

# **TOWN OF HOOSICK**

# **THE COMPLETE LAND USE LAW WITH AMENDMENTS**

**Originally adopted: March 9, 2009  
Amended: 2010, 2012 and 2018**

**TOWN OF HOOSICK**  
**LAND USE LAW HISTORY**

**Local Law #2, 2009 Land Use Law: Adopted March 9, 2009**

**Local Law #1, 2010 Amended:**  
**7.6.1**

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**4.1**  
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**TOWN OF HOOSICK**

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# Land Use Law of the Town of Hoosick, New York

## Chapter 1: TITLE, SCOPE AND PURPOSES

1.1 Title – This Local Law shall be known and may be cited as the “Land Use Law of the Town of Hoosick, New York” or Local Law #2 of 2009.

### 1.2 Scope

This Local Law divides the Town of Hoosick into land use districts and regulates the use of structures and land as well as the location, construction, alteration, occupancy and size of structures.

### 1.3 Purposes

This Local Law is enacted in accordance with a comprehensive plan pursuant to the Municipal Home Rule Law and the Town Law of the State of New York to protect and promote the health, safety, values and general welfare of the community, and to fulfill the purposes expressed in Section 263 of the Town Law, more specifically to:

- Encourage the management of agriculture resources.
- Encourage the rural character of the Town.
- Encourage the opportunities for growth recognizing the constraints of the natural resources.
- Support hamlets as centers for commerce and new residential development.
- Protect key natural features that create the feeling of openness and natural beauty.
- Encourage economic development.
- Assure privacy for residences and protection against loud, unsightly, obtrusive, or un-neighborly land uses or operations.
- Recognize that residents of the Town of Hoosick have a personal and monetary investment in their property and that they need to protect the value of their investment.
- Assure adequate sites for residential, agricultural, industrial and commercial uses.
- Facilitate the efficient, economical, and adequate provision of public utilities and services.
- Prevent and reduce traffic congestion, to promote efficient and safe circulation of vehicles and pedestrians.

### 1.4 Conflict with State Laws

To the extent that any provisions of this Local Law are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, Section 261 through 268, 274a through 281, the Town Board of the Town of Hoosick hereby declares its intent to supersede those Sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10 *et seq.* of the Consolidated Laws of the State of New York.

## Chapter 2: ESTABLISHMENT OF DISTRICTS

### 2.1 Use Districts

The Town of Hoosick is hereby divided into the following Land Use Districts, as shown on the “Land Use District Map.”

- 2.1.1 Hamlet – H – *traditional hamlet areas and areas around the Village of Hoosick Falls, mixed residential and small commercial with limited floor/building sizes –Hoosick, North Hoosick, Walloomsac, Potter Hill, Mapletown, Buskirk and Eagle Bridge*
- 2.1.2 Light Industrial/Commercial – LIC – *near state highways, for larger commercial buildings and industrial uses*
- 2.1.3 Rural Residential – RR – *smaller residential lots in areas that are not heavily agriculture*
- 2.1.4 Agricultural/Residential – AR – *rural areas include small and large farms, low density residential and rural uses.*
- 2.1.5 Conservation/Resource Management – CRM – *park lands, cemeteries, state forest lands, lands protected by conservation easements, schools, rivers and trout streams*
- 2.1.6 Historic Overlay – HO – *a buffer area of 50 feet around a National Historic Register listed property, or a Town of Hoosick Historic Property*
- 2.1.7 Flood Fringe Overlay – FFO – *the 100-year flood plain and floodway of the most recent FEMA Flood Insurance Rate Map*
- 2.1.8 Dailey Mine Zone – DZ – *for the mining use of construction aggregate(s) as per NYS Supreme Court, Rensselaer County William E. Dailey, Inc. V. Town Of Hoosick, Rensselaer County Legislature, et al. Stipulation of Settlement Index # 186-678, State of NY Department of Environmental Conservation.*

### 2.2 Land Use District Map

The location and boundaries of all Land Use Districts now established or which may hereafter be established by the provisions of this Local Law are shown on the “Land Use District Map, Town of Hoosick.” This map, together with all explanatory matter and all amendments, is hereby adopted and made a part of this Local Law. This Map shall be kept up to date and shall be available for public inspection in the Office of the Town Clerk. A reduction of this map is attached in this Local Law as Appendix A, for illustrative purposes only.

### 2.3 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the land use districts established or which may hereafter be established by the provisions of this Local Law as shown on the land use district map, the following rules shall apply:

- 2.3.1 Where district boundaries are indicated as approximately following the center lines or right-of-way lines of roads, highways, railroads, public utility easements or water courses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a centerline or right-of-way line of such road, highway, railroad, public utility or watercourse is moved a maximum distance of fifty (50) feet.

- 2.3.2 Where district boundaries are indicated as approximately following the Town or Village boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- 2.3.3 Where district boundaries are so indicated that they are approximately parallel to the Town or Village boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distance there from, as indicated on the Land Use District Map or as shall be determined by use of the scale shown on the Land Use District Map.
- 2.3.4 Where a district boundary line divides a single 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 may, at the owner's discretion and with the exception of the Flood Fringe Overlay district and Historic Overlay district, extend not more than thirty (30) feet into the more restrictive portion, provided the lot has road or highway frontage in the less restrictive district.
- 2.3.5 In all other cases, where dimensions are not shown on the Land Use District Map, the location of the boundaries shown on the map shall be determined by the use of the scale appearing therein.
- 2.4 Permitted Uses and Prohibited Uses in each District are shown in the Use Table in Chapter 3. The District Schedule of Area and Bulk Regulations in Chapter 4 establishes minimum lot area, open space, lot width, frontage, and setbacks, and maximum structure coverage and height requirements.
- 2.5 Application of Land Use District Regulations - Except as otherwise provided in this Local Law:
  - 2.5.1 No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, altered or enlarged except in conformance with the Use Regulations and the Area and Bulk Requirements specified in this Local Law for the district in which it is located.
  - 2.5.2 No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
  - 2.5.3 No yard or lot existing at the time of passage of this Local Law shall be reduced in size or area below the minimum requirements set in this Local Law.
  - 2.5.4 No off-road parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-road parking or loading space required for another building or use except as otherwise provided in this Local Law.
  - 2.5.5 Within each district, the Use Regulations and the Area and Bulk Requirements in this Local Law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure, land or use.

## Chapter 3: USE REGULATIONS

### 3.1 Schedule of Use Regulations

The general use regulations in each land use district are set forth in the “District Schedule of Use Regulations.” This schedule is supplemented, as appropriate, by other provisions of this Local Law. Any use not listed in the schedule may be allowed by Special Permit pursuant to Chapter 7, only if it can meet all applicable standards.

### 3.2 District Schedule of Use Regulations

H – Hamlet

LIC – Light Industrial/Commercial

RR – Rural Residential

AR – Agricultural Residential

CRM – Conservation Resource Management

HO – Historic Overlay

FFO – Flood Fringe Overlay

DZ – Dailey Mine

	<b>H</b>	<b>LIC</b>	<b>RR</b>	<b>AR</b>	<b>CRM</b>	<b>HO</b>	<b>FFO</b>	<b>DZ</b>
<b><u>Agricultural Uses</u></b>								
Animal Husbandry	SP	X	P	P	SP	P	P	X
Field Crops	P	P	P	P	P	P	P	X
Greenhouses	P	P	P	P	P	P	P	X
Nursery	P	P	P	P	P	P	P	X
Farm Stand large	P*	P*	P*	P*	P*	P*	P*	X
Farm Stand small	P	P	P	P	P	P	P	X
Agri-tourism	P	P	P	P	P	P	P	X
Farm Bed and Breakfast	P	P	P	P	P	P	P	X
Riding Stables and Academies	X	P	SP	P	P	P	P	X
Forestry	P	P	P	P	P	P	P	X
Zoo	X	X	X	P	X	SP	SP	X
Veterinary Clinic	P*	P*	P*	P*	P*	P*	X	X
<b><u>Residential Uses</u></b>								
Single Family detached	P	P	P	P	P	SP*	X	X
Single Family attached	P*	P*	P*	SP*	P*	P*	X	X
Two-Family	P	P	P	P	P	SP*	X	X
Multi-family	SP*	P*	SP*	SP*	X	SP*	X	X
Group Homes	SP*	P*	SP*	X	X	X	X	X
Dormitories	X	P*	X	SP*	X	X	X	X
Homeless Shelters	X	P*	X	X	X	X	X	X
Mobile Home Park	X	X	X	X	X	X	X	X

	<b>H</b>	<b>LIC</b>	<b>RR</b>	<b>AR</b>	<b>CRM</b>	<b>HO</b>	<b>FFO</b>	<b>DZ</b>
Campground, Vacation	X	X	X	SP*	SP*	SP*	X	X
Youth Detention Facility	X	X	X	X	X	X	X	X
<b><u>Commercial Uses</u></b>								
Minor Home Occupations	P	P	P	P	P	P	P	X
Major Home Occupations	P*	P*	P*	P*	P*	P*	P*	X
Farm Occupation	P	P	P	P	P	P	P	X
Professional Offices	P*	P*	P*	SP*	p*	P*	X	X
Personal Service	P*	P*	P*	P*	X	X	X	X
For-Profit Educational	P*	P*	SP*	SP*	X	X	X	X
Day Care Center	P*	P*	P*	P*	P*	P*	X	X
Small Retail Commercial	P*	P*	X	P*	X	SP*	P*	X
Large Retail Commercial	X	P*	X	X	X	X	X	X
Restaurant	P*	P*	P*	P*	P*	P*	X	X
Motel	X	P*	X	X	X	X	X	X
Hotel	SP*	P*	X	X	SP*	SP*	X	X
Bed and Breakfast	P*	P*	P*	P*	P*	P*	X	X
Indoor Entertainment	SP*	P*	X	P*	SP*	SP*	P*	X
Outdoor Entertainment	SP*	P*	X	SP*	SP*	SP*	SP*	X
Bar/Tavern/Saloon	SP*	P*	SP*	SP*	SP*	SP*	X	X
Gas Station	SP*	P*	X	SP*	X	X	X	X
Car Repair Shop	SP*	P*	SP*	SP*	SP*	X	X	X
Car Wash	SP*	P*	X	SP*	X	X	X	X
Car Sales New	SP*	P*	X	X	X	X	X	X
Car Sales Used	SP*	P*	P*	SP*	X	X	X	X
Funeral Home	P*	P*	P*	SP*	X	X	X	X
Drive-thru commercial	X	SP*	X	SP	X	X	X	X
Nursing Home	P*	P*	P*	SP*	SP*	X	X	X
Fish and Game Club	X	X	X	P	P*	X	P*	X
Boarding Kennel	X	P*	SP*	P*	SP*	X	X	X
Breeding Kennel	SP	X	SP*	P*	SP	P	X	X
Self Storage Units	P*	P*	P*	P*	X	X	P*	X
Adult Businesses	X	SP*	X	X	X	X	X	X

