement, and that such charge shall be added to any site-specific charge made pursuant to the provisions of section 8-0109 of the New York Environmental Conservation Law and New York Town Law 261-b(3)(d).

E. Sketch Plan

- 1. The Sketch Plan should show the proposed layout of streets, lots and other major subdivision features based upon the resource analysis and density calculation including the following:
  - A. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities and amenities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.



- B. A density calculation as outlined in Section 11.8 E, Lots.
  - C. Sketch Plan on a topographic survey of the proposed area to be subdivided showing, in simple sketch form, the proposed layout of streets, lots and other features.
  - D. General subdivision information necessary to explain and/or supplement the vicinity map and Sketch Plan.
- F. Preliminary Plat
- 1. The Preliminary Plat submitted to the Planning Board shall be at an adequate scale to provide detail such as 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more and shall extend an 200 feet past the parcel boundary and shall show or be accompanied by the following information, except where requirements have been waived:
    - A. Data required by Section 11.9, Required Data and Documents
    - B. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
    - C. Tax number of all parcels to be subdivided.
    - D. Location, bearings and distances of trace boundary.
    - E. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
    - F. Topography at a contour interval of not more than 10 feet, unless waived by the Planning Board and referred to a datum satisfactory to the Board.
    - G. The names of property owners within 200 feet of the property boundary, including those adjoining and those across roads fronting the proposed development. If the proposed development property is within an Schuyler County-adopted, State-certified Agricultural District containing a farm operation or within 500 feet of a farm operation located in an Agricultural District, the applicant shall complete an Agricultural Data statement, in accordance with NYS Ag & Markets Law, which shall contain the name and address of the applicant, a description of the proposed project and its location, and the name and address of all property owners within 500 feet of the property boundary.
    - H. Location, name and dimensions of existing streets, easements, deed restrictions, zoning district boundaries, property lines, buildings, parks and public properties.
    - I. Location of any existing sewers, on-site wastewater treatment, culverts and stormwater controls, if any, including pipe sizes, grades and direction of flow.
    - J. Location of pertinent natural features such as watercourses, wetlands, floodplains, rock



outcrops, stone walls, agricultural district lands, contiguous forest, and single trees 16 or more inches in diameter at breast height (dbh) as measured 4 feet above the base of the trunk.

- K. Location, width and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.
- L. Proposed provision of fire protection, stormwater drainage, street trees, streetlight fixtures, street signs and sidewalks.
- M. Proposed provision of sanitary waste disposal.
- N. Proposed provision of water supply and related data including the following:
  - 1. Location of any existing wells onsite and other proposed lot wells.
  - 2. Copies of New York State Department of Environmental Conservation Well Completion Reports for completed well(s) (including the well log and pump test data).
  - 3. Any and all water quality testing results.
  - 4. Proposed individual water supply system details such as pumps, storage, treatment, controls, etc.
  - 5. A completed hydrogeological study, as may be required by the Planning Board at its discretion.
- O. Lot lines of all proposed or existing lots, and suggested building envelopes.
- P. Conceptual future plans for the parcel, if any.
- Q. Location and approximate dimensions of all property proposed to be reserved for park or public uses.
- R. Information on all County and State permits required for subdivision plat approval.
- S. Other approvals or permits required (Town, County, NYS, and Federal).
- T. A written statement of any requests for specific waivers of requirements by the Planning Board.
- U. Other data which must be available for consideration of the subdivision at this stage.

