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ARTICLE I
Intent, Applicability, and Definitions

100 - Title

The Town Board of the Town of Hopewell, County of Ontario, New York, adopts and enacts this Ordinance to be known as the "The Zoning Ordinance of the Town of Hopewell."

101 - Intent and Word Usage

The intent of this Ordinance is to require appropriate and orderly physical development of the Town of Hopewell; to promote the public health, safety, convenience and general welfare of its citizens; to classify, designate and regulate the location and use of buildings, structures and land for agricultural, mixed use, residential, commercial, industrial or other uses in appropriate places; and for this Ordinance:

A. To divide the Town into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement.

B. To empower the Town of Hopewell to implement this Ordinance as one of the key mechanisms for reaching the Town of Hopewell's long-term planning goals. As such, this Ordinance shall guide development to provide a balance of developed uses and open space throughout the Town; to create residential neighborhoods close to but not negatively impacted by recreation, employment and shopping opportunities; and to avoid the negative impacts of uncontrolled access and demands for inefficient expansion of public utilities.

C. To implement regulations in accordance with the Town of Hopewell's long-term planning goals contained in the Comprehensive Plan adopted in May 2006, or as updated by the Hopewell Town Board, and which regulations have been established with reasonable concern for the character of each district and its suitability for particular uses.

D. To use all terms as follows: For the purposes of this Ordinance, all terms used in the present tense shall include the future tense. All terms in the plural number shall include the singular number, and all terms in the singular number shall include the plural number, unless the natural construction of the term indicates otherwise. The term "person" shall include a firm, association, organization, partnership, trust, company or individual. The term "shall" is mandatory and directory. The term "may" is permissive. The term "used" includes the terms "designated, intended or arranged to be used".

102 - Applicability

A. Except as herein provided, no building or land in the Town of Hopewell shall be used or occupied nor shall any building or part thereof be erected, moved or altered unless in conformity with the regulations of this Ordinance. In the event of any unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this Ordinance, and the Certificate of Occupancy shall become void. Existing buildings, structures and uses, which do not comply with the regulations of this Ordinance, shall be allowed to continue,

102 - Applicability continued…

subject to the provisions of Article IX (Nonconforming Uses, Buildings and Lots) of this Ordinance.

B. The provisions of this Ordinance shall be separable in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, the Town of Hopewell shall amend such provision, and such judgment shall not affect any other property, building, or structure.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure.
3. If any clause, sentence, paragraph, section, article, chapter or part of this Ordinance or of any local law, or resolution included in this Ordinance now or through supplementation, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

C. This Ordinance shall become effective upon filing date with the New York Secretary of State.

103 - Definitions

ACCESSORY BUILDING – A building or pre-built structure which serves a principal building and is customarily incidental and subordinate to said principal building. It is subordinate in area, extent or purpose to the principal building served; it contributes to the comfort, convenience, or necessity of occupants of the principal building; and it is located on the same lot as the principal building.

ACCESSORY USE – A use customarily incidental to the principal use of a building.

ADULT – Any person 18 (eighteen) years of age or older. See MINOR.

ADULT BOOKSTORE – Any business having a substantial portion of its stock-in-trade books, magazines, pamphlets, pictures, drawings, photographs, motion picture films or sound recordings, or printed, visual and audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or any business having a substantial area of its establishment devoted to the sale and display of such material.

ADULT ENTERTAINMENT ESTABLISHMENT – Any business having as a substantial portion of its activity the presentation, characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities, of live shows, motion-picture films or sound recordings presented to a common audience in an enclosed common area; visual or audio material presented by coin or slug-operated, or electronically or mechanically controlled, still or motion-picture machines, projectors or other image-producing devices to 5 (five) or fewer persons per machine at any one time; any business serving food or beer, wine, or liquor whose entertainers or waiters and waitresses appear in a state that displays any specified anatomical areas; or any business that offers services requiring the client or customer to display any specified anatomical areas, except medical and health services establishments.

ADULT ENTERTAINMENT USE – Any person, establishment, business or use of such establishment (excluding the serving of alcoholic beverages) which, by the nature of its operation, is not or would not be open to the public generally due to the exclusion of any minor by reason of age or by operation of New York Statute Law.

ADULT PEEP SHOW – A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

ADULT THEATER – A theater that customarily presents motion pictures, films, videotapes or slide shows, that are open to the public generally but excludes any minor by reason of age whether or not they are accompanied by a parent or guardian.

ADULT USES – Any person, establishment or business involved in the viewing or dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or related to sexual activity or specified anatomical areas, including, but not limited to, any establishment that allows or promotes dancers, performers or employees, whether male or female, to display specified anatomical areas.

103 - Definitions continued…

AGRICULTURAL OR FARMING OPERATION – The use of a parcel of land for gain in the raising of agricultural products, trees, nursery stock, livestock, poultry or dairy products. Such use of a parcel may include necessary farm buildings, the storage of necessary equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including commercial horse boarding operations of at least 7 (seven) acres and 10 (ten) horses and timber processing, as defined by NYS Department of Agriculture and Markets. Such farm operations may consist of one or more parcels owned or rented land, which may be contiguous or noncontiguous to each other. It excludes the raising of fur-bearing animals, dog kennels, riding and commercial stables with less than 10 (ten) horses and 7 (seven) acres of land.

AGRICULTURE-BASED BUSINESS – Any business designed directly to support a farm, farm operation, or multiple farms and recognized as such a business by NYS Department of Agriculture and Markets Rules and Regulations. Agricultural Based Businesses may include, but are not limited to, Farm Markets, Farmers' Markets, Agri-tourism, and Direct Marketing businesses.

AGRICULTURAL TOURISM – Activities, including the production of maple sap and pure maple products made there from, conducted by a farmer on-farm for the enjoyment and/or education of the public, which activities primarily promote the sale, marketing, production, harvesting or use of the product of the farm and enhance the public's understanding and awareness of farming and farm life. Such activities are used as part of the direct marketing strategy of the farm operation; the primary purpose of the activity is to sell the farm's products/services, not to serve as a recreational use of the land; and the activity is sufficiently related to the farm operation.

ALLEY – A publicly or privately owned service-way less than 22 (twenty-two) feet in width providing a secondary means of access to abutting properties.

ALTERATION – As applied to a building or structure, any change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one location or position to another, or any alteration whereby a structure is adapted to another or different use.

ANIMAL HOSPITAL – A facility providing animal medical care run by a licensed Doctor of Veterinary Medicine (DVM).

ANIMAL SALES and GROOMING – Retail sales of domestic and exotic animals, bathing, trimming services and boarding of said animals.

APARTMENT BUILDING – A building arranged, intended or designed to be occupied by 3 (three) or more families living independently of each other, for which rent is charged, but having common hallways and entrances.

103 - Definitions continued…

AREA OF SPECIAL FLOOD HAZARD – The land in the floodplain within a community subject to a 1 (one) percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 - 99, V, VO, VE or V1 - 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

ARCHITECTURAL FEATURE – A prominent or significant part or element of a building, structure or site.

ATTENTION-GETTING DEVICE – Any flag, streamer, spinner, light, balloon or similar device or ornamentation used for purposes of attracting attention for promotion.

AWNING – A movable ornamental roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials, including but not limited to, fabrics and/or plastics.

BANNER – Any sign of lightweight fabric or similar material mounted permanently to a pole or a building by one or more edges.

BAR OR TAVERN – A business establishment with a NYS Liquor License authorizing sale of liquor for on-premises consumption in which liquor sales represent 25 (twenty-five) percent or more of sales receipts.

BASEMENT – That portion of a building that is partly or completely below grade.

BED AND BREAKFAST – An owner-occupied residence resulting from a conversion of a single-family dwelling, used for providing overnight accommodations and a morning meal to not more than 10 (ten) transient lodgers and containing not more than 5 (five) bedrooms for such lodgers.

BERM – An earthen mound designed to provide visual barrier and/or screen undesirable views and/or decrease noise.

BILLBOARD – A surface whereon advertising matter is set conspicuously in view and which advertising does not apply to premises or any uses of premises wherein it is displayed or posted.

BOARDING OR ROOMING HOUSE – An owner occupied dwelling where not less than 2 (two) or no more than 10 (ten) unrelated persons are furnished sleeping accommodations or lodged for a fee with or without meals.

BUILDING – Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or property, or intended for recreational or business activity.

BUILDING AREA – The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings; such areas computed by using outside building dimensions measured on a horizontal plane at ground level.

103 - Definitions continued…

BUILDING FRONTAGE – The width of a building or dwelling facing a street or public parking lot; in the case of a corner lot, it may be the length of the building that faces the principal street or length of wall that contains the primary entrance to the use therein.

BUILDING HEIGHT – The vertical distance from the average of the grade plane to the highest roof elevation at roof peak.

BUILDING PERMIT – A document issued by the Code Enforcement Officer authorizing various types of construction and uses for new buildings, relocated buildings, or alterations or additions to existing buildings, any of which shall comply with NYS and/or local codes, rules and/or regulations.

BUILDING, PRINCIPAL – A building constituting the main use of the lot on which said building is located.

BUSINESS OFFICE – A business establishment that does not offer, on the premises, a product or merchandise for sale to the public but offers a service to the public. However, personal services such as barber and beauty shops and repair services are not to be included within the definition of business offices.

BUFFER – A combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen incompatible land uses from each other and/or to protect wildlife habitats, wetlands, stream corridors and other significant environmental features.

BULK AND USE REGULATIONS – The maximum size of a building and its location on a lot as defined by density and dimension standards viewed as appropriate for the specific zoning district.

BULLETIN BOARD – See “SIGN, CHANGEABLE-COPY.”

CAMPGROUND – A parcel or portion of land used or intended to be used by 2 (two) or more tents, travel trailers, or other recreational vehicles on a temporary or seasonal basis and conducted as a business or as part of a public use or a private club.

CANDLE POWER – The unit for measuring the maximum intensity of light energy emitted by a directional lamp.

CANOPY – A fixed ornamental roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials, including, but not limited to, fabrics and/or plastics.

CARNIVAL – An amusement show, usually traveling from place to place, having sideshows, Ferris wheels, merry-go-rounds, games of skill or chance, etc.

CELLAR – A story partly underground and having more than 1/2 (one-half) of its clear height below the average level of the adjoining ground. A cellar shall not be considered when determining the permissible number of stories.

103 - Definitions continued…

CEMETERY – Property used for the interring of the dead.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE – A certificate which may be issued by the Code Enforcement Officer signifying that a parcel of land and/or building is being used in a lawful manner with respect to the provisions of the Hopewell Town Zoning Ordinance, and the NYS Uniform Code.

CHILD DAY CARE – Any child day care as defined and permitted under the regulations set forth by part 390 of NYS Social Services Law.

CIRCUS – An exhibition of wild animals and acrobatic acts, together with sideshows and vending concessions.

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

CLUB, LODGE, & PRIVATE MEETING HALL – Permanent, headquarters-type and meeting facility for an organization operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social and fraternal organizations; labor unions and similar organizations; political organizations; professional membership organizations; other membership organizations.

CLUSTER DEVELOPMENT – A method of subdivision of a plat or plats in which the Hopewell Town Zoning Ordinance is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands, including prime agricultural soils. (Town Law §278) See the Town of Hopewell Subdivision Regulations for additional details.

CODE ENFORCEMENT OFFICER – An official appointed by the Hopewell Town Board to administer and enforce all the provisions of the NYS Uniform Code, the State Energy Conservation Construction Code, and the regulations provided in this Ordinance. Duties of the Code Enforcement Officer are described in Article II (Administration) of this Ordinance.

COLLECTOR STREET – A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

COMMERCIAL SPEECH – Speech as related to sign regulations that identifies a business or a product.

103 - Definitions continued…

COMPLIANCE ORDER – An order to remedy, in writing, by the Code Enforcement Officer in response to any condition or activity found to exist in, on, or about any building, structure, or premise in violation of the Hopewell Town Zoning ordinance or the NYS Uniform Code.

CONDOMINIUM – The individual ownership of a dwelling unit in a multi-dwelling structure and/or development, including the undivided interest in common areas associated thereto. A condominium may include either a single or a multi-story dwelling under 1 (one) ownership.

CONFERENCE/CONVENTION CENTER – A building used for the gathering of groups of people or providing large-scale meeting space.

CONTRACTOR'S YARD – A parcel of land, structure or a combination thereof used for the storage of machinery, equipment and non-hazardous material required for construction.

CONVENIENCE STORE – Small commercial establishments, catering primarily to residents of nearby areas, providing frequently needed retail goods. A convenience store may include motor vehicle fuel sales.

COPY – Character, letters, or illustrations that can be changed or rearranged on a changeable-copy sign.

CREMATORIUM – A facility where human or animal remains are cremated.

CULTURAL USE FACILITY OR MUSEUM – Any building, room or area designed or utilized primarily for the presentation to the general public of live theater, dance performances, musical concerts, cinema, lectures, exhibits of various art forms or exhibits of cultural, academic, historical or scientific material.

CURB LEVEL – The average street grade established by municipal ordinance or, in the absence of an established grade, the mean level of the existing curb or of the lot at the street line.

DAYCARE CENTER – Any program or facility caring for children for more than 3 (three) hours per day per child, in which care is provided by a licensed child day care provider except those programs operating as a group family day care home. A family day care home, and a school-age child care program as defined by §390.1 of the Social Services Law of the State of New York,

DEAD-END STREET or CUL-DE-SAC – A street or portion of a street with only 1 (one) vehicular traffic outlet.

DECIDUOUS – A plant with foliage that sheds annually.

103 - Definitions continued…

DEED OR TRACT RESTRICTIONS – Legal language recorded in an instrument in the chain of title for a lot which describes specific limitations or restrictions on the use of the property.

DENSITY STANDARDS – Standards which determine the measure of the quantity of a particular use allowed at a particular location. The 4 (four) basic measures include: dwelling units per acre, minimum lot sizes, floor-area ratio (FAR), and maximum height restrictions.

DISTRICT – See "ZONING DISTRICT"

DRIVE-IN FACILITY – A use or portion of a use which by design of physical facilities or by service or packaging procedures encourages or permits customers to receive a service or obtain a product which may be consumed or used in a motor vehicle on the premises or off-premises.

DWELLING – One room, or rooms connected together, constituting a separate, independent housekeeping establishment containing independent bathing, cooking and sleeping facilities, having a separate access to the outside and physically separated from any other dwellings that may be in the same building.

DWELLING, ATTACHED OR ROW – A single-family dwelling, with party walls separating it from adjacent dwelling units on both sides with fire resistive walls as required by the NYS Uniform Code.

DWELLING, MULTI-FAMILY – A building or portion thereof containing 3 (three) or more dwelling units designed or used for occupancy by 3 (three) or more families living independently of each other.

DWELLING, SINGLE-FAMILY – A dwelling unit designed for or occupied exclusively by one or more persons living as a single, nonprofit housekeeping unit. The dwelling can consist of a modular home; or a lumber-constructed home on a permanent foundation, cellar, or basement.

DWELLING, TWO-FAMILY – A building containing 2 (two) dwelling units and used or intended to be used exclusively for occupancy by 2 (two) families living independently of each other, or 2 (two) single-family dwellings having a party wall in common.

DWELLING UNIT – The area within a dwelling arranged or designed to be occupied exclusively as a home or residence for not more than 1 (one) family. One or more rooms providing living facilities for 1 (one) family or housekeeping unit, including equipment for cooking, living and sleeping purposes and provisions for the same.

EASEMENT – The authorization by property owner for use by another, for a specified purpose, of any designated part of such property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER – A person licensed as a professional engineer by the State of New York.

103 - Definitions continued…

EXTERIOR ENTRANCE – A direct entrance from a public way to a habitable or occupied space.

FAMILY **–** One person or a group of persons living together as a single household occupying a dwelling unit.

FAMILY/CAREGIVER APARTMENT – A separate dwelling unit made part of a single-family dwelling in which shall reside an individual who is related by birth, marriage, or adoption to at least 1 (one) resident of the primary living unit of the dwelling, or a caregiver who is taking care of one or more individuals who are residing in the primary living unit.

FARMERS' MARKET - A publicly or privately operated, open air or enclosed establishment where primary agricultural products such as, but not limited to, vegetables, fruits, flowers, plants, meats, or handcrafted items are offered for sale by single or multiple vendors. The area dedicated to non-agricultural products sold shall not occupy more than 25 (twenty-five) percent of the total product display area.

FARM STAND, SEASONAL – A structure or vehicle whose principal use is the seasonal display and sale of agricultural products.

FENCE – A structure bounding an area of land designed to either limit access to the area or to screen such area from view, or both. The term “fence” shall include tennis court enclosures, backstops, and similar structures.

FLAG – Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity, or for decorative purposes.

FLAMMABLE LIQUID – As defined by the NYS Uniform Fire Prevention and Building Code.

FLOOD BOUNDARY – An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" (Flood Boundary and Floodway Map) delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD INSURANCE RATE MAP – An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of Special Flood Hazard and the Risk Premium Zones applicable to the community.

FLOOD INSURANCE STUDY – The official report provided by the Federal Emergency Management Agency. The report contains Flood Profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

FLOOD HAZARD BOUNDARY MAP (FHBM) – An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

103 - Definitions continued…

FLOOD-PROOFING – Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY-REGULATORY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

FLOOR AREA, TOTAL – Total floor area is the sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy, storage, or the conducting of business. Said areas shall be measured between the inside face of exterior walls or from the centerline of walls separating 2 (two) uses. Said areas shall not include areas below the average level of adjoining ground that may not be legally used as occupied or habitable space.

FLOOR AREA, GROSS – The sum of the gross horizontal areas of several floors of a building or buildings, measured from the exterior walls or from the center line of walls separating 2 (two) buildings will be used for the purpose of applying the requirements for off-street parking and loading for publicly used buildings as in the case of offices. For merchandising or service types of uses, "gross floor area" shall not include areas used principally for nonpublic purposes such as storage, rest rooms, fitting or alteration rooms or general maintenance.

FUELING STATION – See "MOTOR VEHICLE SERVICE STATION"

FULLY SHIELDED LUMINAIRE – A luminaire constructed and installed in such a manner that all light emitted by it, either directly or by a diffusing element, is projected below a horizontal plane through the luminaire's lowest light-emitting part.

FUNERAL HOME – A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GARAGE – A building utilized, designed, arranged, or intended for the housing of motor vehicles and in which no occupation, business or services for profit are performed.