	<b>H</b>	<b>LIC</b>	<b>RR</b>	<b>AR</b>	<b>CRM</b>	<b>HO</b>	<b>FFO</b>	<b>DZ</b>
<b><u>Community Uses</u></b>								
Municipal Buildings	P	P	P	P	P	P	X	X
Not-for-Profit schools	SP*	P	SP*	SP*	SP*	SP*	X	X
Churches	SP*	P*	P*	P*	P*	P*	X	X
Cemeteries <sup>1</sup>	X	X	X	X	P	X	X	X
Pet Cemeteries <sup>2</sup>	X	SP	X	SP	SP	SP	X	X
Utility Right-of-way	SP*	SP*	SP*	SP*	SP*	SP*	SP*	X
Public Parks & Play Grounds	P	P	P	P	P	X	P	X
Health Care facility	SP*	P*	P*	P*	X	X	X	X
Highway Garage	SP*	P*	X	SP*	X	X	X	X
Fire & Police Station	P	P	P	P	P*	SP*	X	X
Museum	SP*	P*	SP*	SP*	SP*	SP*	SP*	X
Association/Lodge	SP*	P*	X	SP*	X	X	X	X
Telecommunications tower	X	P*	X	P*	X	X	X	X
Heliport	X	P*	X	P*	X	X	P*	X
Airstrip	X	X	X	P*	X	X	P*	X
Docks/Launching areas	P	P	P	P	P	SP	P	X
Hike/Bike Trails	P	P	P	P	P	P	P	X
ATV/Dirt Bike/Motocross Tracks								
Commercial	X	P*	X	X	X	X	X	X
Personal Use	P	P	P	P	P	P	P	X
<b><u>Industrial Uses</u></b>								
Sawmills/lumbermills	X	P*	SP*	SP*	X	X	SP*	X
Furniture production	SP*	P*	P*	P*	SP*	X	P*	X
Paper/cardboard production	SP*	P*	X	X	X	X	SP*	X
Food production	SP*	P*	P*	P*	SP*	SP*	X	X
Mining – sand & gravel large scale	X	P*	X	SP*	SP*	X	SP*	X
Mining – sand & gravel small scale	X	P*	SP*	SP*	SP*	X	SP*	X
Mining –(construction aggregate)	X	X	X	X	X	X	X	P

<sup>1</sup> Expansion of cemeteries from their present properties will require a zoning map modification as described in Section .

<sup>2</sup> Requires extensive state permit.

	<b>H</b>	<b>LIC</b>	<b>RR</b>	<b>AR</b>	<b>CRM</b>	<b>HO</b>	<b>FFO</b>	<b>DZ</b>
Junkyard	X	X	X	X	X	X	X	X
Power plant – hydro	SP*	P*	SP*	SP*	SP*	SP*	SP*	X
Power plant – gas, oil & coal	SP*	SP*	SP*	SP*	SP*	SP*	SP*	X
Power plant – garbage	X	X	X	X	X	X	X	X
Power plant – nuclear	X	X	X	X	X	X	X	X
Windmills – personal	SP	P	P	P	P	X	SP	X
Windmills – commercial	X	P*	X	SP*	SP*	X	SP*	X
Transportation terminal								
Truck	X	P*	X	SP*	X	X	X	X
Train	SP*	P*	SP*	SP*	SP*	SP*	SP*	X
Landfill	X	X	X	X	X	X	X	X
Light manufacturing	SP*	P*	SP*	SP*	SP*	SP*	SP*	X
Heavy manufacturing	X	P*	X	SP*	X	X	SP*	X
Fuel storage	X	P*	X	X	X	X	X	X
Slaughter facility	X	P*	X	P*	X	X	SP*	X
Waste facility	X	X	X	X	X	X	X	X
Commercial brewery	SP*	P*	P*	P*	SP*	SP*	P*	X
Steel fabrication	X	P*	X	SP*	X	X	SP*	X
Steel wholesale	SP*	P*	X	SP*	X	X	SP*	X
Machine shop/Repair shop	SP*	P*	P*	P*	SP*	SP*	P*	X

P – Permitted by Right

SP – Requires a Special Permit

X – Not allowed

\* - Requires Site Plan

## Chapter 4: AREA AND BULK REGULATIONS

### 4.1 District Schedule of Area and Bulk Regulations

The general area and bulk requirements in each land use district are set below. This schedule is supplemented, as appropriate, by other provisions of this Local Law.

	H	LIC	RR	AR	CRM
Density	n.a.	n.a.	n.a.	n.a.	n.a.
Minimum Lot area					
With septic & well	1 acre	2 acres	1 acre	1 acre	1 acres
With community water or sewer	.75 acre	2 acres	1 acre	1 acre	1 acres
With public water & sewer	.5 acre	2 acres	.5 acre	1 acre	1 acres
Minimum Lot Width	100 feet	200 feet	100 feet	100 feet	100 feet
Minimum Lot Frontage	20 feet	50 feet	50 feet	50 feet	50 feet
Minimum Front Setback <sup>3</sup>	50 feet		50 feet	50 feet	50 feet
State Highway		80 feet			
County or Town Road		65 feet			
Minimum Side Setbacks	20 feet	20 feet <sup>4</sup>	20 feet	20 feet	20 feet
Minimum Rear Setback	10 feet	10 feet <sup>4</sup>	10 feet	10 feet	10 feet

- a. **Maximum Building Height:** the maximum height of a structure can only be as great as the number of feet of setback from the next closest building.

### 4.2 Existing Lots of Record

Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed area, width, or depth, if such existing lot of record was owned individually or separately from any adjoining tract at the time of enactment of this Local Law, provided that all applicable provisions of this Local Law are met.

### 4.3 Height Exceptions

The height restrictions set forth in the “District Schedule of Area and Bulk Requirements” shall not be applicable to the following, provided however that no such structure shall be erected so as to obstruct solar gain to any principal building or solar energy collecting device located on neighboring lands:

- 4.3.1 Flagpoles, spires, belfries, residential radio or television antennae, residential satellite dishes, agricultural silos, commercial wind turbines, green energy, Emergency 911 and ham radio towers, and similar features, any of which shall be restricted to a maximum height of one hundred (100) feet above average finished grade at its base.

<sup>3</sup> From nearest edge of road except for Light Industrial Commercial where measured from road centerline. Structure is not allowed on road right-of-way.

<sup>4</sup> The side and rear setback should be at least as great as the height of the structure abutting the setback – i.e. a fifty foot building at the rear of the lot should have a fifty foot setback.

4.3.2 Chimneys, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, solar collectors, air conditioning units, or similar structures, any of which shall be erected only to such height as is necessary to accomplish the purpose for which it is intended.

#### 4.4 Corner Lots

##### 4.4.1 Required Front Yards

On a corner lot, each road frontage shall be deemed a front road line, and the required yard along each such lot line shall be a required front yard. The Building Inspector shall, after consultation with the owner, determine which of the remaining yards shall constitute the required side yard and required rear yard.

##### 4.4.2 Obstructions at Road Intersections

At all road intersections, no obstruction to vision of road traffic, such as a fence, wall, hedge, structure, planting, or sign, shall be erected on any lot within the triangle formed by the intersecting road lines, or their projections where corners are rounded, and a straight line joining said road lines a points which area forty (40) feet distant from their point of intersection measured along said road lines and/or said projections.

#### 4.5 Architectural Features and Accessory Structures Permitted in Required Yards

4.5.1 The following architectural features of a building may extend into a required yard subject to the limitations provided herein:

4.5.1.1 Ordinary projection of window sills, bay windows, chimneys, cornices, eaves, enclosed column porches, and other architectural features;

4.5.1.2 Open arbor or trellis;

4.5.1.3 Unroofed steps, patio or terrace, not less than twenty (20) feet from the highway right-of-way nor less than fifteen (15) feet from any side or rear lot line provided that the building itself complies with the yard requirements of this Local Law;

4.5.1.4 Awning or moveable canopy;

4.5.1.5 Fence, retaining wall, or masonry wall, except as limited by Sections 4.4 of this Local Law.

4.5.1.6 Open fire escapes on the side or rear of a building.

4.5.2 The following accessory structures may be located in any side or rear yard, subject to the limitations stated herein:

4.5.2.1 Private in-ground or aboveground swimming pools not less than fifteen (15) feet from the side or rear lot.

4.5.2.2 Permitted accessory structure, as defined in Chapter 13, Definitions, of this Local Law, provided:

4.5.2.2.1 No such structure shall exceed twenty (20) feet in height in any Hamlet district except structures used for agricultural purposes;

4.5.2.2.2 No such structures shall be set back less than twenty (20) feet from any lot line;

- 4.5.2.2.3 All such structures together shall not occupy more than thirty percent (30%) of any required yard.

## Chapter 5: NON-CONFORMING USES AND NON-COMPLYING STRUCTURES

The following provisions shall apply to all buildings and uses existing on the effective date of this Local Law, to all buildings and uses that may become non-conforming or non-complying by reason of any subsequent amendment to this Local Law and the Land Use District Map, and to all complying buildings housing non-conforming uses:

### 5.1 Non-Conforming Uses

Any lawful non-conforming use of buildings or open land in existence on the effective date of this Local Law may be continued indefinitely, provided that it:

- 5.1.1 Shall not be enlarged, altered, extended, reconstructed or restored, except as provided in this Chapter, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of the Local Law, nor shall any external evidence of such use be substantially increased by any means;
- 5.1.2 Shall not be moved to another location where such use would be non-conforming;
- 5.1.3 Shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals, and then only to a use which, in the opinion of the Zoning Board of Appeals, is of the same or a more restricted nature;

### 5.2 Non-Complying Structures

- 5.2.1 Normal repair and maintenance of or structural alteration within a non-complying structure shall be permitted, provided that such action does not increase the degree of or create any new non-conformity.
- 5.2.2 Any non-complying structure declared unsafe by the Building Inspector shall be restored to a safe condition within a time period provided for such restoration by the Building Inspector.
- 5.2.3 A lawful use may be extended to any portion of a non-complying structure that existed prior to the enactment of this Local Law. However, no non-conforming use shall be extended to displace a conforming use.

### 5.3 Restoration After Damage

Nothing contained in this Chapter shall be deemed to prevent the restoration of a lawful, non-conforming use after damage for any reason or by any cause provided that the bulk, height, and area shall not be in excess of that which existed prior to the damage, and provided further that the restoration is commenced within six (6) months after the damage and completed within two (2) years of such occurrence.