#### G. Final Plat



1. The plat submitted to the Board shall show or be accompanied by the following information:
  - A. Data required by Section 11.9 F, Preliminary Plat, subsections b through u.
  - B. Location, width and name of each proposed street and typical cross sections showing street pavement and, where required, curbs, gutters and sidewalks.
  - C. Lengths and deflection angles of all straight lines and radii: length, central angles, chords and tangent distances of all curves for each street proposed.
  - D. Profiles showing existing and proposed elevations along the centerline of all proposed roads and the elevations of existing streets for a distance of 100 feet either side of their intersection with a proposed street.
  - E. Present elevations of all proposed roads shown every 100 feet at 5 points on a line at right angles to the centerline of the street, said elevation points being indicated at the center line of the road, each property line and points 30 feet inside each property line (only when required by the Board because of the existence of steep slopes).
  - F. Setback lines.
  - G. Location, size and invert elevations of existing and proposed stormwater controls and on-site wastewater facilities; the exact location of utilities.
  - H. Location of any existing wells onsite and other proposed lot wells and individual water supply system details such as pumps, storage, treatment, controls, etc.
  - I. Location of street trees, street lighting standards and street signs.
  - J. Areas of all lots in hundredths of an acre; lot numbers as directed by the Town Clerk or Code Enforcement Officer; and location, material and size of all permanent monuments.
  - K. Accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, and of all property to be reserved by deed covenant for the common use of the property owners of the subdivision.
  - L. Sufficient data, acceptable to the Highway Superintendent, to readily determine the location, bearing and length of all street, lot and boundary lines and to reproduce such lines upon the ground.
  - M. Necessary agreements in connection with required easements or releases.
  - N. Formal offers of cession to the Town of all streets and public parks.
  - O. Key map showing the location of the subdivision.

#### **11.10 Required Agreements and Improvements**



- A. Completion of Improvements or Filing of Bond Required. Prior to an action by the Planning Board approving a plat, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate Town departments, all the street and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Board a bond in an amount estimated by the Planning Board to secure to the Town the satisfactory construction and installation of the incomplete portion of the required improvements. All required improvements shall be made by the applicant at his expense without reimbursement by the Town or any district therein.
- B. Performance Bonds. Performance bonds shall comply with the requirements of Section 277 of the New York State Town Law and shall be satisfactory to the Town Board as to form, sufficiency and manner of execution. A period of one (1) year, or such other period as the Planning Board may determine appropriate, within which required improvements must be completed shall be specified by the Planning Board and expressed in the bond. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one (1) year after the date of completion of the required improvements to assure their satisfactory condition.
- C. Required Documents.
1. Monuments. Monuments shall be placed at all block corners, angle points, points of curvature in streets and points of tangency or horizontal curves, and at intermediate points as required by the Town Highway Superintendent and Code Enforcement Officer. However, in no case shall there be less than 4 permanent monuments per block. At least one (1) monument in each subdivision shall be related to the United States Geological Survey system and shall bear the true elevation above sea level. In addition, markers shall be placed at all points when street lines intersect the plat boundary and at all lot corners. The monuments and markers shall be of such material, size and length as may be approved by the Town Code Enforcement Officer.
  2. Water and on-site wastewater facilities. Facilities for water and on-site wastewater shall be provided in each new subdivision in accordance with the requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the subdivision; however, the following minimum requirements of the Town shall be met:
    - A. Existing and proposed wells are located at minimum separation distances from on-site and off-site potential sources of contamination as specified in Appendix 5-B of 10 NYCRR Part 5.
    - B. Supply suitability. A representative number of well(s) indicate that the available quantity and quality of on-site groundwater resources are suitable for household purposes.
  3. Adverse impacts. For proposed subdivisions requiring a hydrogeological study, the determination has been made that the subdivision avoids adverse impacts to existing or future groundwater users and/or surface waters within 1,500 feet of the subdivision. If adverse impacts cannot be avoided, the applicant must provide adequate mitigation of such impacts. For purposes of this Article, an adverse impact to groundwater can be defined as any reductions in groundwater levels or changes in groundwater quality that limit the ability of a groundwater user to withdraw ground water. An adverse impact to surface water would be



any reductions in the level of flow or water quality needed for beneficial uses such as protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, cultural and aesthetic values, drinking water supply, agriculture, electric power generation, commercial, and industrial uses.