GASOLINE STATION – A business that provides only gasoline sales and small convenience items.

GLARE – Excessive brightness in the field of view that is sufficiently greater than the brightness to which the eyes are adapted, said brightness thus causing annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

GOLF COURSE, PRIVATE – A recreation facility consisting of at least 9 (nine) holes, each with tee, green, and fairway, located on a parcel of land complying with the Minimum Lot Area and Setback Tables, as distinguished from golf driving ranges and miniature golf. Club membership is required in order to use the facility.

103 - Definitions continued…

GOLF COURSE, PUBLIC – A recreation facility consisting of at least 9 (nine) holes, each with tee, green, and fairway, located on a parcel of land complying with the Minimum Lot Area and Setback Tables, as distinguished from golf driving ranges and miniature golf. Club membership is not required to use the facility.

GREEN – An area located in a central position in the neighborhood and surrounded by streets and/or building lots on at least 3 (three) sides. It is designed and landscaped as a space for common neighborhood use.

GREENHOUSE, COMMERCIAL – A glass or plastic enclosed structure for cultivating plants that must have controlled temperature and humidity. Said structure is used for wholesale or retail purposes.

GREENHOUSE, PERSONAL – A glass or plastic enclosed structure for cultivating plants that must have controlled temperature and humidity. Said structure is not used for wholesale or retail purposes.

GREENSPACE – Any non-impervious vegetated surface.

HOME OCCUPATION – An accessory use customarily conducted within a dwelling or an accessory building by the residents thereof, which is clearly secondary to the use of the premises for residential purposes. Said accessory use offering skilled services to clients, and which use does not engage in the purchase, sale, or re-sale of economic goods, may be deemed a home occupation.

HOMEOWNER'S ASSOCIATION – An organization of residential property owners residing within a particular development which owners contractually agree to provide, reserve and maintain commonly owned facilities and/or open space, in accordance with NYS Law.

HORTICULTURAL USE – Any land or greenhouses used for the commercial production, sale, or research of vegetative products.

HOSPITAL – Unless otherwise specified, the term "hospital" shall include sanitarium, preventorium, clinic, rest home, convalescent home and any other place for the diagnosis, treatment, or other care of human ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL – A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms, and recreational facilities.

HOUSEHOLD PET – A small, domesticated animal or fish kept for pleasure and not for utility or commercial purpose. Pets include animals such as, but not limited to, dogs, cats, pot-bellied pigs, hamsters, non-venomous snakes, fish and non-fowl birds (not raised for meat or eggs).

IMPERVIOUS SURFACE – The horizontal area of ground covered by a surface through which water cannot infiltrate, such as buildings, asphalt driveways or parking areas.

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INDUSTRIAL WIND TOWER FACILITIY (WIND ENERGY FARM) – An energy-generating facility which consists of one or more wind turbines, or other such device, and its related or supporting facilities, said energy facility which produces electric power from wind and which is furthermore either: (a) connected to a common switching station or (b) constructed, maintained or operated as a contiguous group of devices.

INN – A commercial facility for the housing and feeding of transients.

JUNKYARD – A place where waste or discarded or salvaged materials are bought, recycled, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled or where automobile wrecking takes place, but not including pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing.

KENNEL – A parcel of land and building where 4 (four) but no more than 10 (ten) animals are kept, whether by owners of the pets or by persons providing facilities and care, whether or not for compensation and/or for breeding purposes, but not including a small animal hospital, clinic or pet shop.

LABORATORY, RESEARCH/EXPERIMENTAL – A building or group of buildings in which facilities are located for scientific research, investigation, materials testing, or experimentation, but not facilities for the manufacture or sale of products.

LANDSCAPED AREA – An area of a Site Plan not consisting of structures or pavement. Landscaped area shall consist of those areas on a Site Plan that are planted, seeded or provide similar vegetative or landscaped cover, including ponds.

LIGHT INDUSTRY – See "LIGHT MANUFACTURING."

LIGHT MANUFACTURING – A facility which manufactures, designs, assembles, or processes a product for wholesale or retail. The industry does not produce high volumes of polluting wastes and is compatible with other uses of the district.

LIGHT TRESPASS – The shining of light produced by a luminary beyond the boundaries of the property on which the luminary is located.

LIVESTOCK – Animals commonly raised for food, fiber, work, or other commercial purposes, including, but not limited to, cattle/cows, poultry, mules, llamas, alpacas, sheep, goats, swine, horses and ponies.

LOADING SPACE – An area, other than a street or alley, on the same lot as a building or a group of buildings, permanently reserved and maintained for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOGO – Any picture, shape or drawing, with or without letters or words, used to identify a product, service, business or organization.

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LOT – A parcel of land considered as a unit, devoted to a certain use, or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessory use and open spaces belonging to the same. A lot, within the meaning of this Ordinance, may or may not be a lot as shown on a subdivision plot or assessment record.

LOT ALTERATION – Any change in the dimension or orientation of a lot line not resulting in or constituting subdivision or re-subdivision as defined herein, where there is no increase in the number of lots and no reconfigured lot is in excess of 10,000 (ten thousand) square feet in area.

LOT AREA – An area of land, not inclusive of the public right-of-way, which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres.

LOT COVERAGE – The percentage of the lot area covered by impervious surfaces, such as buildings or structures, parking areas, driveways and walkways.

LOT DEPTH – The mean horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

LOT LINE – The property line bounding the lot.

LOT WIDTH – The mean width measured at right angles to the front lot line; or for wedge-shaped lots, flag-shaped lots or lots with side boundary lines not perpendicular to the front lot line, the width measured at the required minimum front setback.

LUMEN – The unit used to measure the actual amount of light which is produced by a lamp. One foot-candle is one lumen per square foot.

LUMINAIRE – A complete lighting system that includes the lamp and fixture.

MACHINE SHOP – A building used for the purpose of fabricating metal parts for various applications.

MACHINERY AND TRANSPORTATION EQUIPMENT, SALES, SERVICE AND REPAIR –
A building or collection of buildings used for the purposes of selling, servicing and repairing machinery and transportation equipment.

MANUFACTURED HOME COMMUNITY – A parcel of land on which, for purposes of collecting rent or other monetary gain, 2 (two) or more manufactured homes are placed.

MANUFACTURED HOME – A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), *Manufactured Home Construction and Safety Standards*, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in traveling mode, is 8 (eight) feet or more in width or 40 (forty) feet or more in length, or when erected on-site, is 320 (three hundred twenty) square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected

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to the required utilities and includes the plumbing, HVAC, and electrical systems therein. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME, DOUBLE-WIDE – A manufactured home consisting of 2 (two) sections, combined at the site, with a combined width of no less than 20 (twenty) feet, while still retaining their individual chassis for possible future movement, and complying with the federal requirements specified in the "Manufactured Home" definition. This definition does not include modular homes.

MANUFACTURING INDUSTRY – Any factory, shop, yard, warehouse, mill or other nonresidential premises utilized in whole or in part for the processing, preparation, production, containerizing, storage or distribution of goods, wares, commodities, parts, materials, electricity and the like. The processing, preparation and production activities customarily deal with man-made or raw materials and other manufactured items which are altered, restored or improved by the utilization of biological, chemical or physical actions, tools, instruments, machines or other such similar natural, scientific or technological means. "Manufacturing" shall also include the handling of any waste products and materials. Manufacturing processes and treatments include, but are not limited to, such operations as mixing, crushing, cutting, grinding and polishing; casting, molding and stamping; alloying and refining; assaying, cleaning, coating and printing; and assembling and finishing.

MARQUEE – Any hood, awning or permanent construction that projects from a wall of a building, usually above an entrance.

MASSING – The sense of bulk, size, and shape of a structure, usually perceived by reference to the surrounding space and nearby structures and natural features such as trees.

MEAN SEA LEVEL – For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MINIMUM LOT AREA AD SETBACK TABLES – The maximum size of a building and its location on a lot as defined by density and dimension standards viewed as appropriate for the specific zoning district.

MINING – The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or municipal use; and the disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MINOR – Any person under the age of 18 (eighteen) years.

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MIXED-USE – A development or redevelopment that allows for more dense development in a single structure or lot and includes a mix of uses including, but not limited to, residential, commercial and industrial. A typical mixed-use structure would have retail or offices on the first floor and offices, residences, and/or studios on the upper floors.

MOBILE HOME – A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI, or a specific state standard, transportable in one or more sections which, in the traveling mode, is 8 (eight) feet or more in width or 40 (forty) feet or more in length, or when erected on-site, is 320 (three hundred twenty) square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, HVAC, and electrical systems therein. The term "manufactured home" shall not include travel trailers or any self-propelled recreational vehicle.

MODULAR HOME – A factory-manufactured dwelling unit, conforming to applicable provisions of the NYS Uniform Code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or final assembly and permanent installation.

MOTEL – A building or group of buildings having 2 (two) stories or less, whether detached or in connected units, used as individual sleeping units designed primarily for transient occupancy and providing accessory off-street parking and, if desired, restaurant facilities. The term "motel" shall also include tourist courts, motor lodges and similar uses.

MOTOR HOME – A portable, temporary abode designed for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle, and measuring at least 227 (two hundred twenty-seven) inches in length, 85 (eighty-five) inches in height, and 80 (eighty) inches in width.

MOTOR VEHICLE – Any vehicle propelled or drawn by power, other than muscular power, originally intended for use on public roads except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability (b) vehicles which run only upon rails or tracks and (c) snowmobiles and all-terrain vehicles as defined in Article 47 and Article 48-B of the NYS Vehicle and Traffic Law, respectively. The term "motor vehicle" shall also exclude agricultural and construction equipment.

MOTOR VEHICLE REPAIR – Engine repair, body work, frame straightening, painting, upholstering, steam cleaning, electrical work, tune-ups and all other vehicle repair services not specifically listed in the definition of motor vehicle service stations.

MOTOR VEHICLE SALES AREA – Any building, land area or other premises used for the display or sale of 6 (six) or more of the following vehicles within the same 180 (one hundred eighty) day period: new or used automobiles, motorcycles, trucks, trailers or boats. The term, "Motor Vehicle Sales Area" shall not include any repair work other than warranty and other repair service conducted as an accessory use on such premises.

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MOTOR VEHICLE SERVICE STATION – Any building, land area or other premises, or portion thereof, used or intended for use for any one or a combination of the following activities:

1. Retail dispensing or sales of motor vehicle fuels.
2. Retail dispensing or sales of motor vehicle lubricants, including oil changing and chassis lubrication where substantial disassembly is not required.
3. Retail dispensing or sales of motor vehicle coolants.
4. Hand or machine-washing in a single-bay motor vehicle wash.
5. Incidental repair, or maintenance, or replacement of parts, such as windshield wiper blades, light bulbs, air filters, oil filters, batteries, belts, tires, fuses, lubrication of vehicles, and the like.

MOTOR VEHICLE WASH – Any building or premises, or portion thereof, the use of which is devoted to the business of washing motor vehicles for a fee, whether by automated cleaning devices or otherwise.

MOTOR VEHICLE WRECKING – The dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

MUNICIPAL ENGINEER – The engineer designated by the Hopewell Town Board or a position assigned with similar duties.

NATURE PRESERVE – A public or private area designated for the preservation of unique or locally significant natural resources for the purposes of protection and public education.

NONCOMMERCIAL SPEECH – Speech as related to sign regulations that presents a personal, a political, and/or a religious point of view, or a message that is not categorized as COMMERCIAL SPEECH.

NONCONFORMING BUILDING – A lawfully pre-existing building which, in its design or location, does not conform to the regulations of this Ordinance for the district in which it is located.

NONCONFORMING LOT – A lot of record lawfully existing at the date of adoption of this Ordinance or any amendment thereto which does not have the minimum width or depth, or contain the minimum area for the district in which it is located.

NONCONFORMING USE – Any use of any building, structure or land lawfully existing at the date of adoption of this Ordinance, or any amendment thereto, which does not conform to the use regulations of the district in which it is situated.

OFFICE BUILDING – A building that is divided into offices of either single tenant spaces or suites for the transaction of business other than for mercantile or manufacturing purposes where merchandise is on display and offered for sale. Offices used for a professional business, in part or in whole, will be classed as an office building.

ONE-HUNDRED YEAR FLOOD – See “BASE FLOOD.”

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OPEN SPACE – An unoccupied area open to the sky, on the same lot as a building.

OPEN SPACE, COMMON – Open space held in private ownership and regularly available for use by the occupants of more than 1 (one) building or group of buildings.

OPEN SPACE, PRIVATE – Open space held in private ownership and the use of which is normally limited to the occupants of 1 (one) building.

OPEN SPACE as USABLE OPEN SPACE – An area or areas of a lot or property, including required yards of green space, that meet any one of the following conditions:

1. Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor recreation or relaxation.
2. Landscaped, maintained or otherwise treated to create a setting appropriate to recreation or relaxation.
3. Accessible and usable by the general public, business patrons or residents of all dwellings or stores it is intended or required to serve.

ORNAMENTAL – A deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark, or shape, with a mature height generally under 40 (forty) feet.

OUTDOOR FURNACE – Any equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior or the heating of water for the hot water supply of a plumbing system.

OUTPATIENT HEALTH CENTER – A business establishment providing primarily health services, such as emergency care, laboratory facilities or minor surgery to ambulatory patients rather than diagnostic treatment typical of a doctor’s office.

OVERLAY ZONE – An additional layer of regulations related to specific constraints including, but not limited to, floodplain boundaries, historic landmarks, historic structures, or wetlands that supersede the restrictions of the underlying zoning district.

PARKING AREA or LOT – Any place, lot, parcel, or yard used in whole or in part for storing or parking 4 (four) or more motor vehicles under the provision of this ordinance.

PARKING GARAGE – A garage in which licensed motor vehicles, used for personal conveyance or conveyance of passengers, are parked.

PERFORMANCE BOND – A financial tool used to guarantee that in the event of a developer's or contractor's default, funds are available to finish the construction of a site improvement or infrastructure installation and ensure its proper functioning.

PERMIT HOLDER – The person to whom a Building Permit has been issued.

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PERSONAL SERVICE ESTABLISHMENT – A place primarily providing services oriented to personal needs including, but not limited to, beauty shops, shoe repair shops, household appliance repair shops, dry cleaning, laundry pick-up. Retail sales shall be allowed as incidental uses in personal service establishments.

PETITION – Any request made in writing.

PLACE OF WORSHIP – A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

PLANNED UNIT DEVELOPMENT (PUD) – A development designed in accordance with a single plan of compatible land uses and placement of buildings and mixed uses, any or all of which may not be listed permitted uses within the zoning district. A planned unit development may have multiple buildings on a single parcel, or may be designed as a cluster development that may not meet the minimum lot size requirement.

PLANNING BOARD – The officially established Planning Board of the Town of Hopewell.

PRIVATE AIRFIELD – An area where aircraft may take off or land, discharge or receive cargo or passengers, be repaired or serviced, take on fuel, or be stored, and shall include accessory uses or facilities which are commonly associated with this use. The airfield and all associated facilities shall comply with all applicable Federal Aviation Administration Regulations. Aircraft shall be limited to single-prop motors only.

PROFESSIONAL OFFICE – Premises where professional services are provided by medical practitioners, attorneys, architects, engineers, photographers, brokers, or other providers of business or personal services.

PROPERTY LINE – See "LOT LINE."

PUBLIC USE – Public park, school, and administrative use, cultural and government service building or other use of land relating thereto, typically exempt from zoning.

1. Any public park, playground, and recreational area authorized or operated by governmental authority.
2. Any school, college, university or institute of learning recognized by the NYS Education Department.
3. Any local, county, state and federal government office and building.

PUBLIC GARAGE – Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, with or without the sale of motor fuels.

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PUBLIC UTILITY – Any facility or related equipment including, but not limited to, all lines buried or aboveground, pipes, transformers, or poles performing an essential public service and subject to special governmental regulation. Nonessential components of public utility operations, such as general storage and maintenance facilities are excluded from this definition.

PUBLIC WAY – All areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, and parks, as well as the interior and area surrounding public buildings.

QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING – A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial operation and exclusive of the process of grading preparatory to the construction of a building or highway construction.

RECREATION, INDOOR COMMERCIAL – A business primarily devoted to the amusement of the general public including, but not limited to, theaters, bowling alleys, indoor amusement arcades and health clubs. Incidental food service is also included.

RECREATIONAL AREA – A space designed and used for active and passive participatory athletic and general recreation activities, including campgrounds.

RECYCLING FACILITY – A facility receiving and processing one or more types of recyclable material.

RECYCLABLE MATERIAL – Any material source-separated from the solid waste stream and limited to materials which can be recovered, processed and reused for the original or a different purpose, which shall include, but not be limited to, paper and paper products, cardboard, metals, glass, rubber, and plastic containers. In no event shall material contaminated by garbage, refuse, residue from source separation and/or other solid waste be considered a “recyclable material”.

REFLECTIVE SURFACE – Any material or device which has the effect of intensifying reflected light, including, but not limited to, Scotchlite (trademark), Day-Glo (trademark) or glass beads.

RELIGIOUS USE – A use of land and/or a structure incidental to the doctrines, practices, creed or rules of a religious denomination or organization.

RESIDENTIAL CARE FACILITY – A community-based residence under public, voluntary, nonprofit or proprietary sponsorship, which provides residential services to and twenty-four-hour supervision of 4 (four) or more persons. Such a facility is operated by sponsor-approved staff. A residential care facility may also be known as assisted living.

RESTAURANT – Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building or elsewhere on the premises. A snack bar or refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility, shall not be deemed to be a restaurant.

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RETAIL – The sale of goods, articles or consumer services individually or in small quantities directly to the consumer.

RIGHT-OF-WAY – A strip of land, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer or other similar uses.

SCREEN – A method of reducing the impact of noise, glare and unsightly visual intrusions with less offensive or more harmonious elements including, but not limited to, plants, berms, fences, walls or any appropriate combination thereof.

SENIOR HOUSING – Assisted or Unassisted Housing for persons age 55 (fifty-five) or older that may be an Active Adult Community, Adult Home, and Assisted Living Program, a Continuing Care Community, Subsidized Enriched Housing or Senior Housing without services, all of which are recognized and defined by the NYS Office for the Aging.

SENSITIVE AREA – Area that includes features such as steep slopes, wetlands, riparian areas, and other unique habitats.