## Chapter 6: SUPPLEMENTAL REGULATIONS

The following supplementary regulations are applicable to all land use districts with the Town of Hoosick unless otherwise provided:

### 6.1 General Standards

Any use which can be allowed by Special Permit under this Local Law, but which has not been issued a Special Permit, shall be permitted to continue as a non-conforming use until such time as an owner or operator applies for and is granted a Special Permit. Upon the granting of such Special Permit, the use shall become conforming and shall be governed by the conditions attached to the Special Permit. If such a Special Permit is denied, the use may continue as a non-conforming use subject to the requirements of Chapter 5.

- 6.1.1 No unreasonable noise shall be produced which shall be in violation of the Town of Hoosick Noise Control Law without the issuance of a variance thereunder.
- 6.1.2 No unreasonable amounts of dust, dirt, smoke, fly ash, odor, or noxious gases shall be disseminated beyond the boundaries of the lot where such is located. This provision is not intended to restrict the normal use of wood or coal burning residential heating units.
- 6.1.3 No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which the use is located.
- 6.1.4 There shall be no discharge of any solid or liquid wastes into any stream, wetland, body of water or any public or private disposal system or on or into the ground, except in strict accordance with the standards of the Rensselaer County Department of Health or other regulatory agencies.
- 6.1.5 No activity shall create a physical hazard by reason of fire, explosion, radiation, electromagnetic disturbance, or other cause, to any person or property.
- 6.1.6 There shall be no storage of material, either indoors or out, in such a manner that it facilitates the breeding of vermin, flies or mosquitoes, endangering health or the environment.
- 6.1.7 All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry.
- 6.1.8 Measures to control erosion, sedimentation, and surface water runoff shall be undertaken prior to, during and after any land use or development with the smallest practical area being exposed at any time and for the shortest practical period of time:
  - 6.1.8.1 Mulching or temporary vegetation suitable to the site shall be used to protect exposed areas;
  - 6.1.8.2 All topsoil excavated during site preparation shall be stockpiled and used for site restoration, and such stockpiles shall be seeded or otherwise treated to minimize erosion;

- 6.1.8.3 Steep slopes where vegetation cannot be readily established or where problems of erosion, sedimentation, or surface water runoff may result, shall have proper stormwater control mechanisms installed according to professional standards
- 6.1.9 No land use or development shall increase the rate, velocity, or quantity of surface water runoff on abutting properties, nor shall it increase the discharge of sediment or other pollutants.
- 6.1.10 All drainage systems shall be constructed in accordance with the *New York State Stormwater Management Design Manual* and be integrated so as to minimize erosion, sedimentation, slope instability, and adverse effects on neighboring property owners and water bodies, avoid concentration of water flow, prevent deflection of any receiving watercourse, and should not transfer surface water runoff from one watershed to another.
- 6.1.11 Any land disturbance of one acre or more excluding agriculture must conform to the specifications in the *New York Guidelines for Urban Erosion and Sediment Control*, which is on file with the Town Clerk.
- 6.1.12 Storage and handling of all hazardous and toxic materials shall conform strictly with all applicable local, Federal, and State laws, rules and regulations.
- 6.1.13 There shall be no disposal of any hazardous or toxic material within the Town of Hoosick.
- 6.1.14 All uses shall comply with applicable standards set for in Chapter 7, Special Permit Review, of this Local Law.

## 6.2 Fences and Walls

- 6.2.1 Privacy fences shall be set back at least twelve (12) feet from pavement edge at the front of the property.

## 6.3 Home Occupations

In any district, home occupations as defined in Chapter 13 shall additionally conform to the following limitations:

- 6.3.1 A home occupation may only be conducted within a dwelling which is a bona fide residence of the principal practitioner of the occupation or in an accessory building which is normally associated with the residential use.
- 6.3.2 The presence of the home occupation shall not alter the primary use or appearance of the premises as a residence, except that a single sign as provided in Chapter 8 shall be permitted. No traffic shall be generated in greater volumes than would be appropriate to a residential neighborhood, with any need for parking generated by the home occupation met on-site and not in the required front yard. All additionally required parking shall be effectively screened from the public roadway and from abutting non-commercial properties.
- 6.3.3 Outdoor display of products shall be limited to a small representative sample of the products sold in the home occupation.
- 6.3.4 No materials and equipment used in connection with the home occupation shall be permitted in the front yard of the premises. All such materials and equipment shall be screened from view and stored in such a way that they do not pose a nuisance to adjacent

property owners, such storage being not less than twenty-five (25) feet from any property boundary.

- 6.3.5 Hazardous materials to be used in the business shall be identified in the Special Permit application, if required, and stored in accordance with applicable local, State and Federal laws, rules and regulations. Copies of any Special Permit involving hazardous materials shall be sent to the fire department by the Zoning Board of Appeals.

#### 6.4 Outdoor storage on Residential Lots

Not more than two (2) unregistered vehicles, nor more than one (1) travel trailer or recreational vehicle (RV), may be stored outdoors on a residential lot. All such storage shall occur as inconspicuously as practical and may not occur within the required front yard. No materials and equipment shall be permitted in the front yard of the premises.

#### 6.5 Sanitary Disposal

No person shall construct any new building or structure requiring sanitary disposal in the Town of Hoosick without first meeting the requirements for facilities for the disposal of sewage, domestic or trade waters in accordance with applicable regulations of the Town, the Rensselaer County Department of Health, and other governmental authorities.

#### 6.6 Roadside Stands

Roadside stands for the sale of agricultural goods and products shall provide adequate parking. Parking facilities shall be arranged so that vehicles may easily turn around and re-enter the public roadway in a forward direction.

#### 6.7 Conservation and Forestry

All conservation and forestry should follow the New York State Department of Environmental Conservation guidelines.

#### 6.8 Signs

- 6.8.1 All uses shall follow the Town of Hoosick Sign Law.

#### 6.9 Agricultural Protection

- 6.9.1 Agricultural Buffers – Wherever agricultural uses and other new uses unrelated to the agricultural operations abut, buffers shall be provided to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.
- 6.9.2 Agricultural Data Statement – Any application for a Special Permit, Subdivision or Use Variance, approval requiring municipal review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Chapter 13. The Planning Board or Zoning Board of Appeals shall make a finding that such approval will not adversely affect farm operations within the Town and the agricultural district. Prior to issuing an approval for a Special Permit,

Subdivision, or Use Variance, the Planning Board or Zoning Board of Appeals shall make a finding that such approval will not adversely affect farm operations with the Town and the agricultural district. If the reviewing board is unable to make such a finding, it shall deny the application. (*New York State Agriculture & Markets Law, Article 25AA, Section 305-a, 2*)

6.9.3 Required Decisions – In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: “This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration.” This disclosure shall be required to be made on a Subdivision Plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting or letter of notification. This Subsection may also be applied to any commercial development within the jurisdiction of the Planning Board which abuts commercial land, at the discretion of the Planning Board.

#### 6.10 Riparian Buffer

No clearing or grading shall take place within the established twenty (20) foot watercourse buffer area except to provide road crossings where permitted. A vegetated twenty (20) foot buffer shall also be maintained around lakes and wetlands.

#### 6.11 Personal Windmills

6.11.2 The setback of any personal windmill must be at least the height of the windmill.

6.11.3 No noise from any personal windmill shall be such that it may be annoying or obtrusive or cause other adverse impacts on neighbors. Under no circumstances shall noise or hum from any personal windmill be in violation of the Town of Hoosick Noise Control Law as measured from the property’s edge.

## Chapter 7: SPECIAL PERMITS

### 7.1 Authority

The Zoning Board of Appeals is hereby authorized to review and act upon all special permit uses in accordance with standards and procedures set forth in this Chapter.

### 7.2. Site Plan Review

The Zoning Board of Appeals and Planning board shall coordinate in State Environmental Quality Review (SEQR) and other aspects in their review of projects needing Special Permits and Site Plan reviews. (*New York State Environmental Conservation Law, 6 NYCRR Part 617*)

### 7.3 Findings Required

In considering and acting on Special Permits, the Zoning Board of Appeals shall consider the public health, safety, welfare of the public in general and, the residents of the proposed development. The Zoning Board of Appeals may prescribe such appropriate conditions and safeguards as may be required to fulfill the following standards:

7.3.1 Compatibility – The proposed use will be compatible with the surrounding neighborhood and in harmony with the Comprehensive Plan for the Town of Hoosick. The standards of Chapter 6.1 shall apply.

7.3.2 Vehicular Access – Proposed access points will be safe and not excessive in number, but shall be adequate in width, grade, alignment and visibility. They shall not be located too close to intersections or places of public assembly.

7.3.3 Circulation and Parking – Adequate off-road parking, queuing and loading spaces will be provided where appropriate to prevent the parking or standing of vehicles on public roads by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that adequate separation of pedestrian and vehicular movements are provided.

7.3.4 Landscaping and Screening – All parking, storage, loading, and service areas will be reasonably screened so that the property cannot be clearly viewed from the abutting property and that the general landscaping of the site is in character with the surrounding areas.

7.3.6 Public Facilities – The public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, road improvements, and parks and open spaces will be adequate for the intended level of use.

7.3.7 Air Discharges – All heating, ventilation, air-conditioning, refrigeration, HVAC and exhaust units and vents will be directed away from any adjacent residential property.

7.3.8 Lighting – Lighting will be shielded so as to not shine directly outside the property lines. Minimum non-glare illumination may be required after hours for security purposes.

7.3.9 Emergency Access – All proposed buildings, structures, equipment and/or materials will be readily accessible for fire, emergency services and police protection. (*Fire Code of New York State, Chapter 5, Section 503*)

7.3.10 Agricultural Protection – The proposed use will not adversely affect farming operations (see Section 6.9.2).

#### 7.4 Special Permit Application Procedure

7.4.1 The Building Inspector shall refer any application for a building permit which requires a Special Permit to the Zoning Board of Appeals. All applications for a Special Permit shall be in writing, on forms prescribed by the Board, and shall be accompanied by the following:

7.4.1.1 A sketch, site and/or building plan as applicable, providing sufficient information, including dimensions, to permit the Board of Appeals to review compliance with the general standards discussed in Section 7.3 of this Chapter;

7.4.1.2 Payment of the applicable fee in accordance with the fee schedule established by the Town Board; and

7.4.1.3 The proper Environmental Assessment Form (EAF) with Part I completed by the applicant (may be Long Form or Short Form, depending on the application.)

7.4.2 Environmental Impact Review (SEQR) – The Zoning Board of Appeals shall be responsible for compliance with 6 NYCCR Part 617 (State Environmental Quality Review Regulations) in cooperation with other involved agencies in the review of any Special Permit application.

7.4.3 Upon a determination by the Zoning Board of Appeals that the application for a Special Permit is complete, the Board shall review the application, taking into consideration the standards for Special Permit review outlined in Section 7.2 above, and any other special requirements for a particular use contained in this Local Law.