4. On-site wastewater systems shall not be used for stormwater drainage.
  - A. Central sewerage or on-site wastewater treatment system shall provide a 4" minimum size connection to each lot or meet the requirements of the Schuyler County Health Department and the Schuyler County Watershed Protection Agency.
5. Storm drainage facilities.
  - A. Regulation. The New York State Department of Environmental Conservation regulates stormwater management practice installation under SPDES General Permit GP-02-01. The technical standards for stormwater practice design are in the New York Stormwater Management Design Manual ('Blue Book').
  - B. Drainage. A primary goal is to ensure that the peak rate of surface water flowing off site shall not increase above pre-development conditions, and shall not adversely affect drainage on adjacent properties or public roads.
  - C. Safety. Broad, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks, except in those areas where natural conditions are such that erosion of banks will not occur. Ditches shall, wherever feasible, be in the shape of a wide-top "V" with rounded or squared invert.
  - D. Erosion control. Adequate measure shall be taken to prevent erosion. The Planning Board shall require seeding, sodding, planting, riprap or such other measures as may be necessary to prevent scouring.
  - E. Drainage. The developer shall avoid the creation or continuation of swampy areas or stagnant pools. The Planning Board shall require fill and/or channel improvements in order to forestall such problems.
  - F. Protection of capacity. The developer shall provide adequate measures for the protection of open drainage channels by establishing drainage easements sufficiently wide (generally 20 feet) to enable the working of the channel by motorized equipment. All easements shall prohibit the erection of structures, the dumping of fill, or the alteration of obstruction of the watercourses without the written permission of the Town Board. Property lines shall be so drawn as to allow drainage easements alongside and rear lot lines, except that drainage easements may be allowed to cross lots larger than 1 acre.
  - G. Appearance. As natural watercourses can be an attractive asset to the subdivision as well as to the community, the developer shall, where possible, improve and beautify the watercourses to this end.
6. Design of ditches and gutters.



- A. Length of flow. Subdivisions shall be so designed that the length of flow of water in a gutter or roadside ditch does not exceed 300 feet except as permitted by the Planning Board. Runs exceeding the maximum shall be put in storm sewers or diverted to natural drainageways.
  - B. Minimum grade. All enclosed drainage courses shall be designed with sufficient grade to create a water flow velocity of 3 feet per second. A lesser grade may be permitted by the Planning Board where such a grade cannot be achieved.
  - C. Street crossing. Water in gutters and ditches shall not be allowed to flow over intersecting streets but shall be placed in adequate culverts.
  - D. Depth and shape of ditches. Where roadside ditches are permitted for runs of more than 300 feet, or where subgrade drainage is necessary, the bottom of such ditch should be below the subgrade and/at a minimum, should be approximately 18 inches below the crown of the road. Ditches shall be V-shaped or parabolic with sides sloping at approximately 1 inch to 3 inches horizontal, except where another cross-section plan is authorized.
  - E. Erosion control. Suitable headwalls, endwalls, ditch seeding or sodding and other procedures or devices to prevent erosion shall be used. Town soil and erosion control regulations or New York State Standards and Specifications for Erosion and Sediment Control should be referenced.
- C. Street and Other Improvements
- 1. Streets shall be graded and improved with pavement, street signs, sidewalks, street lighting standards, curbs and gutters (where applicable), and trees, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers not requisite in the interest of public health, safety and general welfare.
  - 2. Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, the subdivider shall install underground service connections to the property line of each lot before the street is paved. Utility location should take into consideration the location of future street trees so as to minimize the risk of future disturbance of trees during repair activities.
  - 3. Grading and improvements shall conform to the Town minimum road specifications and shall be approved as to design and specifications by the Town Highway Superintendent.



## ARTICLE 12

### SPECIAL USE PERMITS

#### 12.1 Intent

The intent of Special Use approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their special characteristics, or the special characteristics of the area in which they are to be located, Special Uses require individual consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

#### 12.2 Authorization to Grant, Amend or Deny Special Uses

The Special Uses listed in this Ordinance may be permitted upon authorization by the Planning Board in accordance with the standards and procedures set forth in this Ordinance. Special Uses may also be enlarged or otherwise altered by such authorization. Before making a decision on any Special Use, the Planning Board shall review the appropriateness of such use, its effect on the intent of the Zoning Ordinance and its compliance with the Comprehensive Land Use Plan. In permitting a Special Use or the modification of a Special Use, the Planning Board may impose in addition to those standards and requirements expressly specified by the Ordinance, any additional conditions which the Planning Board considers necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These conditions may include limiting the height of buildings, controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the number, size and location of signs, and requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this ordinance and classified in this Ordinance as a Special Use, any change in use or in lot area or alteration of structure shall conform to this Ordinance.

#### 12.3 Application for Special Use

A property owner(s) or his agent(s) may initiate a request for a Special Use by filing an application with the Planning Board. Such application shall be accompanied by a site plan in conformance with Article 10. A filing fee, as set by the Town Board, shall also be required, no part of which is returnable.