SERVICE USE – Use which provides skilled professional labor to consumers including, but not limited to, insurance offices, restaurants, financial services, business-to-business consulting, and other similar services.

SETBACK – The least required horizontal distance between the lot line and any structure on the lot, measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.

SHADE TREE – Usually a large deciduous tree planted for its high crown of foliage or overhead canopy.

SHADOW FLICKER – Intermittent shadows on the ground and stationary objects caused by the rotation of the blades of a Wind Energy Facility. Shadow flicker is typically not present when the sun is obscured by fog or clouds or the turbine is not operating.

SHOPPING CENTER – A group of retail and/or service uses within a single building, or group of buildings on separate lots with common access, providing a wide range of commercial uses including, but not limited to, food, apparel and home furnishings.

SHRUB – A woody plant, smaller than a tree, consisting of several stems from the ground or small branches near the ground; such plant may be deciduous or evergreen.

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SIGN – Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interest of any person or business or cause when such is placed in view of the general public.

SIGN AREA or SIGN SURFACE AREA – The entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems or other figures, together with any material or color forming or an architectural feature as an integral part of the display or used to differentiate the sign from the background against which it is placed.

SIGN, A-FRAME – A portable sign with 2 (two) or more steeply angled sides, also known as a sandwich sign.

SIGN, AWNING – Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy.

SIGN, BUILDING DIRECTORY – A sign listing the tenants or occupants of a building or group of buildings and which sign may indicate their respective professions or business activities.

SIGN, CHANGEABLE-COPY – A sign or portion thereof with characters, letters or illustrations which can be changed or rearranged without altering the face or the surface of the sign.

SIGN, COMMERCIAL SPEECH – Speech which identifies a business or product.

SIGN, DIRECTIONAL – Any sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way,” “entrance” and “exit.”

SIGN, FASCIA – See “SIGN, WALL.”

SIGN, FREESTANDING – A sign supported by one or more upright poles, columns or braces placed in or on the ground and not attached to any building or structure.

SIGN, GRAPHIC – A sign which is an integral part of a building façade. The sign is painted directly on, carved into, or otherwise permanently embedded in, the facade.

SIGN, GROUND – See “SIGN, FREESTANDING.”

SIGN, HANGING – See “SIGN, PERPENDICULAR.”

SIGN, HOLIDAY DECORATION – A sign, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

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SIGN, ILLUMINATED (DIRECTLY) – A sign designed to give forth-artificial light directly from a source of light within such a sign.

SIGN, ILLUMINIATED (INDIRECTLY) – A sign illuminated with a light so shielded that no direct rays there from are visible elsewhere on the lot where said illumination occurs.

SIGN, MOBILE – See "SIGN PORTABLE."

SIGN, NEIGHBORHOOD IDENTIFICATION – A sign specifically used to identify a particular neighborhood, block, or development.

SIGN, NONCOMMERCIAL SPEECH – Speech which presents a personal, a political, or a religious point of view, or a message which is not categorized as a commercial speech sign.

SIGN, NONCONFORMING – Any lawfully pre-existing sign that does not meet the requirements of this ordinance.

SIGN, OFF PREMISE – A sign including the supporting sign structure that is visible from a street or highway and advertises goods or services not usually located on the premises, and/or property upon which the sign is located; also called a "billboard."

SIGN, PERPENDICULAR – Any sign other than a wall sign that is attached to and projects from the wall or face or a building or structure.

SIGN, PLAZA DIRECTORY – A sign listing the tenants or occupants of a commercial plaza and which may indicate their respective professions or business activities.

SIGN, POLE – A sign mounted on a freestanding pole or other supports.

SIGN, POLITICAL – A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election or caucus.

SIGN, PORTABLE – A sign, whether on its own trailer, wheels or otherwise designed to be mobile and not structurally attached to the ground, a building, a structure, or another sign.

SIGN, PROJECTING – A sign attached to a building wall and any part of said sign which extends more than 18 (eighteen) inches from the face of such wall.

SIGN, ROOF – A sign mounted upon the roof of a building.

SIGN, SANDWICH – See "SIGN, A-FRAME."

SIGN, SEE-THROUGH LETTERED – Letters on a sign with transparent background, such as lettering on a window.

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SIGN, TEMPORARY WINDOW – A window sign not permanently affixed which does not identify the tenant, occupant, or establishment.

SIGN, WINDOW – A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within 4 (four) feet of the window, but not including graphics in connection with customary window display of products.

SIGN, WALL – A sign attached and erected parallel to the face of a building and supported throughout its length by such building.

SIGN, VEHICLE – A sign displayed on a licensed and registered motor vehicle, said vehicle which is used in conjunction with a business.

SITE PLAN REVIEW – See Article XVI (Site Plan Review and Approval).

SMALL ENGINE REPAIR – A shop which provides the service of small engine repair for lawn mowers, chainsaws, and similar items. All services shall be provided within an enclosed building.

SOLAR COLLECTION FACILITY - An area or space used for solar collection components to capture solar energy for conversion to electrical energy.

SOLAR COLLECTION FACILITY, ACCESSORY – An Accessory Use that is a Solar Collection Facility designed and operated to provide electrical energy to onsite structures and uses.

SOLAR COLLECTION FACILITY, COMMERCIAL (SOLAR ENERGY FARM) – A Solar Collection Facility that is designed and operated to produce electrical energy for sale and/or use offsite.

SPECIAL EVENT – Any occasion including, but not limited to, fairs, shows, exhibitions, Town-wide celebrations, and festivals within a specifically defined area of the Town of Hopewell for a period not to exceed 10 (ten) days.

SPECIAL USE PERMIT – A Permit issued for a use requiring special review and approval by the Hopewell Town Planning Board.

SPECIFIED ANATOMICAL AREAS – Human male or female genitals, pubic areas, or buttocks with less than a full opaque covering.

STABLE, COMMERCIAL – Premises which may or may not be the property of the proprietor on which fewer than 10 (ten) horses are boarded, or maintained commercially for hire, exhibition, or sale; stables that are located within a County Agricultural District and have at least 10 (ten) horses on at least 7 (seven) acres may be considered a Farm Operation according to NYS Department of Ag and Markets.

STABLE, PRIVATE – Premises on which is maintained not more than 1 (one) horse, not the property of the proprietor, and including horses of the proprietor not maintained for commercial purposes; is accessory to a farm or dwelling.

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STACK or CHIMNEY – Any vertical structure enclosing a passageway that carries off smoke or exhaust from a solid fuel-burning appliance, including that part of the structure extending above a roof.

STEEP SLOPE – A grade change of 15 (fifteen) percent or more.

STORY – That portion of a building between the surface of any floor and the surface of the floor next above, and any portion of a building used for human occupancy between the topmost floor and the roof. For purposes of height measurement in determining the permissible number of stories, the cellar is not counted.

STREET – A public or private thoroughfare which affords the principal means of access to abutting property, including streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

STREET LINE – The line determining the limit of public ownership of a street.

STREET WIDTH – The width of the right-of-way, measured at right angles to the centerline of the street.

SREET PAVEMENT – The wearing or exposed surface of the roadway used by vehicular traffic.

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

STRUCTURAL ALTERATIONS – Any change in the supporting members of a building or structure, such as, but not limited to, bearing walls, columns, beams or girders.

STRUCTURE, MIXED USE – A structure which contains multiple uses, such as, but not limited to, retail, office, commercial or residential.

SURVEYOR – A person licensed as a land surveyor by the State of New York.

SWIMMING POOL, PRIVATE – A swimming pool operated as an accessory use to a residential dwelling unit or units located on an individual residential lot.

SWIMMING POOL, PUBLIC – A publicly or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and off-street parking area.

TELECOMMUNICATIONS TOWER – A structure on which transmitting and/or receiving antenna are located. It includes, without limit, freestanding towers, guyed towers, monopoles and other similar structures.

TEMPORARY OR SEASONAL OCCUPANCY – The use of any premises, structure or use, for living and/or sleeping purposes for 180 (one hundred eighty) days or less in any calendar year.

103 - Definitions continued…

TEMPORARY OUTSIDE SALES – The selling of retail items outdoors for a limited amount of time for events such as, but not limited to, sidewalk sales, open markets, art displays, and festivals.

TEMPORARY USE – Any activity conducted for a specific limited period of time as authorized by the Town of Hopewell Zoning ordinance.

TENANT – An occupant who temporarily holds or occupies land, a building or other property owned by another.

TENANT IDENTIFICATION SIGN – A sign designed or intended to identify a tenant, occupant or establishment.

TRACTOR – A motor vehicle designed and used as the power unit in combination with a semi-trailer or trailer, or 2 (two) such trailers in tandem.

TRAILER – Any vehicle not propelled by its own power, drawn on the public highways by a motor vehicle as defined in this section, except: (a) motor vehicle side cars, (b) vehicles being towed by a non-rigid support and (c) vehicles designed and primarily used for other purposes and only occasionally drawn by a motor vehicle.

TRAVEL TRAILER – A portable vehicular structure designed as a temporary dwelling for travel, recreational, and vacation uses, and not for year-round living.

UNIFORM CODE – The New York State Uniform Fire Prevention and Building Code, which shall include all subunits (Residential Code, Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code, and Property Maintenance Code) as currently in effect and as hereafter amended from time to time. The Uniform Code shall also be referred to as the "NYS Uniform Code."

UNTREATED LUMBER – Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance.

USE – The specific purposes for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY – A use clearly incidental and subordinate to the principal use whether it is located in a principal or accessory building, and which use is located on the same lot therewith.

USE, PRINCIPAL – The main use for which a building or lot is used or intended to be used.

UTILITY BUILDING – An enclosed building constructed on a foundation and utilized for storage of domestic supplies and non-commercial equipment.

103 - Definitions continued…

VARIANCE, AREA – The authorization by the Hopewell Zoning Board of Appeals for the use of land in a manner not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE – The authorization by the Hopewell Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.

WAREHOUSE – A building designed or used for the storage of commodities.

WATER COURSE – A natural stream of running water fed by a natural source such as a stream or river; or a drainage area that is continuous, seasonal, or per-rain event.

WHOLESALE – The business of buying, selling or arranging for sale, either goods or commodities, usually in bulk, for purchasers other than individual customers. This definition shall include offices, freight distribution centers, large storage facilities and the use of delivery trucks in the routine operation of such business.

WIND ENERGY TURBINE – The part of the wind energy system including the blades, generator (or nacelle) and tail. Wind turbines shall consist of Vertical Axis Wind Turbines (VAWT) or Horizontal Axis Wind Turbines (HAWT).

WINDOW AREA – The total area of any single windowpane or series of windowpanes separated by mullions.

WOODWORKING SHOP – A shop for making items such as, but not limited to, custom cabinetry, fine custom one-of-a-kind furniture, wooden toys, and craft items.

YARD, FRONT – An open space extending the full width of the lot between the front lot line and the principal building, unoccupied and unobstructed by any building or structure from the ground upward.

YARD, REAR – An open space extending the full width of the lot between the rear lot line and the required minimum rear setback, unoccupied and unobstructed by any building or structure from the ground upward.

YARD, SIDE – An open space extending from the front yard to the rear yard between the side lot line and the required minimum side setback unoccupied and unobstructed by any building or structure from the ground upward.

ZONING BOARD – The officially established Zoning Board of Appeals of the Town of Hopewell.

ZONING DISTRICT – The classification of lands as established in this Ordinance.

104 - Record of Amendments to Hopewell Town Zoning Ordinance

ARTICLE II
Administration

200 - Enforcement

It shall be the duty of the Code Enforcement Officer to keep a record of all applications for issued Building Permits and Certificates of Occupancy/Compliance. Possession of the filed records are with the Town Clerk and shall be available for review by the Town Board of the Town of Hopewell. The Planning Board of the Town of Hopewell shall issue no Special Use Permit for the use of any property not in conformity with the requirements of this Ordinance, the NYS Uniform Code, and all other regulations of the Town of Hopewell. The Town Clerk shall maintain filed records relating to Special Use Permit applications, Meeting Minutes and Findings. The Zoning Board of Appeals shall consider variances for property in accordance with §302-C of this Ordinance, and shall file all Meeting Minutes, Findings, and associated paperwork with the Town Clerk. Within 5 (five) business days of the final decision, the Town Clerk shall receive all records or applications for filing.

201 - Duties of the Code Enforcement Officer

A. For the purpose of this Ordinance, it shall be the duty of the Code Enforcement Officer, and any duly authorized assistants or deputies, to cause any plans, buildings or premises to be examined or inspected to determine that said plans, buildings or premises are in compliance with the provisions of this Ordinance and the NYS Uniform Code and to issue certificates and permits as outlined in the following section.

B. If, in the course of work, the Code Enforcement Officer determines that any plans, buildings or premises are in violation of the provisions of this Ordinance or the NYS Uniform Code, he or she shall order the responsible party, in writing, to remedy such conditions. Said Compliance Order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and the remedies which may be invoked, and the alleged violator's right of appeal, all as provided by this Ordinance. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served personally, by certified mail or by first class mail on the owner or on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property.

C. If, upon serving of notice by the Code Enforcement Officer to the owner of any building or premises in violation of any of the provisions of this Ordinance, satisfactory remedy is not completed within 30 (thirty) days of the date of such notice, or in the case of a life threatening situation remedy is not completed as directed by the Code Enforcement Officer, or if, upon appeal, the violation is upheld, the Certificate of Occupancy/Certificate of Compliance for such building or use shall be held null and void. A new Certificate of Occupancy/Certificate of Compliance shall be required for any use of such building or premises.

201 – Duties of Code Enforcement Officer continued…

D. The Code Enforcement Officer shall maintain a permanent record of all matters including, but not limited to, all applications, plans, specifications, construction documents, Permits, Certificates of Occupancy/Certificates of Compliance, inspections, reports, complaints, and fees and all actions taken. Such records shall be available for review by the Hopewell Town Board and other municipal officials and shall be available for inspection by the public.

E. The Code Enforcement Officer shall conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy or Compliance, Temporary Certificates and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any other provision.

F. The Code Enforcement Officer and the Deputy Code Enforcement Officer are authorized to issue appearance tickets for any violation of this Ordinance.

202 - Certificates and Permits

The Certificates and Permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Ordinance. A Building Permit or Special Use Permit shall be prerequisite to the addition to, or erection or alteration of, a building, structure or use thereof.

202 – Certificates and Permits – Building Permit continued…

A. Building Permit

1. Except as otherwise provided in this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof; and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. Agricultural buildings or structures shall require a Building Permit and shall be constructed to meet generally accepted standards. Minimum accepted standards are on file with the Town of Hopewell Code Enforcement Officer.
   No person shall commence any work for which a Building Permit is required without having first obtained a Building Permit from the Code Enforcement Officer.

2. No Building Permit shall be required for work in any of the following categories:
   a. Construction or installation of playhouses, or similar uses, provided the gross floor area does not exceed 144 (one hundred forty-four) square feet.
   b. Installation of swings or other playground equipment associated with a one-family or two-family dwelling or multiple single-family dwellings (townhouses).
   c. Installation of swimming pools associated with a one-family or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 (twenty- four) inches and are installed entirely above ground.
   d. Construction of retaining walls unless such walls support a surcharge or impound Class I, II, or IIIA liquids.
   e. Construction of temporary motion picture, television and theater stage sets and scenery.
   f. Installation of window awnings supported by an exterior wall of a one-family or two-family dwelling or multiple single-family dwellings (townhouses).
   g. Installation of partitions or movable cases less than 5’9” (five foot nine inches) in height.
   h. Painting, wallpapering, tiling, carpeting, or other similar finish work.
   i. Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances.
   j. Replacement of any equipment provided the replacement does not alter the equipment’s listing or render it inconsistent with the equipment’s original specifications.
   k. Repairs, provided that such repairs do not involve:
      i. The removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component.
      ii. The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress.
      iii. The enlargement, alteration, replacement, or relocation of any building system.
      iv. Removal from service all or part of a fire protection system for any period of time.

202 – Certificates and Permits continued…

3. The exemption from the requirement to obtain a Building Permit for work in any category set forth in subdivision 2 of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

B. Special Use Permit

The Hopewell Planning Board is hereby empowered to issue any Special Use Permit provided for by this Ordinance, after Site Plan review, if required, as specified in Article 1600 of this Ordinance. Special Use Permits are those uses having some special impact or uniqueness which require review of their location, design, configuration, and desirability on a given site. A Special Use Permit may be issued with conditions as specified in §307, including requirements for review and renewal, based upon a review by the Planning Board as detailed in §305-D of this Ordinance. Should a Variance be requested as part of the Special Use Permit, such Variance shall be forwarded to the Zoning Board of Appeals for review and a decision forwarded to the Planning Board prior to the Planning Board's taking final action on the Special Use Permit.

C. Certificate of Occupancy/Certificate of Compliance

The Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy or Certificate of Compliance which shall certify compliance with all provisions of this Ordinance and the NYS Uniform Code for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification to another. The Code Enforcement Officer is also empowered to issue a Certificate of Occupancy/Certificate of Compliance for nonconforming uses, provided that the nonconforming use is defined and the sections of this Ordinance not being conformed to are listed. NYS Fire and Building Code must be conformed to in order to receive a Certificate of Occupancy/Certificate of Compliance for either a conforming or a nonconforming use.

D. Temporary Certificate

The Code Enforcement Officer may issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work subject to a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines:

1. That the building or structure or portion thereof covered by the Temporary Certificate may be occupied safely.
2. That all required fire protection equipment is installed and is operational.
3. That provision has been made for all required means of egress from the building or structure.
4. That electrical work is final and has been inspected by a third party inspection agency as authorized by the Town Board.

202 – Certificates and Permits continued…

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of this Ordinance and the NYS Uniform Code. A Temporary Certificate shall be effective for a period, not to exceed 6 (six) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the NYS Uniform Code and this Ordinance.

E. Operating Permit

An Operating Permit shall be required for conducting activities or using categories of buildings listed below:

1. Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1.
2. Hazardous processes and activities including, but not limited to, commercial and industrial operations which produce combustible dust as a byproduct; fruit and crop ripening; and waste handling.
3. Use of pyrotechnic devices in places of public assembly.
4. A building containing one or more areas of public assembly with an occupant load of 100 (one hundred) persons or more.
5. A building whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Hopewell Town Board.
6. Operating Permits shall be in writing on a form provided by, or otherwise acceptable to, the Code Enforcement Officer. Such form shall contain information as the Code Enforcement Officer deems sufficient and shall conform to the NYS Uniform Code, and the Hopewell Town Zoning Ordinance. Prior to the issuance of the Permit, the premises shall be inspected and the Permit shall be effective for a period of time as indicated on the Permit, not to exceed 1 (one) year for an area of public assembly and 3 (three) years for any other case as determined by the Code Enforcement Officer.