7.5 Public Hearing – The Zoning Board of Appeals shall conduct a public hearing within 62 days of the receipt of a complete application for a Special Permit which shall be advertised at least five (5) days before the hearing in the official newspaper of the Town. A notice of the public hearing shall also be sent at least five (5) days before the hearing to all landowners identified through the listed property tax roll within 500 feet from the affect property. An application shall not be deemed to be complete until either a Negative Declaration has been issued or a Draft Environmental Impact Statement has been accepted as complete by the SEQR Lead Agency.

#### 7.6 Required Referrals

7.6.1 For any application that involves property within 500 feet of the following: the boundary of the Town or Village; a State or County Park or recreation area; a State or County highway or express way; a State or County –owned drainage channel; or State or County land where a public building or institution is located, a full statement of the application shall also be referred at least ten (10) day prior to the public hearing to the Rensselaer County Bureau of Economic Development and Planning. No action shall be taken by the Board on such applications until an advisory recommendation has been received from said Bureau or until thirty (30) days have elapsed since the Bureau received such full statement. The Zoning Board of Appeals shall report to the Rensselaer County Bureau of Economic Development and Planning on its final action within seven (7) days of that event.

- 7.7 Decisions. Every decision of the Board with respect to a special use permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the Office of the Town Clerk within ten (10) days thereof.
- 7.8 Reimbursable Costs. Reasonable costs incurred by the Board for private consultation fees or other extraordinary expense in connection with review of an application for special use permit approval shall be charged to the applicant with his/her concurrence before consultation. Such reimbursable costs shall be in addition of the fee required in Section 7.3.1.2 herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.
- 7.9 Effect of Special Use Approval
- 7.9.1 No building permit shall be issued for any structure covered by this Chapter until such special use permit has received approval by the Board of Appeals, and a copy of a resolution to that effect has been presented to the Building Inspector.
- 7.9.2 No Certificate of Occupancy or Use shall be issued for any structure or use of and covered by the Chapter until the structure is completed or the land developed in strict accordance with the Board of Appeals resolution of special permit approval and other applicable requirements of this Local Law.
- 7.9.3 Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.
- 7.9.4 The Board of Appeals may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are not longer being, complied with. In such cases, a period of sixty (60) day shall be granted for full compliance by the applicant prior to the revocation of the special use permit.
- 7.10 Relief from Decisions. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals under this Chapter may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice laws and regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the Office of the Town Clerk.
- 7.11 Specific Uses
- 7.11.1 Animal Husbandry
- 7.11.1.1 Sufficient area or acreage should be available for the shelter and exercise of livestock, as well as for the storage of food and wastes.
- 7.11.1.2 Manure shall be stored away from property lines whenever possible and in accordance to best management practices according to New York State Department of Ag and Markets.
- 7.11.2 Indoor and Outdoor Entertainment

Liability insurance shall be required for all indoor and outdoor entertainment venues.

#### 7.11.3 Gas Station

7.11.3.1 All gas stations and businesses that sell gasoline shall follow the required federal and state laws and regulations.

7.11.3.2 No gas stations or gasoline sales shall occur within 500 feet from a school or day care center.

7.11.3.3 Oil/water separators shall be installed on all stormwater catch basins.

7.11.3.4 Concrete pads and canopies are required at filling areas.

#### 7.11.4 Car Repair

All car repair facilities shall follow the required federal and state laws and regulations.

#### 7.11.5 Car Wash

Car wash facilities shall use water recycling technologies when possible.

#### 7.11.6 Funeral Home

Funeral homes must have sufficient parking.

#### 7.11.7 Nursing Home

Nursing homes must have sufficient parking.

#### 7.11.8 Adult Business

7.11.8.1 No description in words, phrases, characters or other form of any specified anatomical area or any specified sexual activity shall be permitted on any display, decoration, sign, window or other opening.

7.11.8.2 Cannot be located within 500 feet of a school, playground, library or church

#### 7.11.9 Sawmills

7.11.9.1 Sawmills outside of the Light Industrial/Commercial zone shall not operate before seven AM or after nine PM.

7.11.9.2 Sawmills shall be located 500 feet from neighboring residential properties unless the owners of such properties shall give their written consent.

#### 7.11.10 ATV/Dirt Bike/Motocross Tracks – Commercial

7.11.10.1 Insurance – the track operator must have general liability insurance of one million dollars (\$1,000,000 or more).

7.11.10.2 Dust Control – dust control methods and schedule must be provided and listed in the Special Permit.

7.11.10.3 Hours of operation – the track may only operate five (5) days a week, and only 8 hours a day. Tracks may not operate after 7:00 p.m. or before 10:00 a.m.

- 7.11.10.4 A buffer of at least five hundred (500) feet from neighboring properties must be provided.
- 7.11.10.5 Minimum acreage for property is twenty (20) acres.
- 7.11.10.6 Parking - no regular parking on the opposite side of road that requires users/visitors to cross the road is allowed. Special event parking may be allowed on the opposite side of the road, only with a Special Event Permit as required in the Town's Special Events Law (and with flag person).
- 7.11.10.7 The fueling area must be on concrete or other impervious pavement.
- 7.11.10.8 Any special events such as races require a special events permit from the Town Board.

Chapter 8: Reserved for SIGN LAW

Chapter 9: Reserved for SITE PLAN REVIEW

Chapter 10: Reserved For Wireless Telecommunications Service Facilities Law

## Chapter 11: SPECIAL DISTRICT REQUIREMENTS

### 11.1 Floodplain Overlay District - **BASED ON FEMA REGULATIONS**

The boundaries of the Floodplain Overlay District are delineated as the 100-year floodplain on the most current edition of the appropriate “Federal Insurance Rate Map” issued for the Town of Hoosick by the Federal Emergency Management Agency. Any revisions, amendments or successors to this map, with all explanatory matter, are hereby adopted and made a part of this Local Law. The latest edition of the map shall be kept on file in the Offices of the Town Clerk, Planning Board and Building Inspector for public inspection. The boundaries of the 100-year floodplain shall also be depicted on the “Land Use District Map, Town of Hoosick.” No new structures may be erected within the Floodplain Overlay District, except for changes and expansion of existing uses, and accessory structures.

11.1.1 The purpose of this section is to:

11.1.1.1 Protect human life and health;

11.1.1.2 Minimize expenditure of public money for costly flood control projects;

11.1.1.3 Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

11.1.1.4 Minimize prolonged business interruptions;

11.1.1.5 Minimize danger to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazards;

11.1.1.6 Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

11.1.1.7 Provide that developers are notified that property is in an area of special flood hazard; and

11.1.1.8 Assure that those who occupy the areas of special flood hazard assume responsibility for their actions.

11.1.2 Lands to which this District applies

This District applies to all areas designated in the most recent Flood Hazard Boundary Map or Flood Insurance Rate Map, as issued by the Federal Emergency Management Agency.

11.1.3 Warning and Disclaimer of Liability

Although the Flood Fringe Overlay District is meant to reduce the damage from floods, areas outside of the Flood Fringe Overlay District may flood. The Flood Hazard Boundary Map and/or Flood Insurance Rate Map and their attendant studies only review larger streams along with the rivers. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. The Flood Fringe Overlay District does not imply that land outside the district will be free from flooding or flood damages. The Flood Fringe Overlay District shall not create liability on the part of the Town of Hoosick, any officer or employee thereof, or the Federal Emergency Management Agency, or flood damages that result from reliance on this Section or any administrative decision lawfully made there under.

#### 11.1.4 Floodplain Development Permit

All development in the Flood Fringe Overlay District shall follow Federal and State regulations and shall require a floodplain development permit.

11.1.4.1 Floodplain Development Permit Applications must be submitted to the Hoosick Building Inspector or designate, along with a permit fee to be established by the Hoosick Town Board. The Application shall consist of :

11.1.4.1.1 An application form;

11.1.4.1.2 The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in the Flood Fringe Overlay District, if base flood elevation data is available. Upon completion of the lowest floor, the permittee shall submit to the Building Inspector the as-built elevation, certified by a licensed professional engineer or surveyor.

11.1.4.1.3 The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Building Inspector the as-built floodproofed elevation, certified by a licensed professional engineer or surveyor.

11.1.4.1.4 A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the federal and state floodproofing criteria.

11.1.4.1.5 A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the federal and state floodproofing criteria.

11.1.4.1.5.1 A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a licensed engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents created by FEMA to designate the flood hazard boundaries, when notified by the Building Inspector, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;

11.1.4.1.6 A technical analysis by a licensed professional engineer, if required by the Building Inspector, which shows whether proposed development to be located in the Flood Fringe Overlay District may result in physical damage to any other property;

11.1.4.1.7 Where no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for proposed developments that are greater than 5 acres.

11.1.5 Duties and Responsibilities of the Building Inspector – Duties of the Building Inspector shall include, but not be limited to the following:

11.1.5.1 Permit Application Review – The Building Inspector shall conduct the following permit application review before issuing a floodplain development permit:

- 11.1.5.1.1 Review all applications for completeness, particularly with the requirements of subsection 11.1.4.1 Application for A Permit, and for compliance with the provisions and standards of this Chapter;
- 11.1.5.1.2 Review proposed new development to determine whether building sites will be reasonably safe from flooding. If a proposed building site is located in the Flood Fringe Overlay District, all new construction and substantial improvements shall meet the applicable federal and state floodplain construction standards;
- 11.1.5.1.3 Determine whether any proposed development in the Flood Fringe Overlay District may result in physical damage to any other property (e.g. stream bank erosion and increased flood velocities). The Building Inspector may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of federal and state floodplain construction standards, NO permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

- 11.1.5.1.4 Determine that all necessary permits have been received from those governmental agencies from which approval is required by local, State or Federal Law.
- 11.1.5.1.5 The Building Inspector may, when reviewing Floodplain Development Permit Applications, hire consultants to assist in the review and provide technical expertise. Reasonable costs incurred by the Building Inspector for private consultation fees or other extraordinary expense in connection with review of an Application shall be charged to the applicant. Such reimbursable costs shall be in addition of any fees required by this local law. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.

#### 11.1.5.2 Use of Other Flood Data

- 11.1.5.2.1 When FEMA has designated areas of special flood hazard on the Town’s Flood Insurance Rate Map or Flood Hazard Boundary Map, but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 11.1.4.1.7, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- 11.1.5.2.2 When base flood elevation data are not available, the Building Inspector may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this Chapter.

#### 11.1.5.3 Alteration of Watercourses

11.1.5.3.1 Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

11.1.5.3.2 Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### 11.1.5.4 Construction Stage

11.1.5.4.1 In the Flood Fringe Overlay District, if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same.

11.1.5.4.2 Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Building Inspector shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

#### 11.1.5.5 Inspections

The Building Inspector and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

#### 11.1.5.6 Stop Work Orders

11.1.5.6.1 The Building Inspector shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 13.3 of this Local Law.

11.1.5.6.2 The Building Inspector shall issue or cause to be issued a stop work order for any floodplain development found non-compliant with the provisions of this Chapter and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 13.3 of this Local Law.