#### 12.4 Standards Governing Special Uses

A Special Use shall comply with the procedures and standards set forth in Article 12 and Article 13 except as these standards have been modified in authorizing the Special Use or as otherwise modified when consideration is given to the following:

- A. The submission of a site plan in accordance with Article 13 is required before any consideration can be given for a Special Use.
- B. General Criteria for all Special Uses. In considering and acting on Special Uses, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate



surrounding area. The Planning Board shall not grant a Special Use Permit unless the Planning Board determines and finds, except where the criteria are not applicable:

1. Compatibility. That the proposed use is of a character, type, scale, and intensity that, when mitigated, is not incompatible with the surrounding neighborhood, land uses, and general area of where the use is proposed to be located, that the use incorporates a site design which is consistent with the character of and is harmonious with the Town, promotes the purposes, goals, and intent of the Town of Hector Comprehensive Plan, and safeguards the health, safety, and welfare of the Town and its residents.
2. Neighboring Properties. That the proposed use, operation, and/or structures do not significantly and adversely affect neighboring properties with respect to such things as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters.
3. Vehicular Access. That proposed access points are adequate in width, grade, alignment, and visibility; are not excessive in number; are located at appropriate distances from intersections or places of public assembly; that the proposed use will not generate more volume or type of traffic than existing road infrastructure can adequately and safely accommodate; and that they satisfy other similar Special Use Permit and Site Plan Review safety and traffic flow considerations, including conditions for school buses, cyclists, and pedestrians.
4. Circulation and Parking. That adequate off-road parking and loading spaces are provided to minimize, or, where required, to eliminate the need for parking of vehicles on public highways by any persons connected with or visiting the site of the use; that the interior circulation system is adequate to provide safe accessibility to all required parking spaces; and that adequate separation of pedestrian and vehicular movements is provided.
5. Aesthetic Resources of Local and Statewide Significance. All adverse impacts on visual and aesthetic resources of local and statewide significance and on community character are avoided or minimized to the maximum extent practicable consistent with social, economic, and other essential considerations.
6. Landscaping and Screening. That all parking, storage, loading, and service areas can be and are reasonably screened at all seasons of the year from the view of nearby residential areas and public spaces and that the general landscaping of the site is in character with the surrounding areas. Such screening shall be maintained as a condition of the Special Use Permit and/or site plan approval and shall be guided by the minimum standards set forth in this Chapter.
7. Natural Features. That the proposed use, together with its sanitary and water service facilities, parking facilities, and other facilities necessary for the operation of the use, are compatible with geologic, hydrologic, topographic, and soil conditions of the site and of adjacent areas; that the proposed use, operation, and structures do not significantly impact existing natural and scenic features; and that such features are preserved to the maximum extent possible.



8. That once the proposed use ceases to operate for any reason, that the parcel of land on which it is located will be able to be restored and is restored so that said land may be suitable for development and use for one or more of the uses allowed in the zoning district where the property is located other than the use proposed. In zones that permit residential uses, the land must remain suitable for residential development after the Special Use Permit has been terminated. In connection with the construction or operation of any use, any disturbance of an area greater than 40,000 square feet which will substantially and irreversibly alter the natural contours and grade of the site shall be limited to an area or areas that do not exceed a total of 60% of the total area of the site that is developable for residential uses with sufficient non-disturbed areas remaining so that infill of residential development can occur.
  9. That the proposed use will not be inconsistent with the recommended Future Land Use Concepts for the area in which the use is proposed as described in the current Town of Hector Comprehensive Plan.
- C. In the case where a Special Use has been permitted, no building permit shall be issued until fifteen (15) days after the granting of the Special Use by the Planning Board, and then only in accordance with the terms and conditions of said permit. An appeal from the action of the Planning Board shall automatically stay the issuance of the building or other permit until such appeal has been completed. In the event the Court acts to grant said Special Use, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.
  - D. A Special Use Permit shall become void one year after approval or after such time as may be specified as a condition of approval, if no construction or use activity has begun. The Special Use Permit shall be void if the original use shall cease for more than one year for any reason.
  - E. The Planning Board, on its own motion, may revoke any approval of a Special Use for noncompliance with conditions set forth in the granting of said use after first holding a public hearing and giving notice of such hearing as provided in Section 13.6. The foregoing shall not be the exclusive remedy, but it shall be unlawful and punishable hereunder for any person to violate any condition imposed by an approved Special Use.