203 - Application Procedure

A. Procedure for Obtaining a Building Permit

1. All applications for a Building Permit shall be made in writing by the applicant on a form provided by, or otherwise acceptable to, the Code Enforcement Officer in the detail specified in §204 of this Ordinance and shall be in compliance with the NYS Uniform Code, and the Hopewell Town Zoning Ordinance. The applicant shall submit the appropriate fee, as listed in §205 of this Ordinance, with the submitted application.

203 - Application Procedures continued…

2. Where the proposed use is a permitted single or two-family residential use, or an accessory structure or use that is customarily incidental and clearly subordinate to the permitted single or two-family residential use, the Code Enforcement Officer shall consider the application for compliance with this Ordinance and either issue or deny a Building Permit.

3. When the application is for any other use in any district, a Preliminary Site Plan application, in accordance with §1603 of this Ordinance, shall accompany the Building Permit application. The Planning Board shall be responsible for reviewing the Site Plan for compliance with this Ordinance and directing the Code Enforcement Officer to approve, approve with conditions, or deny an application. Where the Building Permit application is limited to interior alterations, renovations, or repairs and does not involve any of the following: changes in use, site improvements, storm water management, potential environmental or neighborhood impacts, or modification of a previously approved Site Plan, the Code Enforcement Officer shall consider applications for compliance with this Ordinance and either issue or deny a Building Permit.
4. Building Permits shall be issued in duplicate and 1 (one) copy shall be posted conspicuously on the premises while any work is being completed.

B. Procedure for Appeal
An appeal shall be taken within 60 (sixty) days after the filing of any order, requirement, decision, interpretation, or determination of the administrative official, by filing with such administrative official and with the Board of Appeals a Notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

C. Procedure for Special Use Permit
All applications for Special Use Permits shall be made to the Code Enforcement Officer. The Code Enforcement Officer, after determining that an application is complete and in proper form, shall transmit one copy of the application and all supporting documents to the Planning Board for action thereon. Where applicable under §239-m and §239-n of the General Municipal Law, one copy of the application shall also be submitted to the Ontario County Planning Board, per their Regulations, including exemptions.

D. Procedure for a Certificate of Occupancy/Certificate of Compliance
It shall be unlawful for an owner to use or permit any residential, commercial, or industrial use of any building or premises, or part thereof, until the Code Enforcement Officer shall have issued a Certificate of Occupancy and/or a Certificate of Compliance. Such Certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in conformance with the provisions the NYS Uniform Code, and the Hopewell Town Zoning Ordinance.

203 - Application Procedures continued…

A Certificate of Occupancy or a Certificate of Compliance shall be issued only if the Code Enforcement Officer determines that, through any necessary inspections, the construction or proposed use complies with all the requirements and provisions of this Ordinance.

204 - Application Details

A. Application for a Building Permit

Each application for a Building Permit shall be made on forms available from the Code Enforcement Officer. Two (2) copies of the documentation to be submitted with the application shall clearly show the conditions of the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed building. One (1) copy of such plan shall be returned to the owner when the Code Enforcement Officer shall have approved such plans. The lot shall be staked out on the ground before construction commences. At a minimum, the application shall include the following information and plans for both before and after conditions:

1. A description of the proposed work.
2. Proof of ownership of the premises where the work is to be performed.
3. The tax map number and the street address of the premises where the work is to be performed.
4. The occupancy classification of any affected building or structure.
5. Where applicable, a statement of special inspections prepared in accordance with the provisions of the NYS Uniform Code.
6. At least 2 (two) sets of construction drawings which:
   a. Define the scope of the proposed work.
   b. Where required by the NYS Education Law or as determined by the Code Enforcement Officer that the structural method or system of components requires professional design, shall be prepared by a NYS registered architect or licensed professional engineer.
   c. Indicate with sufficient clarity and detail the nature and extent of the work proposed.
   d. Where applicable, include a Site Plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
7. If applicable, proof of compliance with NYS Workers' Compensation Law.

204 - Application Details continued...

B. Application for a Special Use Permit

1. The Zoning Officer shall file all written applications for a Special Use Permit.
2. Each application shall be completed on such forms as are required by the Town Board and which shall be made available from the Code Enforcement Officer.
3. Each application shall contain at minimum the following information:
    a. The applicant's name, address, and interest in the subject property.
    b. If different from the applicant, the owner's name and address, and the owner's signed consent to the filing of the application.
    c. The street address or legal description of the subject property.
4. Each application shall be accompanied by payment of the filing fee and 2 (two) copies of a plot plan, drawn to scale and accurate in dimensions showing the following:
    a. The location of all existing and proposed buildings and structures.
    b. An area map showing all properties, their use and streets within 500 (five hundred) feet of the subject property.
    c. Any special land features such as streams, creeks, areas subject to flooding and areas of steep slope such slope being in excess of 15 (fifteen) percent.
    d. All existing or proposed landscaping, streets, roads, parking, utilities, and open space.
    e. Any other features which shall assist the Hopewell Planning Board in making its determination.
5. Each application shall include a written statement addressing each of the standards set forth in §305-D of this Ordinance and stating specifically how the proposed Special Use Permit relates to and meets each standard.
6. Each application shall provide any additional information which may be required to demonstrate compliance with any additional standards imposed on the Special Use Permit by the particular provision of this Ordinance authorizing the Special Use.
7. Each application shall provide any necessary Variances.

205 - Application Fees

A fee, payable in cash or other form of security, approved by the Municipal Attorney in accordance with the schedule established by resolution of the Hopewell Town Board, shall accompany each application for a Permit provided for by this Article. The fee schedule is available at the Town Clerk's Office.

206 - Unsafe Buildings or Structures

A. Unsafe buildings pose a threat to life and property in the Town of Hopewell. Buildings and structures may become unsafe by reason of damage by fire, the elements, age, or general deterioration. Vacant buildings not properly secured at doorways and windows serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this Ordinance to provide for the safety, health, protection, and general welfare of persons and property in the Town of Hopewell by requiring that such unsafe buildings be secured or repaired, or demolished and removed.

B. Should the Code Enforcement Officer determine, based upon his or her own opinion or upon receipt of information, that a building or structure:

1. Is or may become unsafe or dangerous to the general public.
2. Is open at the doorways and windows making it accessible to, and an object of attraction to, minors, vagrants and other trespassers.
3. Is or may become a place of rodent infestation.
4. Presents any other danger to the public.
5. Is unfit for the purpose for which it may lawfully be used, he or she shall cause or make an inspection of said building or structure and report in writing to the Hopewell Town Board the findings and recommendations in regard to securing or repairing, or demolishing and removing said building or structure.

C. The Hopewell Town Board shall thereafter consider the Code Enforcement Officer's report and by resolution determine if, in its opinion, the report so warrants that such building or structure is unsafe and dangerous, and if so determined, said Board shall order its securing, repair, if the same can be safely repaired, or its demolition and/or removal. The Hopewell Town Board shall order that a Notice be served upon the persons in the manner provided herein. The Notice shall contain the following:

1. A description of the premises.
2. A statement of the particulars in which the building or structure is unsafe or dangerous.
3. An order outlining the manner in which the building or structure is to be made secure or repaired, or demolished and removed.
4. A statement that the securing or repairing, or demolition and removal of such building or structure shall commence within 30 (thirty) days of the serving of the Notice and shall be completed within 60 (sixty) days thereafter, unless for good cause shown such time may be extended.
5. A date, time and place for a Public Hearing to be held before the Town Board in relation to such unsafe building or structure which Hearing shall be held not less than 5 (five) business days from the date the Notice has been lawfully served pursuant to Part D of this part, or more than 30 (thirty) days from the date upon which the Town Board ordered the securing, repairing, or demolishing and removal by the resolution required above.

206 - Unsafe Buildings or Structures continued…

6. A statement from the Town Board stating that in the event the Town Board determines that the property owner has neglected or refused to comply with such order to secure, repair, or demolish and remove the unsafe building or structure, the Town Board is authorized to provide for the securing of the building or structure or, if deemed necessary, demolition and removal of all debris and that the Town Board shall assess all expenses thereof against the land upon which the building or structure is located and shall institute a special proceeding to collect the costs incurred by the Town, including legal expenses.

D. Said Notice shall be served:

1. By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes (or tax collector) or of the County Clerk or, if no such person can be reasonably found, by mailing such owner by certified mail or by first class mail a copy of such notice directed to his last known address as shown by the above records.
2. By personal service of a copy of such Notice upon any adult person residing in or occupying said premises if such person can be reasonably found.
3. By securely affixing a copy of such Notice upon the unsafe building. A copy of the Notice served as provided herein shall be filed in the Office of the County Clerk of the County of Ontario.

E. In the event of the refusal or neglect of the person so notified to comply with said order of the Hopewell Town Board, and after the Hearing, the Town Board shall provide for the securing or demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in §206-G hereof, any contract for demolition and removal of a building in excess of $5,000 (five thousand dollars) shall be awarded through competitive bidding.

F. All expenses incurred by the Town in connection with the proceedings to secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located. Expenses shall be levied and collected in the same manner as provided in Article XV of the Town Law for the levy and collection of a special ad valorem levy.

G. Where it reasonably appears that there is clear, present, and imminent danger to the life, safety or health of any person or property unless an unsafe building shall be immediately secured or demolished, the Town Board shall, by resolution, authorize the Code Enforcement Officer to immediately cause the securing or demolition of such unsafe building. The expenses of such securing or demolition shall be charged against the land on which it is located and shall be assessed, levied and collected as provided in §206-F hereof.

ARTICLE III
Boards

300 - Creation, Appointment and Organization of Zoning Board of Appeals

A Zoning Board of Appeals, pursuant NYS Town Law §267, is hereby created by the Town Board of the Town of Hopewell.

A. Appointment of Members
The Hopewell Zoning Board of Appeals shall consist of 5 (five) members and up to 2 (two) alternates. The Hopewell Town Board appoints the Chairman annually. The Zoning Board of Appeals elects a Vice Chairman annually at its Organizational Meeting.

B. Appropriation of Zoning Board of Appeals
The Hopewell Town Board is hereby authorized and empowered to make such appropriation as it may see fit for the Hopewell Zoning Board of Appeals' expenses. Such charges and expenses, less any collected fees, shall be a charge upon the taxable property and shall be assessed, levied and collected. The Zoning Board of Appeals shall have the power and authority to employ experts, clerks, and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board for such Zoning Board of Appeals.

C. Town Board Members Ineligible
No person who is a member of the Hopewell Town Board shall be eligible for membership on the Zoning Board of Appeals.

D. Terms of Members First Appointed
In the creation of a new Zoning Board of Appeals, or the reestablishment of terms of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a 5 (five) year term.

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

F. Removal of Zoning Board of Appeals Members
The Hopewell Town Board shall have the power to remove, after a Public Hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by Local Law or as set forth in §301 of this Article.

300 - Creation, Appointment and Organization of Zoning Board of Appeals continued…

G. Chairperson Duties

All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as such Board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

H. Alternate Members

1. The Hopewell Town Board may, by local law or ordinance, or as part of the local law or ordinance creating the Zoning Board of Appeals, establish alternate Zoning Board member positions for the purpose of substituting for a member in the event such member is unable to participate or has a conflict of interest. Alternate members of the Zoning Board of Appeals shall be appointed by resolution of the Town Board for terms established by the Town Board.
2. The chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate or has a conflict of interest on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.
3. All provisions of this section relating to Zoning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

301 - Minimum Requirements for Zoning Board of Appeals Members

A. Training

Each Board member is required to complete a minimum of 4 (four) hours of training per calendar year. All new members shall complete 8 (eight) hours of training during the first year of appointment. At the discretion of the members or the Hopewell Town Board, failure to comply with this requirement is grounds for recommending removal from the Board of Appeals.

B. Attendance

Each Board member shall be required to attend 75 (seventy-five) percent of the scheduled meetings in each calendar year. At the discretion of the Hopewell Town Board, failure to attend the required number of meetings may be grounds for removal from the Board. In addition, failure to attend 3 (three) consecutive meetings may be grounds for removal from the Zoning Board of Appeals.

C. Compensation

The Hopewell Town Board may, as part of the annual budget, provide for the compensation of Zoning Board of Appeals members and alternates. If compensation is provided, it shall be on a per-meeting-attended basis. In addition, the Town of Hopewell shall provide reimbursement for all approved training and out-of-pocket expenses associated therewith.

302 - Powers and Duties of Zoning Board of Appeals

The Zoning Board of Appeals shall have all the powers and duties prescribed by §267-b of the NYS Town Law of the State of New York and by this Ordinance. These powers and duties are more particularly specified as follows:

A. Interpretation
Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary, if there is uncertainty with respect hereto.

B. Appeals
The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken. Re-hearings of previously heard applications may be made in accordance with NYS Town Law §267-a (12).

C. Variances
When, in its judgment, the public safety, convenience, and welfare will be served, the Zoning Board of Appeals may vary or modify the application of the regulations or provisions of this Ordinance relating to the use, construction, or alteration of structures or use of the land. In such cases, the Zoning Board is empowered to grant exceptions in harmony with the general purpose and intent of this Ordinance. Variances may be granted in appropriate and specific cases only after Public Notice and Hearing and subject to such appropriate conditions and safeguards the Zoning Board of Appeals may impose.

1. As used in this Ordinance, a Variance is authorized for height, area, size of structure, size of yards and open spaces or for establishment or expansion of a use otherwise not allowed. A Variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
2. Variance Procedures
    a. An application for the approval of a Variance shall be made to the Code Enforcement Officer on forms available from the Code Enforcement Officer accompanied by the necessary fees and documents as provided in this Ordinance.
    b. For consideration of the Variance request, a map drawn to an appropriate scale showing all existing and proposed characteristics of the site and adjacent properties, as necessary, shall accompany the application. For applications where Site Plan approval is also required, a Preliminary Site Plan in accordance with Article XVI (Site Plan Review and Approval) of this Ordinance shall be required.

302 - Powers and Duties of Zoning Board of Appeals continued…

D. Use Variance

A Use Variance shall not be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each Permitted Use under the zoning regulations for the particular district where the property is located:

1. The applicant cannot realize a reasonable return, provided if lack of return is substantial, as demonstrated by competent financial evidence.
2. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
3. That the requested Use Variance, if granted, shall not alter the essential character of the neighborhood.
4. That the alleged hardship has not been self-created.

E. Area Variance

In making its determination on granting an Area Variance, 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 Variance and the compatibility of said Variance with the Hopewell Comprehensive Plan. In making such determination, the Board shall also consider:

1. Whether the granting of the Area Variance may produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. Whether the applicant can achieve a benefit by another feasible method other than an Area Variance.
3. Whether the requested Area Variance is substantial.
4. Whether the proposed Variance may have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.

F. In granting a Variance, the Zoning Board of Appeals 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.

G. Prior to taking final action on the Variance application, the Zoning Board of Appeals may refer said application to the Town Planning Board for review and comment. The Planning Board, when the Zoning Board of Appeals refers such an application to it, shall forward comments supporting a recommendation for approval or denial of the application to the Zoning Board of Appeals within 30 (thirty) days of receiving said application.

302- Powers and Duties of Zoning Board of Appeals continued…

In addition, prior to taking final action on any application, The Zoning Board of Appeals, in accordance with part 239-mm of the New York State General Municipal Law, shall forward the application to the Ontario County Planning Board for review and comment unless said application is exempt from such review as permitted by the Ontario County Planning Board By-Laws or by General Municipal Law.
The County Planning Board shall forward comments recommending support for approval or denial of the application within 30 (thirty) days of receipt of said application.

H. The Zoning Board of Appeals shall fix a reasonable time and place for a Public Hearing thereon and shall provide for the giving of Notice as follows:

1. A public Notice shall be published in the official newspaper of the Town of Hopewell at least 10 (ten) days prior to the date thereof. The cost of such publication shall be borne by the appealing party and shall be paid to the Town prior to the hearing of such appeal.
2. The Secretary of the Zoning Board of Appeals shall mail a copy of such Notice to all agencies, municipalities, authorities, etc., as prescribed in §267-a of the NYS Town Law and §239-m of the General Municipal Law.
3. The cost of sending or publishing any additional Notices relating to such appeal, or a reasonable fee relating thereto, or other associated costs accrued by the Town shall be borne by the appealing party and paid to the Town prior to the hearing of such appeal.

I. The Zoning Board of Appeals shall approve, with or without conditions, or disapprove the application within 62 (sixty-two) days of the Public Hearing as specified in §267-a of NYS Town Law and shall communicate its action, in writing, to the applicant and to the Code Enforcement Officer within 5 (five) days of the meeting at which it decided upon the application. Where applicable, compliance shall be required in accordance with the provisions of §239-m and §239-n of the General Municipal Law.

J. The Code Enforcement Officer shall, upon receipt of notice of approval and upon receipt of application by the applicant, collect all required fees and issue a Building Permit or such other approval permitting the Variance, subject to all conditions imposed by such approval.

303 - Creation, Appointment and Organization of Planning Board

A. A Planning Board**,** pursuant to NYS Town Law §271 is hereby created by the Town Board of the Town of Hopewell.

B. Authorization
The Town Board of each town is hereby authorized by local law or ordinance, to create a Planning Board consisting of 5 (five) or 7 (seven) members and shall, by resolutions, appoint the members of such Board and designate the chairperson thereof. In the absence of a chairperson the Planning Board may designate a member to serve as chairperson. The Town Board may, as part of the local law or ordinance creating said Planning Board, provide for the compensation of Planning Board members.

C. Appropriation for Planning Board
The Hopewell Town Board is hereby authorized and empowered to make appropriation for Planning Board expenses. The Planning Board shall have the power and authority to employ experts, clerks, and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding, in all, the appropriation made therefore by the Town Board for such Planning Board.

D. Town Board Member Ineligible
No person who is a member of the Hopewell Town Board shall be eligible for membership on such Planning Board.

E. Terms of Members First Appointed
The terms of members of the Planning Board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term equal in years to the number of members of the board.