#### 11.1.5.7 Certificate of Compliance

11.1.5.7.1 In the Flood Fringe Overlay District, as determined by documents enumerated in Section 11.1.2, it shall be unlawful to occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Building Inspector stating that the building or land conforms to the requirements of this Chapter.

- 11.1.5.7.2 A certificate of compliance shall be issued by the Building Inspector upon satisfactory completion of all development in the Flood Fringe Overlay District.
- 11.1.5.7.3 Issuance of a certificate shall be based upon the inspections conducted as prescribed in Section 11.1.5.5 Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements and encroachment analyses which may have been required as a condition of the approved permit.
- 11.1.5.8 Information to be Retained – The Building Inspector shall retain and make available for inspection, copies of the following:
  - 11.1.5.8.1 Floodplain development permits and certificates of compliance;
  - 11.1.5.8.2 Certificates of as-built lowest floor elevations of structure, required pursuant to subsections 11.1.4.1.2 and 11.1.4.1.3, and whether or not the structures contain a basement;
  - 11.1.5.8.3 Floodproofing certificates required pursuant to sub-section 11.1.4.1.3 and whether or not the structure contains a basement;
  - 11.1.5.8.4 Variances issued pursuant to Section 11.1.7 Variance Procedures; and
  - 11.1.5.8.5 Notices required under subsection 11.1.5.3.1 Alteration of Watercourse.
- 11.1.6 Construction Standards
  - 11.1.6.1 General Standards – The following standards apply to new development, including new and substantially improved structures in the Flood Fringe Overlay District.
    - 11.1.6.1.1 The following standards apply to all proposed development in the Flood Fringe Overlay District:
      - 11.1.6.1.1.1 Proposals shall be consistent with the need to minimize flood damage;
      - 11.1.6.1.1.2 Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed so as to minimize flood damage; and
      - 11.1.6.1.1.3 Adequate drainage shall be provided to reduce exposure to flood damage.
    - 11.1.6.1.2 Encroachments
      - 11.1.6.1.2.1 Encroachments
        - 11.1.6.1.2.1.1 Within the Flood Fringe Overlay District, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
          - 11.1.6.1.2.1.1.1 The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
          - 11.1.6.1.2.1.1.2 The Town of Hoosick agrees to apply to FEMA for a conditional FIRM revision on behalf of the applicant. If FEMA’s approval is received, the applicant shall then provide all necessary data, analyses and mapping, and escrow funds for consultant fees. The applicant must also provide all data, analyses and mapping and pay the Town of Hoosick for all costs related to the map revision.

11.1.6.1.2.2 All new structures and substantial improvements shall follow FEMA's most recent standards for construction.

#### 11.1.7 Variance Procedures

##### 11.1.7.1 Appeals Board

11.1.7.1.1 The Zoning Board of Appeals as established in this Local Law shall hear and decide appeals and request for variances from the requirements of this Chapter.

11.1.7.1.2 The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this Chapter.

11.1.7.1.3 In passing upon such application, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Local Law and Chapter, and :

11.1.7.1.3.1 The danger that materials may be swept onto other lands to the injury of others;

11.1.7.1.3.2 The danger to life and property due to flooding or erosion damage;

11.1.7.1.3.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

11.1.7.1.3.4 The importance of the services provided by the proposed facility to the community;

11.1.7.1.3.5 The necessity of the facility of a waterfront location, where applicable;

11.1.7.1.3.6 The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

11.1.7.1.3.7 The compatibility of the proposed use with existing and anticipated development;

11.1.7.1.3.8 The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

11.1.7.1.3.9 The safety of access to the property in times of flood for ordinary and emergency vehicles;

11.1.7.1.3.10 The costs to local governments and the dangers associated with conduct of search and rescue operations during periods of flooding;

11.1.7.1.3.11 The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected on the site; and

11.1.7.1.3.12 The costs of providing governmental services during and after the flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems and streets and bridges.

11.1.7.1.4 Upon consideration of the factors in Section 11.1.7.3 and the purposes of this Chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

- 11.1.7.1.5 The Building Inspector shall maintain the records of all appeals actions including technical information.
- 11.1.7.2 Conditions for Variances
- 11.1.7.2.1 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in subsection 11.1.7.1.3 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 11.1.7.2.2 Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- 11.1.7.2.2.1 The proposed repair or rehabilitation will not preclude the structure’s continuation designation as a “Historic structure”; and
- 11.1.7.2.2.2 The variance is the minimum necessary to preserve the historic character and design of the structure.
- 11.1.7.2.3 Variances may be issued by a community for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use provided that:
- 11.1.7.2.3.1 The criteria of subsections 11.1.7.2.1, 11.1.7.2.4, 11.1.7.2.5 and 11.1.7.2.6 are met; and
- 11.1.7.2.3.2 The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threat to public safety.
- 11.1.7.2.4 Variances shall not be issued within any designated floodway if any increase of flood levels during the base flood discharge would result.
- 11.1.7.2.5 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 11.1.7.2.6 Variances shall only be issued upon receiving written justification of:
- 11.1.7.2.6.1 A showing of good and sufficient cause;
- 11.1.7.2.6.2 A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- 11.1.7.2.6.3 A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 11.1.7.2.7 Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## **11.2 Historic Overlay District**

11.2.1 The purpose of the Historic Overlay District is to

11.2.1.1 Protect and enhance the landmarks and historic districts which represent distinctive elements of the Town of Hoosick’s historic, architectural and cultural heritage;

11.2.1.2 Protect and enhance the Town of Hoosick’s attractiveness to visitors and the support and stimulus to the economy thereby provided; and

11.2.1.3 Preserve the Town of Hoosick’s distinctive historic character.

11.2.2 Lands to Which this District Applies

The Historic Overlay District applies to all area within a 50 foot radius of the following properties, and including those properties:

11.2.2.1 Properties listed on the Federal and State Registers of Historical Places;

11.2.2.2 Properties that are State or Federal Historic Landmarks;

11.2.2.3 Properties that are identified under Local Law #1 of 2004 of the Town of Hoosick, “Relating to the Establishment of Landmarks or Historic Districts in the Town of Hoosick” as landmarks or historic districts.

11.2.3 In the review of any Special Permits in the Historic Overlay District, the Zoning Board of Appeals shall review the following:

11.2.3.1 The scale of the proposed development in size and scope in relationship to the historic property;

11.2.3.2 The effect of proposed use on the historic property for vibrations, noise, and dust;

11.2.3.3 The effect of traffic on the historic property; and

11.2.3.4 The visibility of the proposed use on the historic property.

11.2.4 In review of any site plan, the Planning Board shall review the following:

11.2.4.1 The scale of proposed buildings in size and placement in relationship to the historic property;

11.2.4.2 The placement of parking in relationship to the historic property;

11.2.4.3 The design of fenestration, cornices, eaves and other architectural details and exterior materials. Exterior wall coverings should be either natural materials such as stone, wood and brick or cement clapboard or shingles. Vinyl siding should be avoided if possible. Concrete panels should either be covered or designed to appear as natural materials;

11.2.4.4 Use of materials in fencing and buffers;

11.2.4.5 Landscaping;

11.2.4.6 Ingress and egress to the property and the materials used therein; and

11.2.4.7 Signage and materials used.

11.2.4.8 Lighting placement and fixtures.

## Chapter 12: ADMINISTRATION AND ENFORCEMENT

### 12.1 Building Inspector

The Building Inspector shall administer and enforce all provisions of this Local Law except where otherwise provided herein. Whenever any permit is required herein, it shall be applied for and issued in the first instance from the Office of the Building Inspector in accordance with the requirements of this Local Law and other applicable regulations governing building construction and the issuance of building permits.

### 12.2 Powers and Duties of the Building Inspector

In addition to all the other authority conferred by law, the Building Inspector shall have the following powers and duties with respect to this Local Law.

#### 12.2.2 Issuance of Building Permits

Structures of 100 square feet or less are exempt from the building permit filing fee. However, no structure shall be erected, altered, reconstructed or enlarged and no excavation, additions to facilities such as sewage disposal systems, electrical systems, water supply systems, including plumbing or drainage facilities shall be undertaken until the Building Inspector has issued a building permit stating that the proposed use and structure comply with all applicable provisions of this Local Law.

#### 12.2.3 Issuance of Certificates of Occupancy

No use shall be established on land or structure for which a building permit has been issued, occupied, or used unless the Building Inspector shall first issue a Certificate of Occupancy. The Certificate of Occupancy shall state that the use, land and structure fully comply with all applicable provisions of the New York State Uniform Fire Prevention and Building Code, as administered by the Town of Hoosick, this Local Law, and the terms of any approval granted under the procedures established by this Local Law.

#### 12.2.4 Inspections

Upon the issuance of a Building Permit, the Building Inspector shall have the right to enter, examine, and inspect, or cause to be entered, examined, and inspected, any building or property at any reasonable time for the purpose of carrying out his duties and determine compliance with the provisions of this Local Law. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Building Inspector.

#### 12.2.5 Issuance of Notices and Violation

Whenever, in the opinion of the Building Inspector, after proper inspection, there appears to exist a violation of any provision of this Local Law, or of any procedure adopted pursuant thereto, the Building Inspector shall serve written notice upon the appropriate person responsible for the alleged violation. The notice shall be served in accordance with the procedures set forth in Section 12.2.6 of this Chapter and shall inform the recipient of the following:

12.2.5.6 the nature and specific details of the violation(s); and

12.2.5.7 the date by which the violation(s) must be remedied or removed, which period shall not exceed thirty (30) days from the date of notice, except as otherwise expressly provided by the provisions of this Local Law.

#### 12.2.6 Issuance of Stop Work Orders

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure or any use of land is occurring in violation of the provisions of this Local Law, or not in conformity with any application made, permit granted, or other approval issued, or in an unsafe or dangerous manner, the Building Inspector shall promptly notify the appropriate person responsible to suspend work on any such building or structure or the use of any such land. Such persons shall suspend such activity until such time as the stop work order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and may be served upon the person to whom it is directed either by delivering it personally to that person, or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by certified mail.

#### 12.2.7 Taking of Emergency Action

If, in the opinion of the Building Inspector, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, or welfare of occupants of a building or to other persons or the environment, the Building Inspector may direct that such violation be immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant, or person responsible for the violation. The Building Inspector shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses, in order to recover the said costs.