#### **12.5 Public Hearing on Conditional Use**

Before a Special Use is permitted, the proposed Special Use shall be considered by the Planning Board at a public hearing. Notice of said hearing shall be given as provided in Section 13.6.

#### **12.6 Notification of Action**

The Planning Board shall notify the applicant for a Special Use in writing of the Planning Board's action within forty-five (45) days after the public hearing.

#### **12.7 Appeal**

The applicant or any interested person may appeal a decision of the Planning Board. The appeal shall be made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within four (4) months after the filing of a decision on a Special Use application.



## ARTICLE 13

### SITE PLAN REVIEW FOR SPECIAL USE PERMITS

#### **13.1 Intent**

The intent of site plan approval is to determine compliance with the objectives of this Ordinance and with regard to Special Uses that may be permitted in the Town of Hector. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse effects concerning health, safety, and overall welfare of the residents of the community. The Planning Board, at its discretion, may waive the concept and final application procedure.

#### **13.2 Authorization**

The power to approve, approve with modification, or deny site plans for Special Uses as required by this Law is vested in the Planning Board. Prior to issuing a building permit for the construction of any Special Use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board may require that the site plans be prepared by a licensed architect or professional engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same.

#### **13.3 Sketch Plan Conference**

The Sketch Plan submittal is optional. The purpose of the concept is to encourage the person applying for a conditional use to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development. The Planning Board shall be authorized to carry out the concept site plan review.

#### **J. Requirements.**

1. A Sketch Plan shall be prepared and submitted in triplicate to the Planning Board. Before preparing a concept layout, the developer may discuss with the Planning Board or the Town Planning Consultant the general requirements as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters.
2. Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board shall provide written comments on the Sketch Plan of a proposed development in relation to the applicable requirements of this Article and Article 12, existing or potential development of the adjacent area, the Town Comprehensive Plan, and in the course of its review may consult with other interested public agencies.
3. The Sketch Plan shall include in as much detail as possible the following information:



A. An area map showing:

1. Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.
2. Existing natural features such as water bodies, watercourses wetlands, wooded areas, individual large trees, flood hazard areas.
3. Zoning districts, certified agricultural districts, school districts.
4. Special improvement districts (water, sewer, light, fire, drainage and the like).
5. Easements.
6. All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within five hundred (500) feet of the applicant's property.
7. All existing man-made features.
8. All proposed buildings, man-made structures and public improvements.

B. A map of site topography (USGS topo map).

C. A soils overlay, if general site grades exceed 15% or portions of the site have susceptibility to erosion, flooding or ponding.

**13.4 Preliminary Site Plan Application**

Application for preliminary site plan approval shall be made in writing in triplicate to the Code Enforcement Officer fifteen (15) days prior to a scheduled Planning Board meeting. The Code Enforcement Officer shall refer all preliminary site plan applications to the Planning Board for certification that the application is complete and in compliance with requirements set forth in this law.

**13.5 Preliminary Site Plan Requirements**

The preliminary site plan application shall include the information listed below. The Planning Board may at its discretion waive any preliminary requirements, which are clearly not relevant to the proposed use and site.

A. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500') feet of applicant's property.

B. A preliminary site plan shall include the following information:

1. Title of drawing, including name and address of applicant.



2. North points, scale and date.
3. Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch.
4. Existing natural features such as watercourses, water bodies wetlands, wooded areas and individual large trees. Features to be retained should be noted.
5. Existing and proposed contours at intervals of not more than five (5) feet of elevation.
6. Location of proposed land uses and their areas in acres and location proposed use and height of all buildings.
7. Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.
8. Description of sewage disposal and water systems, location of such facilities, a pumping test to determine impact on neighboring wells and a management plan to curtail water use or reimburse landowners if the new well adversely affects existing wells.
9. Location and proposed development of buffer areas and other landscaping.
10. Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of the residential density in dwelling units per gross acre for each such area.
11. Location of all parking and truck-loading areas, with access and egress drives thereto.
12. Locations, design and size of all signs and lighting facilities.
13. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.
14. Building orientation and site design for energy efficiency.
15. Location and design of all energy distribution facilities, including electrical, gas and solar energy.
16. Grading and erosion. Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc.
17. Location and design for stormwater management facilities.
18. Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.
19. The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to



be reserved by deed covenant for the common use of the property owners of the development.