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

G. Increasing Membership
The Hopewell Town Board may, by local law or ordinance, increase a 5 (five) member Planning Board to 7 (seven) members, provided by resolution of the Town Board in order that the terms of members shall expire in each of 7 (seven) successive years and their successors shall thereafter be appointed for full terms of 7 (seven) years. No such additional member shall take part in the consideration of any matter for which an application was on file with the Planning Board at the time of his or her appointment.

303 - Creation, Appointment and Organization of Planning Board continued...

H. Decreasing Membership
The Hopewell Town Board which has 7 (seven) members on the Planning Board may, by local law or ordinance, decrease the membership to 5 (five) members, to take effect upon the next 2 (two) expirations of terms. No incumbent shall be removed from office except upon the expiration of his or her term, except as hereinafter provided.

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

J. Removal of Members
The Hopewell Town Board shall have the power to remove, after Public Hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.

K. Chairperson Duties
All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Planning Board may determine. Such chairperson, or in his or her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses.

L. Appointment of Agricultural Member
Notwithstanding any provision of this chapter or any general, special or local law or ordinance, The Hopewell Town Board may, if an Agricultural District created pursuant to Section 333 of Article 25AA of the Agriculture and Markets Law exists wholly or partly within the boundaries of such town, include on the Planning Board, one or more members each of whom derives $10,000 (ten thousand dollars) or more annual gross income from agricultural pursuits in the Town of Hopewell. As used in this subdivision, the term “agricultural pursuits" means the production of crops, livestock and livestock products, aqua cultural products, and woodland products as defined in section 301 of the Agriculture and Markets Law.

M. Service on Other Planning Boards
No person may be disqualified from serving as a member of the Hopewell Planning Board by serving as a member of the Ontario County Planning Board.

N. Rules and Regulations

1. The Planning Board may recommend regulations to the Hopewell Town Board relating to any subject matter over which the Planning Board has jurisdiction under this article or any other statute, or under any local law or ordinance of the town. Adoption of any such recommended regulations by the Town Board shall be by local law or ordinance.
2. The Planning Board shall establish such Procedural Rules and Regulations as are required by law and the provisions of this Ordinance for the transaction of its business and may amend, modify, or repeal the same from time to time.

303 - Creation, Appointment and Organization of Planning Board continued…

O. Report on Referred Matters; General Reports

1. The Hopewell Town Board may, by resolution, provide for the reference of any matter or class of matters, to the Planning Board before final action is taken thereon by the Town Board or other office or officer of said matter. The Town Board may further stipulate that final action not be taken until the Planning Board has submitted its report thereon or has had a reasonable time, to be fixed by the Town Board in said resolution, to submit the report.
2. The Planning Board may review and make recommendations on a proposed Town Comprehensive Plan or amendment thereto. In addition, the Planning Board shall have full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the Town as it seems desirable, providing the total expenditures of said Board shall not exceed the appropriation provided therefore.

P. Alternate Members

1. The Hopewell Town Board may, by local law or ordinance, or as part of the local law or ordinance creating the Planning Board, establish alternate Planning Board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the Planning Board shall be appointed by resolution of the Town Board, for terms established by the Town Board.
2. The chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
3. All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other Boards, shall also apply to alternate members.

Q. Extraordinary Vote

If a county planning agency or regional planning council recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

304 - Minimum Requirements for Planning Board Members

A. Training
Each Planning Board member and alternate is required to complete a minimum of 4 (four) hours of training per calendar year. At the discretion of the Hopewell Town Board, failure to comply with this requirement may be grounds for recommending removal of said negligent member or alternate from the Planning Board.

B. Attendance
Each Planning Board member shall be required to attend 75 (seventy-five) percent of the scheduled meetings in each calendar year. At the discretion of the Hopewell Town Supervisor, failure to attend the required number of meetings without good cause may be grounds for removal of said offending member from the Planning Board. In addition, failure to attend 3 (three) consecutive meetings without good cause may be grounds for removal of said offending member from the Planning Board.

C. Compensation
The Hopewell Town Board may, as part of the annual budget, provide for the compensation of Planning Board members and alternates. If compensation is provided for, it shall be on a per-meeting-attended basis. In addition, the Town shall provide reimbursement for all approved training and out-of-pocket expenses associated therewith.

305 - Powers and Duties of Planning Board

The Planning Board shall have the powers and duties as specified below:

A. Sub-division Plats
The Planning Board may approve plats showing lots, blocks or sites, with or without streets or highways, and conditionally approve preliminary plats and pass and approve the development of plats already filed in the office of the Clerk of the County of Ontario if such plats are entirely or partially undeveloped.

B. Street Changes
The Planning Board has the power and authority to change the Town's Official Map by approving and filing an approved subdivision plat involving streets. The Planning Board can recommend to the Town Board the discontinuance of an existing street or a portion thereof. The Town Board and Highway Superintendent have the authority to determine the necessity of said discontinuance, and act upon said recommendation.

C. Site Plan
The Planning Board shall approve, approve with conditions, or deny site plans in accordance with Article XVI (Site Plan Review and Approval) of this Ordinance.

D. Special Use Permits
The Planning Board shall hear and decide upon application for such Permits as specified in this Ordinance. The applicant is responsible for providing adequate documentation to the Planning Board that the proposed use conforms to the criteria specified below and any additional standards set forth in this Ordinance. The Planning Board shall grant a Permit for any Special Use if:

1. The proposed building or use shall be in harmony with the general purpose, goals, objectives, and standards of the Town's Comprehensive Plans and this Ordinance.
2. The proposed building, use, or intensity of operation involved will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare.
3. The proposed building or use shall be constructed, arranged, and operated so as not to dominate the immediate vicinity, or to interfere with or devalue the development and use of neighboring property in accordance with the applicable district regulations.
4. Public Facilities and Services shall adequately serve the proposed building or use.
5. The proposed building or use complies with all additional standards imposed on it by the particular provision of this Ordinance authorizing such use.
6. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping, and screening.
7. Where requested, to assure compliance with the conditions of the Special Use Permit, a performance bond, irrevocable letter of credit or other suitable financial guaranty has been provided. The Town Board shall determine the amount of financial guarantee upon recommendation of Town Engineer and/or Town Attorney.

305 - Powers and Duties of Planning Board – Special Use Permits continued…

8. In the review and approval of Special Use permits, the following additional factors may apply :
    a. Preparation of a Site Plan by a licensed professional engineer in accordance with the criteria set forth in §1603 and §1604 of this Ordinance for any matter including, but not limited to, traffic safety, storm water retention and treatment, and utility design may be required if determined by the Planning Board, upon showing of cause, as pertinent to an informed decision.
    b. If not done so by the Code Enforcement Officer, the Planning Board shall forward any Variance requests associated with the Special Use Permit to the Zoning Board of Appeals. The Zoning Board of Appeals shall review the Variance request and forward its decision and all supporting documentation, including its findings, within the time specified by law, not to exceed 62 (sixty-two) days, to the Planning Board for its final decision on the Special Use Permit.

306 - Public Hearing

Certain actions related to Appeals, Permits, and Site Plan review require a Public Hearing to be held. The Zoning Board of Appeals shall conduct a Public Hearing on applications in accordance with the procedures and requirements for Appeals established in NYS Town Law §267-a. The Planning Board shall hold a Public Hearing on applications in accordance with the procedures and requirements established in NYS Town Law §274-b for Special Use Permit and/or Site Plan Review. Public notice of all such Hearings shall be printed in an official newspaper of general circulation at least 10 (ten) days prior to the date of the Hearing and notice sent to adjacent municipalities according to Town Law §239-nn. Specific notice requirements for Hearings vary as outlined in the appropriate sections of this Ordinance.

When Public Hearings are required for Appeals, Permits and Site Plan review, additional notice of Public Hearing shall be provided by requiring the applicant to erect a sign or signs giving notice of such Public Hearing. Said sign(s) shall be prominently displayed on the premises facing each public street or road on which the property abuts. The sign(s) shall be furnished to the applicant for this purpose by the Town and shall be set back 15 feet from the property line. Said signs shall be displayed for a period of not less than 10 days immediately preceding the Public Hearing date or any adjournment date thereof. The applicant shall file an affidavit with the Town prior to the Public Hearing that they have complied with the provisions of this section and that the sign(s) will be removed from the premises and returned to the Town within three days after such Public Hearing is held.

Within 62 (sixty-two) days from the date of such Public Hearing and following a report from the County Planning Board when applicable, the Hopewell Planning Board shall, by resolution, either approve with conditions or disapprove the application so heard. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. In approving the application for a Special Use Permit, the Planning Board may impose reasonable conditions and restrictions directly related and/or incidental to the proposed Special Use Permit.

307 - Planning Board Action on Permit Applications

A. Upon approval of an application by the Planning Board, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Planning Board and shall issue the Permit applied for in accordance with the conditions imposed by the Planning Board.

B. If any application is disapproved, or approved with some condition by the Planning Board, the reason for such denial or condition shall be set forth in the Planning Board's resolution or a statement of findings, and a copy of such resolution or findings shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall provide the applicant with a copy of the Board's reason for disapproval, or approval with condition.

C. The Hopewell Town Clerk shall maintain a record of all approved or denied applications. Such permanent record shall be available to the Town Board, the Planning Board, the Code Enforcement Officer and, where applicable, the County Planning Board.

308 - Revocation and Expiration of Permits

A. Should the Code Enforcement Officer determine that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the provision of the Hopewell Town Zoning Ordinance, or the NYS Uniform Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates:

1. All work then completed is compliant with the applicable provisions of this Ordinance, the officially adopted rules and regulations of the Town of Hopewell or its departments, and the NYS Uniform Code.
2. All work then proposed shall be compliant with all applicable provisions of this Ordinance, the officially adopted rules and regulations of the Town of Hopewell or its departments and the NYS Uniform Code.

B. Any Permit issued in error by the Code Enforcement Officer which is subsequently revoked for cause shall require a written explanation from the Code Enforcement Officer to the applicant clearly describing the error that occurred and a course of action to remedy such error.

C. Building Permits shall become invalid if the authorized work has not commenced within 6 (six) months following the date of issuance. Building Permits shall expire 12 (twelve) months after the date of issuance. At the end of said period, a Building Permit may be renewed 1 (one) time by the Code Enforcement Officer for a period of 1 (one) year if, at the end of the original permit, the foundation, exterior walls, doors, windows, and roof are installed and completed.

309 - Compliance with Environmental Quality Review

The applicant is responsible for compliance with the State Environmental Quality Review Act (SEQRA) and for submitting all required SEQRA forms with the Permit or Variance application, Site Plan, or other actions requiring SEQRA compliance under Part 617 of the Environmental Conservation Law of the State of New York. Environmental Assessment Forms are available from the Code Enforcement Officer.

310 - Conflict with Other Laws

Wherever the requirements of this Ordinance vary from the requirements of any other lawfully adopted rules, regulations or ordinances, the requirements imposing the greater restriction, or the requirements imposing the higher standards, shall govern. However, where the NYS Uniform Code or other State Regulations apply, said Code or Regulations shall govern.

311 - Amendments

Regarding all property in the Town of Hopewell, the regulations, restrictions, uses and boundaries provided in this Ordinance and the official map may be amended, supplemented, changed, modified or repealed per the provisions of Section 265, Article 16, Chapter 62 of the Consolidated Laws of New York State and all other applicable laws of the State of New York and in accordance with the following procedures:

A. Whenever any person, firm or corporation desires that any amendments or changes be made in this Ordinance, including the text and/or the Zoning District Map as to any property in Hopewell, there shall be presented to the Hopewell Town Board a petition requesting such change or amendment. The petition shall clearly describe the property and its boundaries and shall indicate the existing zoning district and the requested zoning district. The petition shall also show existing highways, municipal boundary lines and state parks, and names and addresses of all property owners bordering the proposed change. A filing fee pursuant to the fee scheduled shall be paid at the time of filing the petition.

B. Upon determination of the Hopewell Town Board, acting in its legislative capacity, that the Town Board shall consider any such amendment or change, said amendment or change shall be forwarded to the Planning Board for review and recommendation. The Town Board shall establish a reasonable time period, to be not less than 30 (thirty) days upon receipt by the Planning Board of said amendment or change, in which the Planning Board shall forward comments and a recommendation to the Town Board.

C. Prior to the final action of the Hopewell Town Board, the proposed amendment or change shall be referred to the County Planning Board for its review and recommendation.

ARTICLE IV
Violations

400 - Enforcement

It shall be the duty of the Code Enforcement Officer, the Deputy Code Enforcement Officer and any duly authorized assistants to enforce the provisions of this Ordinance, the NYS Uniform Code and Hopewell Town Zoning Ordinance, and to enforce any determination of the Zoning Board of Appeals and of the Planning Board. All complaints regarding the alleged violation of this Ordinance shall be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaints and immediately investigate the report thereon.

401 - Penalties for Offenses

Any person violating any of the provisions of this Ordinance shall be subject to a fine of not more than $500 (five hundred dollars) or imprisonment not to exceed 6 (six) months, or both.

402 - Continued Violation

From the date of serving the initial violation notice, each week or 7 (seven) days of continued violation shall be considered a separate and distinct offense.

403 - Other Relief

Nothing contained in this Article shall preclude the municipality or its agents from seeking such other relief as may be lawful in order to compel adherence to the terms of this Ordinance and otherwise enforce the same.

ARTICLE V
Districts

500 - Districts Established

The Town of Hopewell is hereby divided into the following types of districts, which shall be differentiated according to use and area, and hereafter used and developed for the purposes designated:

Agricultural (AG)
Low Density Residential (R-1)
High Density Residential (HDR)
Retail/Commercial (C-1)
Low Intensity Commercial (C-2)
Industrial (I-1)
Hamlet Mixed Use (H-MU)
Small Business Multiple Use (SB-MU)

501 - Official Zoning District Map

The above districts shall be located, bounded and described as shown on the Zoning District Map of the Town of Hopewell, which has been designated the Official Zoning District Map of the Town, now on file with the Town Clerk and, together with the boundaries and the designations therein, shall be made part of this Ordinance.

502 - Interpretation of District Boundaries

The following rules shall apply to all Zoning District boundaries as shown on the Official Zoning District map:

A. For zoning districts the depths of which are shown on the zoning map to run parallel to the highway, the depth of the district shall be measured from the center line of the highway. The depth of the C-1 and C-2 zoning districts which parallel County Rd. 50 or State Rte. 5&20 shall be 500 (five hundred) feet deep measured from the center line of the highway.

B. Where district boundaries indicate that the boundary approximately follows a lot line, such lot line shall be construed to be said boundary.

C. Unless otherwise shown on the zoning map, where a district boundary follows a railroad right-of-way and is parallel thereto, such boundary shall be measured from a point that is the center of said right-of-way.

D. Unless otherwise shown on the zoning map, where the boundary of a district follows a stream, the Canandaigua Outlet, or other recognized body of water, the depth of the district boundary shall be measured from the center line of said stream or body of water.

E. If any uncertainty exists as to the exact boundary line location, the Zoning Board of Appeals shall determine the location of the boundary line in question.

503 - Regulations and Prohibited Uses

A. Regulations

Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, altered or changed in use, unless in conformity with the allowable uses and standard for development set forth for each district by this Ordinance, nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the Minimum Lot Area and Setback Tables requirements, Off-street Parking requirements, Landscaping requirements and all other Regulations designated in this Ordinance for the district in which such building or use is located. In the event of any such unlawful use of a building, encroachment, or reduction, such building or use shall void the Certificate of Occupancy.

B. Prohibited Uses

The following Uses are prohibited within all zoning districts:

1. New mining operations requiring NYSDEC Permits.
2. Junkyards including, but not limited to, motor vehicle salvage, metal, plastics or other non-organics, for re-use or recycling.
3. Commercial breeding and raising of animals not regulated under NYS Agricultural and Markets Laws including, but not limited to, puppy farms or similar uses.
4. Storage of, or production from the use of, raw materials such as chemicals, known carcinogenic chemicals or materials, explosives, oxidizers, fertilizers except in amounts typical for agricultural use, paint products, rubber, soaps, or the by-products of coal, coke, petroleum, or natural gas.
5. Used auto sales lots except in Industrial District.

504 – Prime Farmland Soil Overlay District

A. Purpose and Intent

In accordance with the Town of Hopewell Vision Statement dated November 2004 and as amended in 2013, the Town of Hopewell Comprehensive Plan dated May 2006 and as amended in 2013, the Town of Hopewell Right to Farm Law adopted in 2008, and the New York State Agricultural and Markets Law purpose and intent it is determined by the Town of Hopewell residents, the Hopewell Planning Board and the Hopewell Town Board that preservation of agricultural land for future generations is a vital and necessary plan and governmental function for the future well-being and benefit of the Community at Large.

It is the intent of the Overlay District to protect agricultural resources within the Town of Hopewell, especially Prime Farmland Soils, and to prevent non-agricultural uses from negatively impacting, or allowing an irreversible loss of, farmland and subsequently farming in general, as the preferred use of lands in the Town.

The following standards shall apply to all lands included and mapped as being within the boundaries of the Prime Farmland Soil Overlay District. The term Prime Farmland Soil shall include all soils designated by the Ontario County Agricultural Enhancement Plan as Prime, Prime if Drained, Unique, or Soils of Statewide Importance. See §504C of this Ordinance.

1. Prime Farmland Soils shall include all those soils designated as Group 1 through Group 4 as noted, defined, and designated on the soil group worksheet, filed in the Office of the Town of Hopewell Assessor, or have been previously filed with documentation, from the New York State Department of Agriculture and Markets, Division of Agricultural Production and Development Services.
2. Prime Farmland Soil Overlay District Zone boundaries shall include all soils in Group 1 through Group 6 upon lands within the Town of Hopewell, as filed within an established Agricultural District with the Town of Hopewell Assessor's Office, as receiving or being eligible to receive agricultural exemptions as allowed for by Law as of March 1, 2010. Said boundaries shall also include any land not currently within a recognized Agricultural District containing Prime Farmland Soil as defined above.