### 12.3 Violations and Penalties

#### 12.3.1 Offenses

Violation of any provision or requirement of this Local Law or violation of any statement, plan, application, permit or certificate approved under the provisions of this Local Law shall be considered an offense punishable by a fine of not more than five hundred dollars (\$500.00). Each and every week that any such violation continues after the initial fine is imposed shall constitute a separate offense. In situations where a stop work order is ignored and work continues without application for a variance, each day that work continues shall be considered a separate offense.

#### 12.3.2 Court Action

The imposition of penalties described in this Chapter shall not prevent the Town or any person from instituting appropriate legal action in a court of competent jurisdiction to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain by injunction, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

### 12.4 Zoning Board of Appeals

#### 12.4.1 Creation, Appointment, and Organization

A Zoning Board of Appeals is hereby created in accordance with Section 267, Article 16 of the Town Law. Said Board shall consist of five (5) members appointed by the Town Board. Of the members first appointed, one shall hold office for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years. The term of office following the first term shall be five (5) years. If a vacancy occurs otherwise than by expiration of term, it shall be filled by appointment by the Town Board for the unexpired term. All members are subject to removal by the Town Board for cause after public hearing. The Town Board shall designate the Chairman of the Board of Appeals, while the Board of Appeals shall designate its Secretary and may prescribe reasonable rules in addition to those provided herein for the conduct of its affairs. The Town Board shall provide reasonable operating expenses to ensure the proper function of the Zoning Board of Appeals.

#### 12.4.2 General Powers and Duties

The Zoning Board of Appeals shall have all the powers and duties prescribed by state law and by this Local Law. (*New York State Town Law, Sections 267, 267-a, 267-b*)

The jurisdiction of the Board of Appeals shall be appellate, except in the case of the review of Special Permits, and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Building Inspector. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town of Hoosick.

##### 12.4.2.1 Meetings, Minutes and Records

Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other actions.

##### 12.4.2.2 Filing Requirements and Time of Appeal

12.4.2.2.1 Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the Office of the Town Clerk within five (5) business days and shall be a public record.

12.4.2.2.2 Each order, requirement, decision, interpretation or determination of the Building Inspector shall be filed in the Office of the Building Inspector within five (5) business days from the day it was rendered, and shall be a public record.

12.4.2.2.3 An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Building Inspector by filing with the Building Inspector and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action was taken.

##### 12.4.2.3 Stay Upon Appeal

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector, from whom the appeal is taken, certifies to the Board of Appeals, after

notice of appeal has been filed with the Building Inspector, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice of the Building Inspector and on due cause shown.

#### 12.4.2.4 Hearing on Appeal

The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices related to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

#### 12.4.2.5 Decision

The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board of Appeals shall be filed in the Office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

#### 12.4.2.6 Notices

12.4.2.6.1 Notice to Park Commission - at least five (5) days before such hearing, the Board of Appeals shall mail notice thereof to the regional state park commission having jurisdiction over any state park within five hundred (500) feet of the property affected by such appeal.

12.4.2.6.2 Notice to County Planning Agency - At least ten (10) days before such hearing, the Board of Appeals shall also mail notice and a full statement of such proposed action, as defined in Section 239 (m) (1) of the General Municipal Law, to Rensselaer County Economic Development and Planning Bureau, for actions which affect property within five hundred (500) feet of a municipal boundary; boundary of any State or County park or other recreation area; right-of-way of any existing or proposed State or County parkway, thruway, expressway, road or highway; existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines; or existing or proposed boundary of any State or County owned land on which a public building or institution is situated, or if a use variance is involved, the boundary of a farm operation within an Agricultural District as defined in Article 25AA of the Agriculture and Markets Law.

12.4.2.6.3 Notice to Neighboring Municipalities - At least ten (10) days before such hearing, the Board of Appeals should mail notice to the Town, City or Village Clerk of any municipality located within five hundred (500) feet of the property affected by such action.

12.4.2.6.4 Notice to Neighboring Property Owners – At least 5 days before such hearing, the Board of Appeals shall mail notice thereof to property owners listed on the property tax rolls within five hundred (500) feet of the property affected by such appeal.

#### 12.4.2.7 Compliance with SEQRA

The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6 Part 617 of the New York Codes, Rules and Regulations.

#### 12.4.2.8 Voting Requirements

12.4.2.8.1 Decision of the Board. Except as otherwise provided in Section 12.4.2.9 of this Local Law, every motion or resolution of the Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board, at least three (3) members, as fully constituted, regardless of vacancies or absences. Where an action is the subject of a referral to the Rensselaer County Economic Development and Planning Bureau, the voting provisions of Section 239 (m) of the General Municipal Law shall apply.

12.4.2.8.2 Default Denial of Appeal. An affirmative vote of at least three (3) members is required on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Building Inspector. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in Section 12.4.2.9 of this Local Law.

#### 12.4.2.9 Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination if the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

#### 12.4.2.10 Assistance to the Board of Appeals

The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town of Hoosick for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. The Zoning Board of Appeals may, in certain circumstances, require professional assistance in reviewing an application. In this instance, the Zoning Board of Appeals shall have the authority to hire such assistance, to be paid for by the applicant through an escrow account. An amount of estimated fees will be provided by the consultant. The applicant will provide an amount equal to these fees for placement into an escrow account. The consultant will provide detailed bills for work performed which will be reviewed by the Zoning Board of Appeals and then paid from the escrow account. The total amount of the funds required to be escrowed for the payment of review fees may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Board or its consultants/ experts to complete the necessary review and analysis. Additional escrow funds, as required and requested by the Town shall be promptly paid by the applicant. After the project review is completed, any remaining funds will be promptly returned to the applicant. The Zoning

Board of Appeals and Planning Board shall coordinate their reviews so that they use one consultant which will provide answers to both boards.

#### 12.4.3 Interpretation

On appeals for an order, requirement, decision or determination made by the Building Inspector in accordance with the provisions of this Local Law, or on request by an administrative official, board or agency of the Town, to decide of the following questions:

12.4.3.1 Determination of the meaning of any portion of this Local Law or of any conditions or requirements specified or made under the provisions of this Local Law.

12.4.3.2 Determination of the exact location of any district boundary shown on the Land Use District Map.

#### 12.4.4 Use Variances

12.4.4.1 The Board of Appeals, on appeal from the decision or determination of the Building Inspector, shall have the power to grant use variances, as defined herein.

12.4.4.2 No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the provisions and restrictions of this Local Law have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under this Local Law for the particular District where the property is located:

12.4.4.2.1 The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

12.4.4.2.2 That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

12.4.4.2.3 That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

12.4.4.2.4 That the alleged hardship has not been self-created

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

#### 12.4.5 Area Variances

12.4.5.1 The Zoning Board of Appeals shall have the power, upon appeal from a decision of determination of the Building Inspector, to grant area variances as defined herein.

12.4.5.2 In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

12.4.5.2.1 Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

- 12.4.5.2.2 Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
- 12.4.5.2.3 Whether the requested area variance is substantial;
- 12.4.5.2.4 Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 12.4.5.2.5 Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- 12.4.5.3 The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 12.4.6 Imposition of Conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- 12.5 Any variance that is not exercised within one (1) year of the date of issuance shall automatically lapse without further hearing of the Zoning Board of Appeals.

## Chapter 13: DEFINITIONS

**Accessory Structure** – A structure of the use which is customarily incidental and subordinate to that of the principal building to which it is attached, or is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include tennis courts, garages, garden and tool sheds, barns, playhouses, dish antennae, windmills and solar collectors. Mobile homes shall not be utilized as accessory structures.

**Accessory Use** – A use, occupancy or tenancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises.

**Adult Businesses** – otherwise known as “x-rated” businesses; businesses, which by New York State Law patrons must be 21 years of age or older. Includes adult bookstores, peep shows, topless juice bars, strip clubs, and other sexually oriented businesses.

**Agricultural Data Statement** – an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the Planning Board, Zoning Board of Appeals or Town Board pursuant to Article 16 of the Town Law is proposed, as provided in Section 305-a of Article 25AA of the New York State Agriculture and Markets Law.

**Agritourism** – corn mazes, agricultural educational venues, hay rides and other assorted agriculture-associated activities that occur on an ongoing basis.

**Airstrip** – facility, either grassed or gravel, that provides for the landing and take off of small airplanes.

**Animal Husbandry** – the raising of animals and birds for food, wool, breeding, preservation or pleasure.

**Association/Lodge** – a building or facility owned by a non-profit, fraternal organization that is primarily for use by members only.

**ATV/Dirt Bike/Motocross Tracks** – tracks commercially open to the public for the regular use of all terrain vehicles, dirt bikes and motocross.

**Bar/Tavern/Saloon** – a business where alcoholic beverage is served and consumed, with food consumption incidental to alcohol beverages.

**Bed and Breakfast** – a private dwelling in which at least one and not more than four (4) rooms are offered for rent for transient occupancy, in which, overnight lodging and breakfast are offered to such occupant, and in which no public restaurant is maintained.

**Boarding Kennel** – a facility that accepts transient dogs and cats for short duration stays.

**Breeding Kennel** – a facility where dogs are bred for sale, with more than nine dogs sold in one year.

**Building** – a structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. See definition of structure.

**Building Height** – the vertical distance measured from the average elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs, and the average height between eaves and

ridge for gambrel, hip and gambrel roofs, but not including chimneys, spires, towers, tanks and similar projections.

**Campground, Vacation** –two (2) or more cabins, tents, travel or other camping trailers, shelters, or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonably or otherwise, not including a trailer park, boarding house, hotel or motel.

**Car Repair Shop** – a facility that repairs automobiles and like machinery.

**Car Sales New** – a NYS licensed business which primarily sells cars that are new.

**Car Sales Used** - a NYS licensed business which primarily sells cars that have had previous owners.

**Car Wash** – a facility that manually or mechanically cleans the exteriors, and possibly the interiors of cars.

**Cemetery** – burial ground for human remains.

**Church** – building where religious worship occurs owned by an IRS recognized religion. Is allowed to have accessory uses such as Sunday schools and church halls.

**Day Care Center** – facility that tends to and may provide education to three or more children unrelated to the provider on a fee basis.

**Density** – the dwelling units per square acre allowed under Chapter 4 Area and Bulk Regulations.

**Dock/Launching areas** – facilities to tie up boats or to place boats, either car top or trailer into rivers, lakes or ponds.

**Dormitories** – a residence owned by an institution or business that houses multiple individuals that are usually students or employees of the institution or business. May provide food service as part of the usage.

**Drive-Thru Commercial** – a commercial, restaurant or retail facility that provides service through a window to occupants in an automobile.

**Edge of roadway pavement** – edge of blacktop; does not include ditches, swales and embankments.

**Farm Bed and Breakfast** – a bed and breakfast facility located on a working farm.

**Farm Occupation** – a business run by a farmer or his family member(s) on farm property that is incidental and not necessarily related to the farm business. The farm occupation, if not located in a barn or other existing outbuilding, is limited to a new building of 5,000 square feet in area.