- C. The Planning Board may require such additional information that appears necessary for a complete assessment of the project.
- D. The Planning Board's review of the preliminary site plan shall include, but is not limited to the following considerations:
  - 1. Adequacy and arrangement of vehicular traffic access and circulation.
  - 2. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - 3. Location, arrangement, size and design of buildings, lighting and signs.
  - 4. Relationship of the various uses to one another and their scale.
  - 5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.
  - 6. Adequacy of stormwater, water supply and sanitary waste disposal so that neighboring properties and the natural environment are not adversely affected.
  - 7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding and/or erosion.
  - 8. Compatibility of development with natural features of the site and with surrounding land uses.
  - 9. Adequacy of floodproofing and prevention measures consistent with flood hazard prevention district regulations.
  - 10. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.
  - 11. Adequacies of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
  - 12. Adequacy of pedestrian access, circulation, convenience and safety.

In their review of a preliminary site plan, the Planning Board may consult with the Town Building Inspector, Fire Commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Environmental Conservation.



### **13.6 Public Hearing**

Upon the Planning Board's certification that the preliminary site plan application is complete and satisfactory, the Planning Board Chair and/or Code Enforcement Officer shall schedule a public hearing within forty-five (45) days from the time of such certification. Ideally the public hearing will be held at the same Planning Board meeting in which the Preliminary Site Plan is being reviewed.

### **13.7 Notification of Decision on Preliminary Site Plan**

Within forty-five (45) days of the public hearing at which a preliminary site plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case the Planning Board may recommend further study of the proposal and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.

### **13.8 Final Site Plan Application**

After receiving approval, with or without conditions, from the Planning Board on a preliminary site plan, and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final site plan and submit it to the Planning Board for its review and approval. However, if more than six (6) months have elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan for review. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All compliances shall be clearly indicated by the applicant.

### **13.9 Notification of Decision on Final Site Plan**

Within forty-five (45) days of the submission of the final site plan, the Planning Board shall render a decision.

- A. Upon approval, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Building Inspector who shall then issue a building permit following the fifteen (15) day appeal period if the project conforms to all other applicable requirements.
- B. Upon disapproval, the Planning Board shall so inform the Building Inspector and he shall deny a building permit. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- C. Specifications for improvements shown on the site plan shall be those set forth in this ordinance and in other ordinances, rules and regulations, or in construction specifications of the Town of Hector.



- D. Performance Guarantee. The developer shall provide a letter of credit or other acceptable form of security that complies with Town Law to ensure installation of all improvements shown upon the final site plan within one (1) year of site plan approval, in accordance with the standards and specifications of the Town of Hector. The time limit may be extended by the Planning Board, upon written application made not less than thirty (30) days prior to the expiration of said period. Upon completion, the developer shall convey all utilities to the Town of Hector or to the appropriate improvement district without charge or expense, and deliver to the Town of Hector a form of security in an amount to be set by the Town Board guaranteeing for a period of two (2) years from such conveyance, defects in material or workmanship or malfunctioning of the component parts of such improvements.
- E. The Planning Board, at its discretion, can condense the process from a three-step process into a two-step process. Combining the Preliminary and Final site plan processes. A public hearing is required regardless of condensing the process.

#### **13.10 Appeal**

The applicant or any interested person may appeal a decision of the Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within four (4) months after the filing of a decision on a conditional use application.



## ARTICLE 14

### ZONING BOARD OF APPEALS

#### **14.1 Establishment**

Pursuant to New York State Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chairperson, and also provide for such expenses as may be 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.

#### **14.2 Staff**

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

#### **14.3 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 from and shall issue such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer, and to that end shall have all of the powers of the Code Enforcement Officer.
- 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.