504 – Prime Farmland Soil Overlay District continued…

B. Subdivision of Land

1. All subdivisions of land for non-agricultural purposes shall be subject to the Town of Hopewell Subdivision Regulations. No building permit shall be issued for a non-agricultural use on any subdivided parcel or contiguous parcels within the overlay district without subdivision approval from the Town of Hopewell Planning Board.
2. In reviewing any Subdivision, Site Plan, or Special Use Permit application, the Planning Board shall require that structures, or other irreversible improvements be located on those portions of the tract of land where they will have the least negative impact on Prime Farmland Soils and operations.
3. Without specific findings by the Planning Board to the contrary, the following area development standards shall be observed and maintained to the greatest extent feasible for minimizing loss of Prime Farmland Soil from any parent parcel, or contiguous parcels operated as a single farm as follows:
    a. Loss of Prime Farmland Soils, as defined by part A, shall not exceed 30% (thirty percent) of the total Prime Farmland Soil per parent parcel, or contiguous parent parcels of the same owner or farm.
    b. Loss of Prime Farmland Soils in Group 1 or Group 2 shall not exceed 10% (ten percent) of the total of those soil groups on the parent parcel or contiguous parent parcels of the same owner or farm.
    c. Loss of Prime Farmland Soils in Group 3, 4, 5 or 6 shall not exceed 20% (twenty percent) of the total of these soil groups on the parent parcel, or contiguous parent parcels of the same owner or farm.
    d. Loss of Farmland in Soil Groups 7 and/or Group 8 shall be limited to the maximum total acres that will not have a negative impact on continued agricultural practices and/or farm management practices that are necessary on said parent parcel for supporting a viable agricultural use, pasture space, or land required for animal waste management plans.

    Exception: The Planning Board shall allow an increase, not to exceed a loss of 30% (thirty percent), of the total percentages noted in this part where 70% (seventy percent) or more of the developable parent parcel is comprised of Group 1 or Group 2 soils, or a combination thereof.
    e. Maximum and Minimum lot sizes for non-agricultural uses in the Prime Farmland Soil Overlay District are as follows:
        i. Minimum lot size: 30,000 (thirty thousand) square feet.
        ii. The maximum lot size of any subdivision of land shall not be limited provided that the total subdivided land does not exceed the percentages set forth in parts 3a, 3b, and 3c.

504 – Prime Farmland Soil Overlay District - Subdivision of Land continued….

4. The Planning Board shall have the authority, upon showing of cause, to require all subdivisions or future subdivisions of land comprising 3 (three) or more lots for non-agricultural uses to be designed as cluster pursuant to the Town of Hopewell Comprehensive Plan, Part 278 of NYS Town Law, and the Town of Hopewell Subdivision Regulations. For clustering provisions and design methods, see the Town of Hopewell Subdivision Rules and Regulations.
5. In addition to clustering provisions, the Planning Board shall have the authority, upon showing of cause, to waive or modify the requirements of Part 280A of NYS Town Law for access to public streets or highways subject to the approval of the Highway Superintendent or authority having jurisdiction of said involved street or highway.
6. The Planning Board shall have the authority to approve flag lot configurations in any instance where such a design is necessary to minimize the loss of prime soils, or maintain the continuity of farmland access or viability to farm. A minimum width of access to the highway shall be 20 (twenty) feet. A homeowner's maintenance agreement for any common-use driveway shall be required.
7. The applicant for a non-agricultural use shall provide a reasonable buffer, as approved by the Planning Board that will minimize to a reasonable degree, potential impacts adjacent farm uses may have on the non-agricultural use.
    a. Minimum distance separations shall be not less than 35 (thirty-five) linear feet of vegetated buffer provided between the non-agricultural structure's private well water supply and any farm field that could receive fertilizer, manure or other agricultural land management applications. Private water wells shall be installed meeting said minimum separation distances from other farm operations, such as manure storage areas or livestock areas, said installation meeting the requirements established by NYSDOH or NYSDEC standards.
    b. Final grading shall provide grades that minimize potential farm field run-off onto a non-agricultural property. Storm water discharge from the developed site shall not discharge or otherwise migrate to agricultural lands.
8. Subdivisions of land shall be provided with public water if a public water main currently serves the parent parcel. Public water shall be extended to the subdivision to be served in accordance with the Rules and Regulations of the Water District Authority.
9. This law shall not apply to any undeveloped parcel of land having been approved as a subdivision by the Town Planning Board and legally filed with the Ontario County Clerk on or before March 1, 2010.

Nothing in this part shall prevent the Hopewell Town Board from implementing any administrative action allowed by law, including but not limited to a moratorium, a conservation easement, and/or a purchase of development rights, in order to prevent the irreversible loss of Prime Farmland Soils. Any such administrative action shall not exceed a period of 1 (one) year, from the date of the Town Board's original administrative action, unless an extension is specifically agreed upon between the property owner and the Town.

504 – Prime Farmland Soil Overlay District continued….

C. Soil Groups (Class)

The following soil group information is provided from the Ontario County Agricultural Enhancement Plan and the New York State Office of Real Property Services.

1. Prime Farmland exhibits the best combinations of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. Prime Farmland soils have the soil quality, growing season, and moisture supply necessary to economically produce sustained high yields of crops. In general, the characteristics of these soils include adequate moisture and drainage, adequate soil depth and texture. Prime Farmland soils are not usually susceptible to erosion or flooding, and sustain high yield production with minimal fertilizer and energy requirements. Unique Farmland produces high yields of specialty crops such as fruits and vegetables. It is characterized by good soil quality, location, topography, growing season, and moisture. Once converted to other uses, Unique Farmland cannot be economically restored to previous conditions.
2. Farmland of Statewide Importance produces fair to good yields of crops when managed according to sound agricultural practices. These farmlands are important to the state for production of food, feed, fiber, forage and oilseed crops.

D. New York's Real Property System (RPS)

Using detailed surveys will give the municipality precise soil information. RPS uses a system of Soil Ratings for the land types of tillable, pasture, orchard, vineyard, and woodland. If the landowners have applied for the agricultural assessment program, the municipality can use the information obtained from the soil group worksheets to assign a Soil Rating of 1-10. When the applicable soil maps and/or data are unavailable to designate the specific Soil Rating for tillable, pasture, orchard, or vineyard, or woodland, RPS has adopted the following codes:

1. **P Poor** land is adversely affected by its physical characteristics (slope, wetness, layout, etc.) and is land on which it would be difficult to produce a normal yield of crops or upon which it would be very difficult to cultivate with modern farm machinery.
2. **N Normal** land is average in crop production, utilizes normal farming methods, and can be cultivated with modern farm machinery.
3. **G Good** land is highly conducive to cultivation and produces a consistently high yield of crops utilizing normal farming methods.

504 – Prime Farmland Soil Overlay District continued….

E. Soil Land Classes Defined – Soil Conservation Service

The Soil Conservation Service of the United States Department of Agriculture uses 8 (eight) Land Classes according to the use and limitations. Those other than Class I are usually followed by a small letter, **e, s,** or **w.** These small letters denote hazards: **e** is for erosion, **s** is for shallowness, and **w** is for wetness. Soils subject to an erosion hazard may be rolling and subject to washing from runoff of rainwater or may be of lighter texture and subject to wind erosion. Soils shallow to bedrock may be droughty and/or may impede root growth. Soils shallow to sand and gravel are usually droughty. Wetness is a hazard caused be either standing water, poor permeability, or a high water table. Some very productive soils are naturally wet but the drainage has been corrected.

The Planning Board shall utilize the USDA soil survey maps, corresponding soil information, and potential crop yield data in determining the locations of Prime Soils for each individual farm property. The use of this additional soil information will provide significant guidance to the Planning Board in determining the most important soil groups to retain for future farming.

Definitions of the 8 (eight) Land Classes:

1. Class I soils (0-2% slope) have the widest range of use and the least risk of damage with few limitations. The land is nearly level and does not erode easily. These soils are very productive, responsive to fertilizers, well drained, and easy to work.
2. Class II soils (2-6% slope) have moderate limitation in use and crops grown. The land has a gentle slope which requires moderate care and conservation practices to prevent erosion. These soils are imperfectly drained and could be limited in soil depth.
3. Class III soils (6-10% slope) can be cropped regularly, but have severe limitations with soils and crops grown. This land would require an intensive conservation plan because of the chance of severe erosion from the moderately steep slopes and untillable texture or consistency. The soils are shallow and poorly drained.
4. Class IV soils (10-15% slopes) have severe limitations and should be cultivated occasionally with very good conservation management practices. These soils are severely eroded or are susceptible to very severe erosion, have very unfavorable texture, and are poorly drained.
5. Class V soils are nearly level but excessively wet, subject to extreme overflow, low in fertility, and unsuitable for cultivation.
6. Class VI soils (15-25% slope) are unsuitable for cultivation and crops. Because of the severe slope and erosion hazard, and the shallow and stony soils, these soils have limited use, and are best suited for pasture and trees.
7. Class VII soils (above 25% slope) are unsuited for cultivation and are restricted to grazing, woodland, or wildlife.
8. Class VIII soils have practically no agricultural use. The land is usually composed of rock outcrops and gravel. These soils are suitable for watersheds, wildlife habitats, or recreational areas.

ARTICLE VI
Zoning District Regulations

600 - Agricultural District (AG)

A. Intent

Agriculture and agriculturally related uses comprise a major component of the Town of Hopewell. In an effort to preserve prime tracts of farmland, to ensure the economic stability of the local farms and surrounding land, to avoid conflicts between agricultural and non-agricultural uses, to direct development away from prime soils, and to retain the rural landscape and quality of life related to farming, the Town of Hopewell has established a local Agricultural District (AG). The district is separate from, but supportive of, the County Agricultural District boundaries.

*For **Non-Agricultural development on Prime Farmland Soils**, see §504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural or Farming Operation or Farm Stand
4. Public Utility
5. Cluster Development
6. Dwelling, Single-family
7. Horticultural Use
8. Stable, Commercial or Private
9. Accessory Use
10. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

600 - Agricultural District (AG) continued…

C. Special Use Permit
To ensure development and operation of a use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to the general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval) and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Agriculture-based Business or Farmers' Market
2. Cemetery
3. Existing Barn for Storage Use
4. Family Day Care or Group Family Day Care
5. Family/Caregiver Apartment
6. Golf Course, Public or Private
7. Kennel
8. Nature Preserve
9. Recreational Area
10. Telecommunications Tower

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

601 - Low Density Residential District (R-1)

A. Intent

The R-1 Residential District provides for primarily single family development on larger lots outside of the primary hamlet or commercial areas. In addition, these residential areas may include a mix of single lot, small subdivision, and larger subdivision development provided adequate infrastructure exists.

*For **Non-Agricultural development on Prime Farmland Soils**, see §504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand
4. Public Utility
5. Dwelling, Single family
6. Nature Preserve
7. School, Public or Private
8. Accessory Use
9. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

C. Special Use Permit

To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Family Day Care or Group Day Care
2. Family/Caregiver Apartment
3. Recreational Area

601 - Low Density Residential District (R-1) continued…

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

602 - High Density Residential District (HDR)

A. Intent

The purpose of the HDR District is to promote higher density residential development in areas that have access to utilities and are convenient to shopping facilities and other services. Alternative means of transportation including bike paths, sidewalks, trails, and transit lines are encouraged in any future development.

*For **Non-Agricultural development on Prime Farmland Soils,** see §504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand
4. Dwelling, Attached or Row
5. Dwelling, Multi-Family
6. Dwelling, Single-Family
7. Dwelling, Two-Family
8. Nature Preserve
9. School, Public or Private
10. Senior Housing
11. Accessory Use
12. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

C. Special Use Permit

To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Family Day Care or Group Family Day Care
2. Horticultural Use
3. Manufactured Home Community
4. Recreational Area
5. Swimming Pool, Public

602 - High Density Residential District (HDR) continued…

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

603 - Retail/Commercial District (C-1)

A. Intent

The Retail/Commercial District is intended to provide opportunities for retail, service and office development in commercial centers and existing commercial strips. Most business activities in this district are intended to be conducted within a completely enclosed building. A limited area may be used for seasonal outdoor business activities, product display or storage.

*For **Non-Agricultural development on Prime Farmland Soils,** see §504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand including owner- occupied Single-Family Dwelling and/or Farm-Worker Housing
4. Public Utility
5. Agriculture-based Business or Farmers' Market
6. All NYS Licensed Child Care Services
7. Animal Sales and Grooming
8. Bar or Tavern
9. Convenience Store
10. Convention Center
11. Drive-in Facility
12. Horticultural Use
13. Hotel, Motel, Inn
14. Mini Mall, Plaza
15. Motor Vehicle Wash
16. Nature Preserve
17. Personal Service Establishment
18. Professional Office
19. Recreation, Indoor Commercial
20. Restaurant
21. Senior Housing
22. Shopping Center, Mixed-Use Retail Building
23. Accessory Use
24. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

603 - Retail/Commercial District (C-1) continued…

C. Special Use Permit

To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Gasoline Station
2. Motor Vehicle Repair
3. Motor Vehicle Service Station
4. New Auto Sales
5. Outdoor Sales and Product Displays Without a Principal Building
6. Recreational Areas

D. Lot Size

See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage

See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks

See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height

See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

604 - Low Intensity Commercial District (C-2)

A. Intent

The C-2 Commercial District provides the Town of Hopewell with an area for small-business owners, professional services, and retail or service establishments at a scale much lower than those uses allowed in the C-1 District. Establishments shall be less than 15,000 (fifteen thousand) square feet and shall reflect the rural and agricultural character of the surrounding area in relation to building orientation and style.

*For **Non-Agricultural development on Prime Farmland Soils**, see §504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand
4. Public Utility
5. Adult Uses
6. Agriculture-based Business or Farmers' Market
7. All NYS Licensed Child Care Services
8. Animal Hospital
9. Animal Sales and/or Grooming
10. Bar or Tavern
11. Convenience Store
12. Drive-in Facility
13. Dwelling, Single Family
14. Funeral Home
15. Gasoline Station
16. Horticultural Use
17. Machine Shop and/or Woodworking Shop
18. Machinery and/or Transportation Equipment Sales, Service, and/or Repair
19. Mixed-Use Building
20. Motor Vehicle Wash
21. Nature Preserve
22. Office Building
23. Outdoor Recreation
24. Outpatient Health Center
25. Parking Area or Lot
26. Personal Services Establishment
27. Restaurant
28. Retail
29. Senior Housing
30. Small Engine Repair
31. Stable, Commercial
32. Accessory Use
33. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

604 - Low Intensity Commercial District (C-2) continued….

C. Special Use Permit
To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Contractor's Yard
2. Family/Caregiver Apartment
3. Motor Vehicle Repair
4. Motor Vehicle Service Station
5. New Motor Vehicle Sales and Service
6. Outdoor Sales and Product Displays without a Principal Building
7. Recreational Area

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Loy Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

605 - Industrial District (I-1)

A. Intent

The Industrial District established is to encourage more intensive industrial development along the established industrial areas in proximity of existing truck routes. The district is intended to direct traffic away from residential streets and to minimize conflicts between industrial uses and surrounding land uses. Developments in this district are expected to employ access restrictions, including shared driveways and entry roads, and buffering requirements, to minimize impacts.

*For **Non-Agricultural development on Prime Farmland Soils**, see § 504 of this Ordinance.*

B. Permitted Uses

Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand including owner-occupied Single- Family Dwelling and/or Farm-Worker Housing
4. Public Utility
5. Adult Uses
6. Agriculture-based Business or Farmers' Market
7. Gasoline Station
8. Horticultural Use
9. Industrial Wind Tower Facility (Wind Energy Farm)
10. Laboratory
11. Light Industry, Light Manufacturing
12. Machine Shop
13. Machinery and/or Transportation Equipment, Sales, Service, and /or Repair
14. Mini-Self Storage/Outdoor Storage
15. Nature Preserve
16. Parking Area or Lot
17. Parts Assembly/Production
18. Small-engine Repair
19. Warehouse
20. Woodworking Shop
21. Accessory Use
22. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district

605- Industrial District (I-1) continued…

C. Special Use Permit
To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Commercial or Industrial Outdoor Storage Use With or Without a Principle Building
2. Contractor's Yard/Office
3. Fuel Distribution Facility
4. Liquid Propane Distribution Facility
5. Motor Vehicle Repair
6. Motor Vehicle Sales Area
7. Motor Vehicle Service Station
8. Recreational Area
9. Trucking Distribution Facility
10. Private Airfield
11. Commercial Solar Collection Facility (Solar Energy Farm)

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

606 - Hamlet Mixed-Use District (H-MU)

A. Intent

The Hamlet Mixed Use District is intended to promote a mix of uses on separate lots, or as Mixed Use buildings. The district is intended to accommodate a higher density of smaller scale buildings on smaller lots to accommodate a physical pattern of development typically found along village main streets and neighborhood commercial areas. Buildings are typically set closer to the street, provide everyday services to nearby residents, promote walkability, and reflect the rural and agricultural character of the area.

*For **Non-Agricultural development on Prime Farmland Soils**, see §504 of this Ordinance.*

B. Permitted Uses

Permitted uses shall be as follows, subject to the requirements specified below and elsewhere in this Ordinance:

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand
4. All NYS Licensed Child Care Services
5. Club, Lodge and/or Private Meeting Hall
6. Dwelling, Single-family
7. Dwelling, Two-family
8. Office Building
9. Personal Service Establishment
10. Residential Care facility
11. Restaurant
12. Retail
13. Accessory Use
14. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

606 - Hamlet Mixed-Use District (H-MU) continued…

C. Special Use Permit
To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. A Special Use includes:

1. Agriculture-based Business
   or Farmers' Market
2. Convenience Store
3. Family/Caregiver Apartment
4. Gasoline Station
5. Horticultural Use
6. Recreational Area
7. Family Day Care or Group Day Care

D. Lot Size
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

E. Lot Coverage
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

F. Setbacks
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

G. Height
See the Town of Hopewell Minimum Lot Area and Setback Tables, §1901

607- Small Business Multiple Use District (SB-MU)

A. Intent

These Districts are primarily intended for Small Personal-Service Businesses, and Other Uses more appropriately located within such Low Intensity District.

B. Permitted Uses

1. Fire and Emergency Services
2. Religious Use
3. Farm, Agricultural Operation or Farm Stand
4. All NYS Licensed Child Care Services
5. Adult Residential Care Facility
6. Antiques Shop
7. Bakery
8. Convenience Store
9. Dwelling, Single-family
10. Horticultural Use
11. Club, Lodge and/or Private Meeting Hall
12. Personal Services Establishment
13. Pet Shop and/or Pet Grooming
14. Retail establishment
15. Schools, Public or Private
16. Small-Engine Repair
17. Woodworking and/or Metal Fabrication Shop
18. Accessory Use
19. Any other Use determined by the Zoning Board of Appeals to be of the same general character as the above Permitted Uses, but not including any Permitted Use specifically enumerated in a different zoning district.