**Farm Stand large** – An enclosed building that sells produce from the landholder and from off-site producers. The large farm stand is likely to have multiple customers regularly.

**Farm Stand small** – a table or shelter that sells produce from the landholder and neighboring properties.

**Field crops** – the growing of fruits and vegetables outdoors for food, fodder, and grain. Includes hay and straw fields.

**Finished grade** – the elevation at which the finished surface of the surrounding lot, either natural or upon completion of any change in contour, intersects the walls and supports of a structure.

**Fire & Police Station** – facility for emergency response personnel and equipment, including garaging of vehicles. Also includes ambulance services.

**Fish and Game Club** – a members-only facility that provides hunting and fishing access, as well as training, target range and other amenities to its sportsmen members

**Food production** – a facility that manufactures food products from raw or semi-processed food stocks.

**Forestry** – the management, including logging or timber harvesting of 100 trees or more, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration and/or maintenance of wood roads, skid ways, landing areas, fences and forest drainage systems.

**For Profit Educational** – classrooms that provide incidental education and/or training, such as dance studios, karate, tutoring facilities, private sports training offices and classrooms. Does not include riding academies.

**Fuel Storage** – a facility that stores fuel oil, kerosene, gasoline or propane for delivery to businesses and/or houses.

**Furniture Production** – a facility that manufactures furniture, including cabinetry.

**Gas Station** – a facility where gasoline and other automotive fuels are sold retail, with minor repairs and maintenance to automobiles allowed.

**Greenhouses** – the commercial growing of plants in traditional glass or temporary greenhouses.

**Group Homes** – a residence that houses several unrelated individuals, generally with similar needs.

**Health Care facility** – medical offices, hospital, health care clinic,

**Heavy manufacturing** – a facility that creates a product by fabrication, alteration, processing, finishing, or assembly of raw materials and packaging, warehousing, and storage of articles in quantity, where noise, fumes, glare or vibration are discernable at property's edge.

**Heliport** – facility maintained to provide for the landing of helicopters. Does not include fueling.

**Highway garage** – a municipally owned facility for the storage and maintenance of highway maintenance equipment, de-icer storage, highway personnel facilities, and offices.

**Hike/Bike trails** – trails for non-motorized locomotion.

**Home Occupations, Major** – any service or business conducted entirely within a dwelling or customary accessory structure and carried on by its residents that includes the parking or more than one business vehicle, regular parking or more than one customer at a time, outdoor storage of goods, or loud noise or odor discernable beyond the property boundaries.

**Home Occupations, Minor** – any service or business conducted entirely within a dwelling or customary accessory structure and carried on by its residents that does not include the outside storage of goods, parking of more than one business vehicle or the regular parking of more than one customer at a time.

**Homeless Shelters** – a residence that provides housing on a daily or longer basis to those without shelter. May be male-only and women and children-only.

**Hotel** – a building or any part thereof which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances, and may contain one or more dining rooms.

**Indoor Entertainment** – includes bowling alleys, arcades, roller skating rinks, movie theaters, stage theaters, concert halls, soccer arenas, enclosed sports arena

**Junkyard** – use definition from town’s law.

**Landfill** – a lot or land area used primarily for the disposal or abandonment by burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**Large Commercial Use** – a commercial use is one which is undertaken for business purpose rather than hobby, recreational or other purpose in which a building is more than 5,000 square feet.

**Light manufacturing** – a facility that creates a product by fabrication, alteration, processing, finishing, or assembly of raw materials and packaging, warehousing, and storage of articles in quantity, where noise, fumes, glare or vibration from the facility are indiscernible outside the building or at property’s edge.

**Lot** – a parcel of land having defined boundaries and entirely owned by the same party or parties.

**Lot area** – the total area of a lot within lot lines.

**Lot of Record** – a legally existing lot at the time of the adoption of this local law duly filed and recorded in the Rensselaer County Clerk’s Office as either an individual parcel of land or part of an approved subdivision.

**Lot Width** – the width of a lot at the front building line of a structure or proposed structure

**Machine Shop/Repair Shop** – a facility that repairs motors and small engines, machines metal for use in parts

**Minimum Front Setback** – the smallest distance allowed between the edge of roadway pavement and structures built upon the lot.

**Minimum Lot Area** – the smallest lot size allowed in a particular zoning district.

**Minimum Rear Setback** – the smallest distance allowed between the rear property line and structures built upon the lot.

**Minimum Side Setback** – the smallest distance allowed between the side property line and structures built upon the lot.

**Mining – aggregate** – the removal of rock for sale and placement or use off-site.

**Mining – sand & gravel, large scale** – the removal of 750 cubic yards or 1,000 tons of sand, gravel or soil per year for sale and placement off-site requiring a mining permit from the New York State Department of Environmental Conservation.

**Mining – sand & gravel, small scale** – the removal up to 750 cubic yards or 1,000 tons of sand, gravel or soil a year for sale and placement off-site.

**Mobile Home Park** – any lot, parcel, tract of land or portion thereof, together with the open space and facilities required by Local Law, whereon two or more mobile homes are parked or located, or which is planned and improved for the placement of mobile homes.

**Motel** – a building or any part thereof which contains living and sleeping accommodations for transient occupancy and has separate entrances for each accommodation.

**Multi-family** – a building containing more than two housing units, generally owned by one party, but units can be owned separately as a condominium.

**Municipal Building** – building owned by the Town of Hoosick, Village of Hoosick Falls, Rensselaer County, State of New York or United State federal government in which regular governmental business occurs, including town/village/county offices and community/senior centers

**Museum** – facility devoted to the procurement, care, study, and display of objects of lasting interest or value.

**Non-complying structure, lot or parcel** – an existing structure or parcel of land which does not comply with the district regulations for lot area, width or depth; front, side or rear setbacks; maximum height; or lot coverage after the enactment or amendment of this local law.

**Non-complying use** – an existing and otherwise lawful use which does not conform to the applicable use regulations for the district in which such use is located after the enactment or amendment of this local law.

**Not-for-Profit school** – primary and secondary school owned or run by a school district or private, not-for-profit organization.

**Nursery** – the growing of trees, bushes and flowering plants and sale of such plants.

**Nursing Home** – a facility that provides long-term residential and medical care to its residents

**Outdoor Entertainment** – includes drive-in theaters, miniature golf courses, tubing facilities, driving ranges, open sports arena, race track, go-cart racing,

**Paper/cardboard production** – a facility that manufactures paper or cardboard from raw or recycled materials.

**Permitted use** – a specific use noted in Chapter 3 of this Local Law, or similar use, for which land, lots, building or structures may be used, occupied or maintained by right.

**Personal services** – the workplace of occupations such as barber, hairdresser, personal appearance specialist, masseuse/masseur, tattoo parlors, tanning salon, piercing parlor, etc.

**Pet cemetery** – a burial ground for animals in which the plots are purchased or leased by the pet owner from a third party.

**Power plant – garbage** – a facility that creates electricity from the burning of garbage or wastes.

**Power plant – gas, oil & coal** – a facility that creates electricity from the burning of fossil fuels for sale into the power grid.

**Power plant – hydro** – a facility that creates electricity from water driven generators for sale into the power grid.

**Power plant – nuclear** – a facility that creates electricity from nuclear fission or fusion.

**Power generator – windmills, personal** - a facility that creates electricity from a wind-driven generator where the electricity created is used primarily for by a household or business and incidentally sold to the electrical power grid.

**Power generator – windmills, commercial** - a facility that creates electricity from wind-driven generators where the electricity is primarily sold to the electrical power grid.

**Professional Offices** – the workplace of occupations including doctors, dentists, engineers, architects, real estate agents, surveyors, stock brokers and other such similar occupations.

**Property line** – also lot line – the line dividing one premises or lot from another, or from a road or other public space.

**Public Parks & Playgrounds** – lands whose primary purposes are passive or active recreation, including soccer and ball fields.

**Restaurant** – an establishment whose principal business is the sale of food to customers in a ready-to-consume state, and whose principal method of operation includes the following characteristics:

- a. Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee at the same table or counter at which food and beverage are consumed; and/or
- b. A cafeteria-like operation where food and beverage generally are consumed within or adjacent to the restaurant building.

**Riding Stables and Academies** – facilities that board for fee five or more horses and may provide training on riding and horsemanship.

**Road Centerline** – the double yellow line if the highway is striped, or the center of the driving surface if a roadway is unstriped.

**Sawmills/lumbermills** – a permanent facility that creates lumber from raw trees, or that creates or refines dimensional lumber.

**Self-storage Units** – a facility that rents multiple individually accessible and contained unheated storage areas.

**Single Family attached** – a dwelling that contains one housing unit, attached to another dwelling with a common wall.

**Single Family detached** – a dwelling that contains one housing unit, not attached to another with a common wall.

**Slaughter facility** – a commercial facility that slaughters livestock for production of meat and meat products for human consumption.

**Small Retail Commercial** – A commercial use is one which is taken for business purpose, rather than hobby, recreational, educational or other purpose in which a building is less than 5,000

square feet.**Special Events** – events where 250 or more visitors attend on a non-regular basis. Can be a fair, widely advertised special sale or auction, concert, sporting event or festival.

**Structure** – a combination of materials assembled, constructed or erected at a fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, solar collectors, antennae, swimming pools, gasoline pumps, billboards, signs and mobile dwellings.

**Telecommunications Tower** – *use from Telecommunications Tower Law.*

**Transportation terminal** – a facility that receives and ships out goods and packages, also may include truck cleaning and simple maintenance.

**Two Family** – a house that contains two housing units, generally owned by one party.

**Utility Right-of-Way** – Land on which any public utility use, equipment or structure, other than local transmission facilities, utility poles, or collection or distribution pipes are located. Does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law.

**Veterinary Clinic** – a facility that provides medical services to animals, birds and other non-human fauna.

**Youth Detention Facility** – a public or private facility that provides secure housing and education to individuals under age 21 that have been remanded to the facility under court order.

**Zoo** – the keeping of non-domestic and other animals for viewing, research, preservation and breeding, under a DEC permit. (listed in the old zoning as Game Farm)

## Chapter 14: SOLAR ENERGY SYSTEMS

### Solar Energy Systems

#### 14.1 Authority

These regulations are adopted pursuant to sections 261-263, inclusive of the Town Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the Town of Hoosick (hereinafter “Town”) and to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.

#### 14.2 Statement of Purpose

- A. These regulations are adopted to advance and protect the public health, safety, and welfare of the Town and its residents, including:
1. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
  2. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
  3. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems; and
  4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

#### 14.3 Definitions Specific to Chapter 14

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**FARMLAND OF STATEWIDE IMPORTANCE:** Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**GLARE:** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

**NATIVE PERENNIAL VEGETATION:** native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or

regulated invasive species as determined by the New York State Department of Environmental Conservation.