#### **14.4 Use Variances**

- A. Definition. A use variance is an authorization by the Zoning Board of Appeals for the use of land for a purpose which is not otherwise allowed or is prohibited by the applicable zoning regulations.
- B. 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:
  - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial and demonstrated by competent financial evidence;
  - 2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - 3. The requested use variance, if granted will not alter the essential character of the neighborhood; and



4. The alleged hardship is not self-created.

#### **14.5 Area Variances**

- A. Definition. An area variance is an authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations.
- B. 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:
  1. 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;
  2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  3. Whether the requested area variance is substantial;
  4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  5. Whether the alleged difficulty was self-created, which is relevant to the decision, but shall not necessarily preclude the granting of the variance.

#### **14.6 Grant of Variances**

- A. 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.
- B. 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.

#### **14.7 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 30 days prior to the scheduled hearing date. The Planning Board shall report its recommendation to the Zoning Board of Appeals at least five days prior to the hearing date.

#### **14.8 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 it may deem necessary for the proper execution of its duties and to secure the intent of this chapter.



## ARTICLE 15

### AMENDMENTS

#### 15.1 Procedure

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this chapter after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Board.

#### 15.2 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 30 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

#### 15.3 Petition by Owners

Wherever owners of property present to the Town Board a petition duly signed and acknowledged, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within 90 days after filing of the same with the Town Clerk by the petitioners.

#### 15.4 Public Notice and Hearing

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing notices of the proposed amendments and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than 10 days prior to the date of the public hearing.
- B. By giving written notice of the hearing to any required municipal, county, state or federal agency in a manner prescribed by law.

#### 15.5 Protest by Owners

If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Board.



**15.6 Decision by Town Board**

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

**15.7 Notification of Decision**

The Town Board shall notify the applicant for an amendment of its decision in writing within five days after the decision has been rendered.

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## ARTICLE 16

### ADMINISTRATION

#### 16.1 Enforcement

This title shall be enforced by the code enforcement officer, who shall be appointed by the Town Board. No building permit shall be issued except where all the provisions of this title have been complied with. The Code Enforcement Officer, shall keep the planning board and Town Board advised of all matters pertaining to the enforcement of this title other than routine duties, and shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused and other actions taken.

Whenever a violation of this title occurs, any person having knowledge thereof may lay any information in regard thereto before a proper magistrate as provided by law, and the procedures thereafter shall be as set forth in the Code of Criminal Procedure.

#### 16.2 Zoning Permits

No structures or land shall be used, no building or structure shall be erected, added to or structurally altered until a permit therefore as specified in this section has been issued by the code enforcement officer. Except on written order of the code enforcement officer, no such zoning 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 title or any other applicable town laws.

- A. Application. There shall be submitted, with each application for a zoning permit, a fee as established by town board and two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of any existing and/or proposed building and accessory structures to be erected and such other information as may be necessary to determine and provide for the enforcement of this title.
- B. Process.
  1. One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with such permit to the applicant.
  2. Upon approval of the application, the Code Enforcement Officer shall issue a building permit to the applicant upon the form prescribed by him and shall affix his or her signature or cause his or her signature to be affixed thereto.
  3. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the town files and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Code Enforcement Officer.
  4. If the application together with plan, specifications and other documents filed therewith, describe proposed work which does not conform to all of the applicable requirements of



this title, the Code Enforcement Officer shall not issue the same and shall return the plans and specifications to the applicant with a written explanation outlining the reasons therefore.

### **16.3 Notice of Compliance**

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 zoning officer in accordance with this title.

All notices of compliance or occupancy for new or altered structures shall be applied for coincident with the application for a building permit therefore. 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 title.



## ARTICLE 17

### REMEDIES

#### **17.1 Penalty**

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 title; and any person, firm, company or corporation who shall assist in the commission of any violation of this title 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 title 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). Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each day such a violation, omission, neglect or refusal shall continue.

#### **17.2 Alternative Penalty**

In case of any violation or threatened violation of any of the provisions of this title, or conditions imposed by the Town Board or planning board, in addition to other remedies provided in this chapter, 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, 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.



## ARTICLE 18

### FEE SCHEDULE

#### **18.1 Fee Schedule Established**

A schedule of fees for all permits and applications as required in this title shall be set by the Town Board.

#### **18.2 Fee Remittance**

- A. An application for a permit or other action for which a fee has been established in accordance with Section 18.1 of this law shall be accompanied with such appropriate fee 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 title shall be taken without receipt by the town of the appropriate fee.