C. Special Uses

To ensure development and operation of the use without a detrimental impact on adjacent uses, uses permitted with a Special Use Permit from the Town Planning Board, subject to the requirements of §305-D, are also subject to general development standards for specific uses related to Article VII (Regulations Applicable to All Zoning Districts), Article VIII (Supplementary Regulations for Specified Uses), Article X (Landscaping), Article XVI (Site Plan Review and Approval), and to any other standards specified in this Ordinance, or as may be required under Site Plan Review by the Planning Board. Special Use includes:

1. Agriculture-related Business or Farmers' Market
2. Gasoline/Fuel Station
3. Home Occupation
4. Motor Vehicle Repair
5. Motor Vehicle Service Station
6. Recreation Area

D. Prohibited Uses

Plazas, Mini-Malls, Shopping Centers or other use generating high volumes of traffic on a daily basis.

ARTICLE VII
Regulations Applicable to All Districts

700 - Principal Buildings

No lot shall have erected upon it more than 1 (one) principle building. No lot shall have more than 1 (one) principle use. Exceptions are: mixed uses or a building specifically allowed by this Ordinance.
No yard or open space provided about any building or structure for the purpose of complying with this Ordinance shall be considered yard or open space for any other building use.

701 - Permissible Structures within Minimum Required Side or Rear Setbacks

A. A detached accessory building shall have a total floor area of no more than 144 (one hundred forty-four) square feet and shall not exceed 12 (twelve) feet in height. It shall be located no closer than 5 (five) feet from a side or rear lot line. For accessory structures with a floor area greater than 144 (one hundred forty-four) square feet, see §720 of this Ordinance.

B. Fences 8 (eight) feet or less in height, excluding dog runs, may be located along the side or rear lot line. See §713 of this Ordinance.

C. Unenclosed steps, stairways, or ramps providing access to the first story of a building may extend into any required setbacks. Decks and porches shall not extend into required setbacks. For any lawfully constructed building that complied with the 1972 Zoning Ordinance requirement of a minimum 50 (fifty) or 60 (sixty) foot setback, decks, open covered porches, or awnings may extend into the required front setback now established by this Ordinance for a distance no greater than 10 (ten) feet.

702 - Access to Improved Street

No lot shall be created and no permit shall be issued for the construction of any building, unless such structure or lot has access from an improved street or a street on an official map, plan, approved subdivision or duly filed plat in accordance with the Rules and Regulations for the Town of Hopewell. See also NYS Town Law 280-A.

703 - Clear Vision at Intersections

Clear vision shall be maintained on corner lots in a triangle formed by the intersection of street lines of such lots to a point 35 (thirty-five) feet from said intersection and a line connecting those points. Within that area no fence, wall, hedge, screen planting, bush or shrub shall be permitted higher than 4 (four) feet above the finished grade of the lot. Trees shall be permitted within the area only if maintained and trimmed so that no branch or foliage is less than 8 (eight) feet above the average finished grade of the lot.

704 - Widening of Right-of-Way

Where a building lot has frontage on a street which is formally proposed for right-of-way widening by the Town of Hopewell Highway Superintendent, the Ontario County Highway Department, or the NYS Department of Transportation in accordance with NYS Highway Law, the required front setback shall be measured from such proposed right-of-way line.

705 - Lots in More than One District

A. All the uses, buildings and facilities, yards, open space, off-street parking and required landscaping shall be contained within the district in which the use is permitted.

B. Exceptions
The Town of Hopewell Zoning Board of Appeals may allow an exception to §705A in accordance with standards set forth for an Area Variance where a practical difficulty is created by Zoning District Boundaries.

706 - Corner and Through Lots

The location of all buildings on corner lots and on lots between parallel streets shall be as follows:

A. On corner lots the part of each building fronting each street shall be measured as a front setback. The remaining 2 (two) setbacks shall be measured as side setbacks. A corner lot shall not have a required rear setback.
B. On parallel streets the part of each building parallel to or fronting each street shall be measured as a front setback. The remaining setback shall be measured as a side setback.

707 - Creation of a New Lot

When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision shall be carried out in such a manner so as not to infringe upon any of the provisions of this Ordinance, either with respect to any existing structures, use, or any proposed structures or use.

708 - Recreational Vehicles

Travel trailers, tent trailers, tents, motor homes or other transient vehicles shall not be occupied overnight upon any street, alley, or other public way or public property within the Town of Hopewell. A transient recreational vehicle may be temporarily occupied by visitors or guests of the occupant of any lot or parcel within any district, upon such lot or parcel, for a period not in excess of 14 (fourteen) consecutive days or 14 (fourteen) total non-consecutive days, except as permitted by §715 of this Ordinance. The temporary parking or occupancy of any transient vehicles in exchange for payment or rent shall be prohibited. The use of any motor home, tent trailer, travel trailer, or any other transient vehicle for living purposes on any developed or undeveloped lot shall be prohibited after 14 (fourteen) days of consecutive or non-consecutive use. Portable generators in, on or connected to recreational vehicles shall be prohibited from operating while temporarily occupied on any lots within the Town of Hopewell.

709 - Commercial Vehicle Parking

Commercial vehicles such as, but not limited to, tractor-trailer combinations, fuel delivery trucks, or box van delivery trucks shall be prohibited from parking or standing for more than 4 (four) consecutive hours on any public highway or within a public right-of-way unless engaged in a delivery or other lawful purpose and the same shall be prohibited from parking overnight within a public right-of-way.

Truck tractors, tractor-trailer combinations, fuel delivery trucks, box van delivery trucks or other such commercial vehicles shall not be parked or kept outdoors overnight in any residential zoning district without a Special Use Permit issued in accordance with part §305 of this Ordinance. Any such use shall not exceed the maximum permitted noise levels or other environmental standards established by this Ordinance.

No parking of tractor-trailers, commercial delivery trucks of any kind, or motorized recreational vehicles shall be allowed overnight in any parking lot or space not owned or leased by the vehicle operator without the expressed written consent of the property owner. Written consent approving such overnight parking use must be posted with signs in one or more locations on the property or in written form with the Code Enforcement Officer.

710 - Dumping of Waste Material

The dumping, piling or accumulating of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste material, scrap or other noxious substances are prohibited in all districts.

711 - Quarry, Sand Pit, Gravel Pit and Topsoil Stripping Sites

Excavation and processing of sand, gravel, stone or other earthen materials from gravel pits, quarries, or other sites meant for the purpose of removing natural materials is prohibited in all districts. Existing uses shall be allowed to continue provided the extraction of material does not exceed permitted limits of Environmental Conservation Law.

712 – Outdoor Storage of Materials and Equipment Including Contractor Yards

All materials, equipment, and machinery shall be stored within enclosed structures or adequately screened from view in accordance with the following regulations. Outdoor storage shall be prohibited on any lot or property except as authorized by this part.

A. Prohibited Outdoor Storage includes the following:

1. Junk, salvaged, or discarded materials.
2. Dismantled parts from motor vehicles, farm, commercial or industrial machinery.
3. Scrap metal, salvaged materials, lumber and construction materials, commercial or industrial equipment or fixtures.
4. Refuse or any solid or liquid waste.
5. Inoperable farm equipment or machinery.
6. More than 1 (one) unregistered, unlicensed, and/or uninspected motor vehicle stored outdoors on any lot or property.
7. Tractor trailer cargo boxes, delivery van boxes, or similar equipment with or without axles used for outdoor storage or placed on any non-agricultural property for any other use.

B. Permitted Outdoor Storage includes the following:

1. Materials used in a construction operation or structure alteration on a parcel or in a development for which a Building Permit has been issued and stored for a period of no more than 1 (one) year or not to exceed 30 (thirty) days following the completion of work.
2. Operational machinery, equipment, or supplies essential to the operation of a farm operation or storage of any products grown on the premises of a farm operation or nursery.
3. Wood or solid fuel to be utilized by the property owner for heating purposes or wood processed and offered for sale as an agricultural product.
4. PODS or similar commercially offered storage units on any property for a period not to exceed 60 (sixty) days.
5. Contractor's, business owner's, or company vehicles operated by the property owner or lawful tenant and licensed as a motor vehicle for typical highway use may be parked on any residential property in any zoning district.
6. Other storage uses determined by the Code Enforcement Officer as similar in nature to permitted Uses listed in this part.

Any person aggrieved by a determination of the Code Enforcement Officer shall seek a formal interpretation of the issue from the Zoning Board of Appeals. Such determination of the Zoning Board of Appeals shall be controlling.

712 – Outdoor Storage of Materials and Equipment Including Contractor Yards continued…

C. New Contractor Yards

1. At all new Contractor Yards, construction vehicles and equipment including, but not limited to, trucks, backhoes, excavators, earth-moving machines, dump trailers, equipment trailers, storage trailers, or similar equipment shall be stored in the side or rear yard of the principle building. Side yard storage or parking shall not be located ahead of the front of the principle building line. Outdoor storage or parking areas without a principle building shall be located a minimum of 100 (one hundred) feet from the highway right-of-way.
2. Parking areas shall be reasonably screened from view from the highway or adjacent properties by the principle building, lawful accessory buildings, plantings of natural vegetation, a combination earth berm and natural vegetation, or by fencing as permitted in §713 of this ordinance. Screening provided by fences or earth berms shall not exceed 8 (eight) feet in height.
3. All construction and/or building materials shall be stored in the same manner as noted above.
4. Parking and/or storing of vehicles shall be conducted in such a manner so as not to interfere with firefighters' access to structures.
5. All construction and/or building materials shall be stored in such a manner so as not to interfere with firefighters' access to structures.

D. Existing Contractor Yards

Existing Contractor Yards not in compliance with the regulations for screening as set forth in §713 shall be allowed to continue as a lawful pre-existing use subject to the following:

1. Construction and/or building material storage areas not currently screened from view from the highway or adjacent properties shall, within 12 (twelve) months of the adoption of this Ordinance, be screened from view from the highway or adjacent properties in accordance with §712C of this Ordinance.
2. The storing and parking of construction vehicles and/or equipment currently stored or parked in front or side yards shall be allowed to continue as a lawful pre-existing use.
3. Any future expansion of a non-conforming parking or storage area shall be in accordance with the screening requirements for a new contractor yard.
4. Parking and/or storing of vehicles shall be conducted in such a manner so as not to interfere with firefighters' access to structures.
5. All construction and/or building materials shall be stored in such a manner so as not to interfere with firefighters' access to structures.

713 - Fences, Walls and Other Structural Screening Elements

A. It shall be the sole responsibility of the installer of any fence to determine the exact location of any property line any fence shall abut or parallel. Property line disputes are a civil matter not to be resolved by the Town of Hopewell.

B. Any fence shall have its most pleasant or decorative side facing the adjacent occupied properties. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.
Exception: Upon written agreement with the adjacent property owner, this part may be waived.

C. Fences or earth berms shall not exceed 8 (eight) feet in height. The height of all fences shall be measured from the finished grade of the lot at the base of the fence.

D. Fences incorporating barbed wire, electric current or similar materials or devices shall be allowed and shall include cautionary signage.

E. The Planning Board, as part of Subdivision or Site Plan Review, may require a fence or other screen to shield adjacent residences or other uses from undesirable views, noise or light.

F. Fences shall be maintained to provide functional, visual and structural integrity.

G. Fences that by design, use or material could maim or injure prospective intruders are prohibited, except as authorized in Subsection E above.

H. Fences shall be constructed with common fence material and shall not be constructed with use of metal, recycled scrap or other unapproved materials.

I. Snow Fence – Construction of site fencing, and/or other temporary fencing shall be allowed in accordance with the regulations set forth above provided all such temporary fencing shall be removed within 30 (thirty) days of the fence no longer being necessary for its installed purpose.

714 - Fire Escapes

Nothing herein contained shall prevent the projection of a required open fire escape into a rear or side yard for a distance up to 8 (eight) feet. Such fire escapes shall not count against minimum setback regulations for side or rear lot lines.

715 - Temporary Uses and Structures

Temporary Use Permits may be issued by the Code Enforcement Officer for a period not to exceed 1 (one) year for nonconforming uses incidental to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, or a real estate office located on the tract being offered for sale, provided that such permits are null and void upon expiration of said permit or issuance of any applicable Certificate of Occupancy.

716 - Public Gatherings or Events

Prior to any temporary public gathering of 50 (fifty) or more persons for any commercial or non-commercial purpose, a Special Use Permit shall be required in accordance with Part §305.

Such Permit shall require, but not be limited to, proof of adequate off-street parking, sanitary facilities, all required permits from New York State Agencies, and necessary permits as may be required for use of tents and other structures as determined by the Code Enforcement Officer.

In approving such Permit, the Planning Board may establish a maximum number of days for which the Permit shall be valid and, upon showing of cause, may limit the hours of operation in the interest of public safety and welfare of the attendees and adjacent property owners.

Owner-occupied property used for private family gatherings shall be exempt from said requirement.

A property, of which the current use is for public gatherings and events, and of which said gatherings or events, shall have been held prior to the adoption of this Ordinance, shall, at the discretion of the Code Enforcement Officer, be exempt from said requirement.

717 - Public Utilities

The provisions of this Ordinance shall not apply to customary local utility distribution or collection lines for water, gas, cable, telephone, or electric service. All facilities such as pumping stations, repeater stations, and electric substations, which require a structure above grade, shall be subject to the setback requirements of this Ordinance.

For Telecommunications Towers see Article 1500.
For Commercial Solar Collection Facility (Solar Farm) see §605.
For Industrial Wind Tower Facility (Wind Energy Farm) see §605.

718 - Environmental Impact Standards

A. Applicability

1. Planning Board Action
   a. All uses subject to the requirements of this section may be established and maintained if their operation is approved by the Planning Board as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise, or vibration.
   b. In approving the Site Plan or Special Use Permit, the Planning Board shall decide whether the proposed use will conform to these applicable Environmental Impact Standards or any additional Environmental Impact Standards required by state or federal laws or which are generally recognized Environmental Impact Standards for a given industry.
   c. Environmental Impacts are unique in severity depending on duration of time; incidents per hour, days or weeks; distance to neighboring property lines; wind direction and/or other factors. In determining the significance or degree of an actual or alleged environmental infraction of regulations set forth below affecting public health, safety or quality of life of town residents, the Planning Board and/or Code Enforcement Officer shall utilize sound engineering practices and guidelines, supporting documentation from other State or Federal agencies with or without jurisdiction of the alleged infraction, and properly supported conclusions in determining the significance or degree of a particular environmental impact.
   d. Nothing in this part shall be the cause of an environmental infraction or violation for uses including, but not limited to, routine agricultural practices, operation of routine property maintenance equipment , emergency notification systems, lawful pre-existing airports or gun clubs, residential construction sites, public or private events that are lawful pre-existing uses or authorized or undertaken by a governmental authority or agency, or other uses determined by the Code Enforcement Officer as being routine lawful uses common to a rural community environment. These exemptions shall not apply to uses subject to Special Use Permit requirements or uses subject to Site Plan approval or review under the State Environmental Quality Review Act.

2. Uses Subject to the Environmental Impact Standards
   All uses subject to Site Plan Review or Special Use Permits shall comply with the Environmental Impact Standards set forth below. All other property uses within the Town shall be subject to and comply with the minimum standards set forth in this section for the public health, safety, and welfare of the community. The Hopewell Town Board, acting in its capacity as a Board of Health, may order the abatement of any violation of this part that may constitute a public nuisance as allowed for by NYS Public Health Law.

718 - Environmental Impact Standards - Applicability continued…

3. Procedure for Handling a Complaint
    a. Should the Code Enforcement Officer receive a written bona fide complaint from a property owner alleging that a neighboring use may be in violation of one or more Standards set forth below, said violation being due to either the duration of time or number of incidents occurring per day that allegedly impacts the environment, and should the Code Enforcement Officer determine that there are reasonable grounds necessitating an investigation, the Code Enforcement Officer shall commence such investigation.
    b. The Code Enforcement Officer may utilize the services of the Town Engineer or his appointed representatives, state agencies, or other recognized sources in determining if, in fact, a violation of these standards does exist and, if necessary, the degree of the infraction as it relates to the health, safety and welfare of the neighborhood.
    c. Upon making a determination that a violation does in fact exist, the Code Enforcement Officer shall order the remedy of the violation as set forth in §201 and §400 of this Ordinance or shall report said violation to the Town Board in its capacity as a Board of Health, or to the County, State or Federal agency having jurisdiction over such matter.
    d. Upon making a determination that a violation does not in fact exist, the Code Enforcement Officer shall prepare a written report with findings that support said determination.

B. Procedures

1. The Planning Board, as part of the sketch plan conference, shall tentatively identify whether a proposed use shall be required to certify compliance with any of the Environmental Impact Standards listed in this section.
2. Certification may require signing a written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements.
3. The applicant shall also file with the Planning Board such plans and specifications and an affidavit acknowledging understanding and stating agreement to conform to the same at all times.
4. Any information that is designated by the applicant as a trade secret and submitted herewith shall be treated as confidential under provisions of the New York State Freedom of Information Law.
5. Based upon information provided by the applicant, the Planning Board shall determine, during the course of Site Plan Review, if the applicant's proposal falls within the Environmental Impact Standards.
6. The Code Enforcement Officer may require the applicant to show that the construction detail and a description of the specifications for the mechanisms and techniques are in compliance with the Environmental Impact Standards listed in this section.

718 - Environmental Impact Standards - Procedures continued…

7. In addition, at the expense of the applicant, the Planning Board may utilize the Town Engineer or other consultants to determine compliance with these Environmental Impact Standards.
8. All discretionary actions, reviews, and findings for any application before the Town Board, Planning Board, or Zoning Board of Appeals shall consider the Environmental Impact Standards set forth in this part of the Ordinance as part of the State Environmental Quality Review Act (SEQRA) requirements and proceedings.

C. Environmental Impact Standards

1. Vibration
   a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed 0.002g peak at up to a frequency of 50 (fifty) cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.
   b. Vibrations occurring at a frequency higher than 50 (fifty) cycles per second or a periodic vibration shall not induce accelerations exceeding 0.001 g.
   Single impulse periodic vibrations occurring at an average interval greater than 5 (five) minutes shall not induce accelerations exceeding 0.01 g.