**POLLINATOR:** bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND:** Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

**SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 4,000 square feet and that generate up to 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity. A Solar Panel is also a Solar Thermal Panel, which is a panel capable of collecting solar energy and converting such energy to heat water or for the production of heat energy.

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

**14.4 Applicability**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Hoosick after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5 % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town Zoning Law and other applicable Town Codes and Local Laws.

**14.5 General Requirements**

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- C. Issuance of permits and approvals by the Planning and Zoning Boards shall include review pursuant to the State Environmental Quality Review Act codified at ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).

**14.6 Permitting Requirements for Tier 1 Solar Energy Systems**

- 1. All Tier 1 Solar Energy Systems that use the electricity onsite or offsite are permitted by right, permitted by right with site plan review, require a special permit with site plan review or not permitted as an accessory use in the zoning land use districts as set forth on the chart below.

H	LIC	RR	AR	CRM	HO	FFO	DMZ
P*	P*	P*	P*	P*	SP*	SP*	P*

- P – Permitted by Right
- SP – Requires a Special Permit
- X – Not allowed
- \* - Requires Site Plan

Such approval is subject to the following conditions for each following type of Solar Energy Systems:

**A. Roof-Mounted Solar Energy Systems**

- 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
  - a. Solar Panels and Solar Thermal Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
  - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - c. Solar Panels and Solar Thermal Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - d. Solar Panels and Solar Thermal Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- 2) Glare: All Solar Panels shall have anti-reflective coating(s).
- 3) Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-Integrated Solar Energy Systems that use the electricity onsite or offsite shall be shown on the plans submitted for the building permit application for the building containing the system and are permitted by right, permitted by right with site plan review, require a special permit with site plan review or not permitted as an accessory use in the zoning land use districts as set forth on the chart below when attached to any lawfully permitted and approved building or structure.

H	LIC	RR	AR	CRM	HO	FFO	DMZ
P*	P*	P*	P*	P*	SP*	SP*	P*

**14.7 Permitting Requirements for Tier 2 Solar Energy Systems**

- A. All Tier 2 Solar Energy Systems that use the electricity onsite or offsite shall be permitted as of right, permitted by right with site plan review, require a special permit with site plan review or not permitted as an accessory use in the zoning land use districts as set forth on the chart below.

H	LIC	RR	AR	CRM	HO	FFO	DMZ
P*	P*	P*	P*	P*	SP*	SP*	P*

P – Permitted by Right

SP – Requires a Special Permit

X – Not allowed

\* - Requires Site Plan

B. Height and Setback: Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district, and in addition shall be a minimum of 30 feet from any Town, County, State or federal right of way, or road, or property boundary line or road. Side and side setbacks shall be 30 feet. The maximum height for Ground Mounted Residential Solar Energy System shall be 20 feet.

C. Visual Impact: All such Systems in H, RR, CRM, AR, HO districts shall be installed in the side or rear yards, so as to minimize the visual impact of such Systems and preserve the character of such districts.

D. Glare: All Solar Panels shall have anti-reflective coating(s).

E. Screening and Visibility:

- 1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
- 2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

F. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

#### 14.8 Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a **special use permit**, require a special permit with site plan review or not permitted as an accessory use in the zoning land use districts as set forth on the chart below, subject to the requirements set forth in this Section, including but not limited to, site plan approval. Applications for the installation of such Solar Energy Systems shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Hoosick Zoning Board of Appeals (hereinafter “Zoning Board”) for its review and action, which can include approval, approval with conditions, and denial. All such applications are subject to site plan application requirements set forth in this Section.

H	LIC	RR	AR	CRM	HO	FFO	DMZ
SP*							

P – Permitted by Right

SP – Requires a Special Permit

X – Not allowed

\* - Requires Site Plan

A. Applications for the installation of Tier 3 Solar Energy System shall be:

- 1) reviewed by the Building Inspector for completeness. Applicants shall be advised within 10 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 2) subject to a public hearing to hear all comments for and against the application. The Zoning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by certified first class mail, return receipt requested to adjoining landowners or landowners within 500 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Zoning Board at the public hearing.
- 3) referred to the Rensselaer County Planning Department pursuant to General Municipal Law § 239-m if required.

upon closing of the public hearing, the Zoning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Zoning Board and applicant.

B. Special Use Permit General Requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions:

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 Tier 3 Solar Energy System signed by a Professional Engineer or Registered Architect 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. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
5. Decommissioning Plan. To ensure the proper removal of such Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Solar Energy System can no longer be used or has not been used for a period of 12 months, it shall be removed by the

applicant or any subsequent owner. The plan shall demonstrate 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. The plan shall also include an expected timeline for execution. 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. Removal of such Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

6. A landscape plan that will provide neatly situated screening consistent with the line of sight and flow of the terrain to shield the solar panels from sight as much as is practicable as shall be determined by the Zoning Board.
7. An appropriate plan of access and training shall be submitted to and approved by the Planning Board for allowing access and providing safety training to all applicable EMS, Fire Departments, Police Departments and any other applicable responsive agencies.

C. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

D. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

E. Signage.

- 1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet and shall be exempt from the requirements of the Town of Hoosick Sign Law.
- 2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

F. Glare. All Solar Panels shall have anti-reflective coating(s).

G. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

H. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

I. Decommissioning.

1) As set forth in 14.8(B)(5) above, Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year 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 as set forth in Section 14.10(b) herein.

3) Security.

- a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2 % annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 14.10(b) and 14.10(c) herein.

J. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- 9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

#### K. Special Use Permit Standards.

- 1) Lot size
  - a. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
- 2) Setbacks
  - a. The Tier 3 Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
- 3) Height

- a. The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
- 4) Lot coverage
- a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
    - I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
    - II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
    - III. Paved access roads servicing the Solar Energy System.
  - b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.
- 5) Fencing Requirements. All solar panels, supportive structures and mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- 6) Screening and Visibility.
- a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
  - b. Solar Energy Systems larger than 10 acres shall be required to:
    - I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
    - II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

- i. The screening & landscaping plan recommended by a landscape architect shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

7) Agricultural Resources. For projects located on agricultural lands:

- 1) Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50 % of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed a minimum of 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.

- 2) To the maximum extent practicable, Tier 3 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.
- 3) Tier 3 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.

L. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the code enforcement officer of such change in ownership or operator within 30 days of the ownership change.

#### **14.9 Safety Standards Applicable to Tier 1, Tier 2 and Tier 3 Solar Energy Systems**

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level

acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

#### **14.10 Permit Time Frame and Abandonment and Decommissioning**

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for. 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 or Zoning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may 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 360 days of notification.

C. 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.

#### **14.11 No Interference with Use**

It shall be a violation for a neighboring property owner to erect a structure, fence or to install plantings or ornamental landscaping which will interfere with neighboring property owner's Solar Energy System and/ or the Solar Panels ability to collect solar energy.

#### **14.12 Enforcement**

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town.

### **14.13 Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.

## **Chapter 15: AMENDMENTS AND APPLICABILITY**

15.1 This Local Law or any part thereof, including the Land Use District Map, may be amended, supplemented, or repealed by the Town Board as provided by the Municipal Home Rule Law and Sections 264 and 265 of the Town Law.

### **15.2 Amendment Initiation**

An amendment to this Local Law may be initiated in one of three ways:

15.2.1 By the Town Board upon its own motion;

15.2.2 By resolution of the Planning Board, filed with the Town Clerk, recommending change or repeal of specific provisions of this Local Law, and

15.2.3 By petition signed and acknowledged by any resident or property owner in the Town.

### **15.3 Report of the Planning Board**

All proposed amendments, supplements, or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendations. The Planning Board shall submit its report within forty-five (45) days after receiving such referral.

### **15.4 Town Board Procedure**

The Town Board, by resolution, shall fix the time and place of a public hearing on the proposed amendment and provide notice as follows:

#### **15.4.1 Public Notice and Hearing**

15.4.1.1 By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Town, specifying:

15.4.1.1.1 The nature of the proposed amendment;

15.4.1.1.2 The land or district affected; and

15.4.1.1.3 The date, time and place where the public hearing shall take place.

15.4.1.2 By providing a copy of such notice to any proposed amendment affecting property within five hundred (500) feet of any other such municipality to the Clerk of such municipality at least ten (10) calendar days prior to the date of the public hearing.

#### **15.4.2 Required Referral**

The Town Board shall transmit a full statement of any proposed amendment, either map or text, that meets the referral requirements of Section 239 (l) and (m) of the General

Municipal Law to the Rensselaer County Economic Development and Planning Bureau for its review and recommendations. No action shall be taken by the Town Board on the proposed amendment until a recommendation has been received from said Bureau or thirty (30) calendar days have elapsed since said Bureau received the full statement.

#### 15.4.3 Compliance with the New York State Environmental Quality Review Act

Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance of the proposal in accordance with Article 8 of the Environmental Conservation Law and the Rules and Regulations adopted there under.

#### 15.4.4 Town Board Action

The Town Board may approve any such proposed amendment by a majority vote, except that a favorable vote of a majority plus one shall be required if:

15.4.4.1 The action being taken is contrary to the advisory recommendation received from the Rensselaer County Economic Development and Planning Bureau under the provision of Section 239 (l) and (m) of the General Municipal Law; or

15.4.4.2 In accordance with the provisions of Section 265 of the Town Law, a protest against such amendment has been duly signed and acknowledged by the owners of at least twenty percent (20%) of the land area included in such proposed amendment, or of land immediately adjacent extending one hundred (100) feet there from, or of land that is directly opposite, extending one hundred (100) feet from the street frontage of the land included in the proposed amendment.

#### 15.4.5 Conformance with Town Comprehensive Plan

In all cases where the Town Board shall approve an amendment to the Zoning Map, said Board shall find, for reasons fully set in its resolution, such amendment to be in conformity with the Town's Comprehensive Plan.

#### 15.5 Interpretation; Conflict with Other Laws

The provision of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare, and protection of the environment. Whenever the requirements of this Local Law are at variance with the requirements of any lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

#### 15.6 Separability

Should any section or provision of this Local Law be decided by the courts to be unconstitutional or otherwise invalid, such decisions shall not affect the validity of this Local Law as a whole or any other part of this Local Law.

#### 15.7 Periodic Review Required

At intervals of not more than five (5) years, the Planning Board and Zoning Board shall conduct a review of the provisions of this Local Law, and shall submit a report of the review to the Town Board, recommending such changes or amendments, if any, which may

be desirable in the interest of environmental protection, public safety, health, convenience, necessity or welfare. The Planning Board's failure to perform such review shall not affect the validity of any provision of this Local Law.

#### 15.8 Effective Date

This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State of the State of New York in accordance with applicable provisions of the Municipal Home Rule Law.