2. Noise
   a. The maximum allowable decibel levels established in this part shall be measured using the dbA weighted scale method for sound testing.
   b. For assessment and mitigation of noise impacts, the NYSDEC Policy Program DEP-00-1 (February 2, 2001 or as most recently revised) may be considered an accepted reference standard.
   c. The maximum decibel level of any sound emitted from a commercial or industrial property or use shall not exceed 75 dbA (seventy-five dbA) between the hours of 7:00 A.M. and 9:00 P.M. and shall not exceed 65 dbA (sixty-five dbA) between the hours of 9:00 P.M. and 7:00 A.M. measured from the property lines of the premises receiving or impacted by the sound.
   d. The maximum decibel level of any sound emitted from all residential properties or uses and all other permitted uses allowed by this Ordinance shall not exceed 70 dbA (seventy dbA) between the hours of 7:00 A.M. and 9:00 P.M. and shall not exceed 60 dbA (sixty dbA) between the hours of 9:00 P.M .and 7:00 A.M. measured from the property lines of the premises receiving or impacted by the sound.

C. Environmental Impact Standards continued…

3. Smoke
   The density emission of smoke or any other discharge into the atmosphere during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (A Ringelmann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke). These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity.

4. Odor
   Whereas the environmental impacts of odor which may create undesirable impacts on public health or safety or may create an undesirable nuisance are often difficult to quantify, it is the intent of this part to provide the Planning Board with minimum guidelines for addressing such potential environmental impacts for a Site Plan review or a Special Use Permit approval.
   a. The Planning Board shall be authorized to require the applicant, under this part or as part of the required SEQRA review, to produce documentation or other information deemed necessary by the Planning Board in order for it to make an informed decision regarding potential odor impacts resulting from potential air emissions or other potential cause for odor.
   b. The Planning Board shall require the applicant to identify the potential for odors by completing all reports or documentation including: analytical testing required by applicable Environmental Protection Agency (EPA) and/or NYS agency regulations, standards, or guidelines for air pollution releases; and/or other additional testing or test reports for other potential odor-causing releases that may not be regulated under air pollution standards or regulations.
   c. The Planning Board may require feasible analytical field testing and subsequent reports as part of the Site Plan review process or SEQRA review and final determination of significance. In addition, the Planning Board may require, as a condition of final approval of a Site Plan or Special Use Permit, analytical field testing in order to confirm that actual odor impacts in the field, identified in the review of the application, in fact do not exceed levels previously determined by the Planning Board as having no significant impact on public health and/or safety and no undesirable impact on the environment.
   d. Upon granting a conditional final Site Plan approval or Special Use Permit requiring future analytical testing, the Planning Board shall determine a reasonable time frame in which such testing shall be conducted.
   e. All test results and related reports shall be delivered to the Code Enforcement Officer for confirmation of compliance with the conditions established by the Planning Board.
   f. Failure on the part of the applicant to comply with conditions established by the Planning Board shall be cause for the Code Enforcement Officer and/or Town Board to take corrective measures as allowed by this Ordinance.

C. Environmental Impact Standards continued…

5. Fly Ash, Dust, Fumes, Vapors, Gases and other forms of Air Pollution
   No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed 0.1 (one tenth), the maximum allowable concentration set forth in §12-29 of the Board of Standards and Appeals of the NYS Department of Labor, effective October 1, 1956, or as recently amended; or the standards established by the following documents: the EPA NAAQS (Environmental Protection Agency National Ambient Air Quality Standards) and the NYSIP (New York State Implementation Plan) of the Federal Clean Air Act.

6. Electromagnetic Radiation
   It shall be unlawful to operate or cause to be operated any planned or intentional source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources or electromagnetic radiation, except that, for all governmental regulations regarding such sources of electromagnetic radiation, the regulations of the Interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission. Further, said operation in compliance with the Federal regulations shall be unlawful if such radiation causes an abnormal degradation in performances of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, harmonic content or modulation of energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers, Institute of Radio Engineers, and Electronic Industries Association.

7. Radioactive Radiation
   No activities shall be permitted which emit dangerous radioactivity at any point beyond the property lines. The handling of such radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as set forth in Title 10, Chapter 1, Part 20, as amended, and all applicable regulations of the State of New York.

C. Environmental Impact Standards continued…

8. Heat
   Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 5°F (five degrees F), whether such change is in the air or on the ground, in a natural stream or lake, or in any structure on such adjacent property.

9. Glare
   a. Direct Glare - No direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be 45° (forty-five degrees) drawn perpendicular to the ground, and with the exception that such angle may be increased to 60° (sixty degrees) if the luminary is less than 4 (four) feet above ground.
   b. Indirect Glare - Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed 0.3 (three tenths) foot-candle (maximum) and 0.1 (one tenth) foot-candle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.

10. Liquid or Solid Waste
    No discharge shall be permitted at any point into a public sewer or stream or into the ground, except in accordance with standards approved by New York State and the Ontario County Sewer District and local ordinances, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

11. Storm Water
    For all developments disturbing more than 1 (one) acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. Owner is required to comply with the NYSDEC's document "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit # G-P-02-01.

719 - Minimum Dwelling Size

Single - Family - All dwellings shall be a minimum of 1200 (one thousand two hundred) square feet in size.

Two - Family - All dwellings shall be a minimum of 800 (eight hundred) square feet per dwelling unit.

720 - Accessory Uses

A. Accessory Uses shall be on the same lot as the principal building.

B. Accessory Uses shall be uses that are customarily incidental and clearly subordinate to the permitted use, principal use, or a use that requires Site Plan review or a Special Use Permit.

C. Accessory Uses over 144 (one hundred forty-four) square feet in size shall require a Building Permit.

D. Accessory structures, including private garages and utility buildings, shall not be constructed in the front yard or beyond the front building line. For properties on which the principle building is set back from the street with a distance that exceeds the minimum setback requirement for that use, accessory structures shall not be located closer to the highway right-of-way than the minimum front setback established in the Minimum Lot Area and Setback Tables for the principle use the accessory building serves. Accessory Solar Collection Facilities shall be located in the side and rear yards only.

E. A detached accessory building with a total floor area no more than 144 (one hundred forty-four) square feet and/or 12 (twelve) feet in height may be located no closer than 5 (five) feet from a side or rear lot line. All other accessory structures shall be located no closer than 15 (fifteen) feet to a side and/or rear property line.

F. Accessory Solar Collection Facilities are allowed as an accessory use in all districts and shall be subject to the requirements of this Ordinance.

1. If an Accessory Solar Collection Facility ceases to perform its originally intended function for more than 12 (twelve) consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 (ninety) days after the end of the twelve-month period.
2. Ground mounted Accessory Solar Collection Facilities shall be screened to minimize glare and limit the view from the public way and neighboring residential properties.

Section 721 - Brush Grass and Weeds

A. Purpose.
The purpose of this chapter is to control the spread of weeds to surrounding lots and the spread of allergy-irritating pollen to adjoining lots, to protect property values, to prevent blight and the spread thereof and to ensure Town-wide, uniform yard maintenance standards that will promote the health, safety and general welfare of the residents and business owners in the Town of Hopewell, their employees, patrons, guests and invitees and any travelers within the Town of Hopewell.

B. Maintenance.

1. The owner of every improved lot within the Town of Hopewell shall maintain such lot to ensure that no growth of weeds or grass shall exceed ten inches in length or height and to ensure that there is no accumulation of dead weeds, grass or brush.

2. The owner of every improved lot within the Town of Hopewell shall maintain such lot to ensure that all hedges, bushes and trees are kept trimmed and free from becoming overgrown and unsightly where exposed to public view or where the same may constitute a blighting factor thereby depreciating adjoining property.

3. It is prohibited to allow hedges, shrubs or trees to encroach onto public sidewalks and lines of sight of public roadways.

C. Administration and enforcement.

The Town of Hopewell Code Enforcement Officer is hereby charged with the responsibility and duty to administer and enforce this section.

D. Abatement of violations.

1. If the provisions of the foregoing sections are not complied with, the Town of Hopewell Code Enforcement Officer shall serve, by regular, first class mail, written notice upon the owner, occupant or any person having the control of any such lot or land of such violation of this chapter and which advises such owner, occupant or person having the control of any such lot or land to comply with the provisions of this chapter within 10 days of the date such notice of violation is mailed.

Section 721 - Brush Grass and Weeds continued…

2. If the person upon whom the notice is served fails, neglects or refuses to cure the violation within 10 days of the date such notice is mailed, or if no person can be found in the Town of Hopewell who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the Town of Hopewell Code Enforcement Officer shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal plus a service charge of 50% thereof to cover the cost of supervision and administration shall be certified by the Town of Hopewell Code Enforcement Officer to the Town Supervisor and such certified amount shall thereupon be charged and assessed against the owner, tenant or occupant of the property that was the subject of the violation. The expense, so assessed, shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town taxes and charges.

3. The owner, occupant or any person having control over any lot, land or property found in violation of this chapter shall be notified in writing only once in any given year for a particular violation. Subsequent violations of a similar nature at the same location during the same year shall be corrected by the Town or its agent without notice to the owner, occupant or person having control of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of infraction for the entire season. The costs incurred by the Town in curing any subsequent violations shall be collected in the same manner as set forth in Subsection B of this section.

ARTICLE VIII
Supplementary Regulations for Specified Uses

800 - Kennels

A. Kennels shall be subject to the following requirements:

1. The kennel and its operation shall not create nuisance conditions for adjoining properties due to noise or odor in accordance with the Environmental Impact Standards in §718 of this Ordinance and other applicable regulations or local laws of the Town of Hopewell. The maximum number of adult animals kept for breeding shall not exceed 10 (ten).
2. All animals shall be confined to the property and housed in an enclosed structure in humane conditions including, but not limited to, protection from weather; clean, sanitary, adequate space with non-porous surfaces; and proper ventilation.
3. Animals shall be kept inside an enclosed structure between the hours of 8:00 P.M. and 6:00 A.M.
4. There shall be adequate methods for sanitation and sewage disposal; at the discretion of the Planning Board, said methods may require a waste disposal plan The disposal plan, at a minimum, shall outline the approximate amount of sewage expected, intended methods to properly dispose of the sewage, and intended methods to sanitize the kennel. Certification by a licensed, professional engineer and/or the NYS Department of Health may be required if existing disposal systems are utilized. New systems shall conform to §816 of this Ordinance.
5. Kennels and exterior pens, including dog runs, shall be located at least 200 (two hundred) feet from the nearest dwelling (other than the dwelling of the owner or user of the property) and at least 100 (one hundred) feet from any lot line.

801 - Swimming Pools

Residential swimming pools shall comply with the NYS Uniform Code. Pool and deck placement shall comply with structure setback requirements of the applicable zoning district.

802 - Home Occupations

A. Home occupations or professions are permitted in all Zoning Districts and shall be carried on wholly within the principal building, unless the Planning Board grants a Special Use Permit to allow the home occupation in an accessory building, subject to the requirements of §305-D of this Ordinance.

B. No more than 1 (one) non-resident of the household shall be employed in the home occupation.

C. There shall be no exterior display, other than a sign subject to the requirements of Article XII of this Ordinance, and no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

D. No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced, nor shall the storage or handling of hazardous material be allowed.

E. No more than 20 (twenty) percent of the floor area of the residence shall be allowed for the use of the home occupation.

F. Parking shall be limited to 4 (four) vehicles during established business hours.

802A- Flea Markets and Garage /Yard Sales

A. Garage and yard sales, household and estate sales and auctions are permitted provided the same be conducted upon the premise which is owned by one of the principles, that no merchandise be brought into the Town for such sales, and that said sale is conducted for no more than 3 (three) consecutive days or more than 9 (nine) days in any calendar year.

B. Yard sales, craft sales, auctions, or similar events are permitted for bona fide civic, educational, religious, or charitable organizations subject to §716 of this Ordinance.

C. Flea Markets or similar sales events operated as a commercial use for which merchandise is brought into the Town are prohibited.

803 - Multiple-Family Dwellings

A. These criteria shall pertain to all multiple-family dwellings, attached or row dwellings, and condominiums. A Site Plan shall be required for submission to the Planning Board for review, subject to Article XVI.
Multiple-family dwellings intended for student housing use or senior housing use shall be subject to the regulations and design standards set forth in Part 815 of Local Law #2 of 2006 Community Service Overlay Zone.

803 - Multiple-Family Dwellings continued…

B. Design Standards – Open Space and Maximum Stories – All Structures

1. Area Required – See the Town of Hopewell Minimum Lot Area and Setback Table, §1901
2. Minimum Front Setbacks – See the Town of Hopewell Minimum Lot Area and Setback Table, §1901
3. Side and Rear Setbacks – See the Town of Hopewell Minimum Lot Area and Setback Table, §1901
4. Minimum Distance – See the Town of Hopewell Minimum Lot Area and Setback Table, §1901
5. Minimum Distances – See the Town of Hopewell Minimum Lot Area and Setback Table, §1901
6. Open Space – No less than 10 (ten) percent of the total area of the development or tract shall be left as open space for passive and/or recreational uses. Such open space shall not include streets, sidewalks, roads, parking areas, driveways, and open spaces which are part of required setbacks.
7. Maximum Stories – 2 (two). Maximum building height 35 (thirty five) feet.
8. Off-Street Parking Requirements
    a. Studio, efficiency and one bedroom – 1 (one) space per dwelling unit.
    b. Two or three bedroom – 1 and 1/2 (one and one- half) spaces per dwelling unit.
    c. Visitor Parking – An additional number of parking spaces equal to 25 (twenty-five) percent of the total number of occupant spaces shall be provided throughout the development.
    d. Parking areas shall be paved.
    e. Pedestrian walkways shall be hard-surfaced.
9. In addition to the above requirements, see the Town of Hopewell Minimum Lot Area and Setback Table §1901.
10. Building Details
    a. Overall density shall not exceed 10 (ten) dwelling units per acre.
    b. Minimum dwelling unit space:
       Studio – 450 (four hundred fifty) square feet
       One bedroom – 550 (five hundred fifty) square feet
       Two Bedroom – 700 (seven hundred) square feet
       Three Bedroom – 800 (eight hundred) square feet
       Four Bedroom or more shall be prohibited
    c. Dwelling Unit Distribution
       (1) No more than 30 (thirty) percent of the total dwelling units within the development shall be studio units.
       (2) No more than 20 (twenty) percent of the total dwelling units within the development shall be three-bedroom units.
    d. Maximum dwelling units per building:
       Single story – 12 (twelve)
       Two Story – 16 (sixteen)

803 -Multiple-Family Dwellings continued…

11. Miscellaneous
    a. All improvements shall comply with handicap accessibility requirements.
    b. Should the services of an attorney, engineer, architect or other consultant be required for the Hopewell Town Board to act pursuant to the provisions of this part, the applicant shall reimburse the Town the amount of the fees charged by said person or firm.

C. Driveways for ingress and egress shall be as required by the NYS Uniform Code.

D. The minimum distance between buildings in a multi-family development shall be 25 (twenty-five) feet. No required recreation area shall be closer than 75 (seventy-five) feet to any property line.

E. Parking areas shall be located in any yard other than the front yard, but no closer than 20 (twenty) feet from any property line and shall comply with all other regulations of the district in which the use is located.

F. Each multi-family development shall provide a recreation area or areas furnished with suitable equipment at a standard of 100 (one hundred) square feet for each dwelling unit with minimum of 400 (four hundred) square feet per area.

G. Development applications for multi-family development units shall be subject to Site Plan Review by the Planning Board in accordance with Article XVI (Site Plan Review and Approval) of this Ordinance.

804 - Family/Caregiver Apartments

A. The owner of the lot upon which the apartment is located shall reside within the principal dwelling or apartment.

B. A homeowner of a lawful Single-Family Use shall be permitted one Family/Caregiver apartment unit. No more than 2 (two) persons shall reside in the unit – should 2 (two) persons reside in said unit, they must be related to each other by birth, marriage, or adoption.

C. A Family/Caregiver apartment unit may be located either in the principal building or in an accessory building.

D. The area for a Family/Caregiver apartment unit shall not exceed 40 (forty) percent of the area of the principal dwelling unit.

E. The exterior of the unit shall have the appearance of a single-family dwelling and conform to the design of the existing dwelling. All construction shall comply with the NYS Uniform Code.

804 - Family/Caregiver Apartments continued…

F. The property shall have one common driveway with adequate parking for all vehicles.

G. No rent shall be charged to the resident of the Family/Caregiver apartment.

H. A Special Use Permit for a Family/Caregiver apartment shall be required and shall be personal and shall be granted only to the property owner/applicant. Upon sale of the real property, the permit will automatically expire and become null and void.

805 - Drive-in Facilities

A. All vehicle-stacking areas shall be clearly identified through the use of pavement markings, signs and/or curbing and landscaping features and shall be designed so they do not interfere with safe pedestrian and vehicle circulation on the site or along the public right-of-way.

B. The length of stacking areas shall be determined by the maximum length of stacking required to serve vehicles during the facilities peak hour of operation.

C. All drive-in establishment vehicle stacking areas shall be located a minimum of 30 (thirty) feet from any lot line adjoining a residential district.

D. Any speaker system installed as part of the drive-in establishment shall be located a minimum of 40 (forty) feet from any property line adjoining a residential property. Sound levels at adjacent property lines shall not exceed allowable decibel levels established in §718 of this Ordinance.

806 - Motor Vehicle Service Stations or Repair Establishments

A. Motor Vehicle Service Stations

1. In addition to the information required for Site Plan Review as specified in Article XVI (Site Plan Review and Approval) of this Ordinance, the Site Plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth of tanks to be placed below the ground, the number and location of pumps to be installed, the type of structure and accessory buildings to be constructed. No service station shall be erected within 1,500 (one thousand five hundred) feet of another service station in any direction from lot line to lot line. All fuel pumps, lubricating or other automotive service devices shall be located at least 30 (thirty) feet from any street or property line. All fuel, oil or other flammable substances shall be stored at least 30 (thirty) feet from any street or lot line. All fuel dispensing devices and tanks shall be installed in accordance with the NYS Uniform Code and any standards from the National Fire Prevention Association (NFPA) handbook for Flammable and Combustible Liquids. The entire area of the site traveled by motor vehicles shall be hard-surfaced.

806 - Motor Vehicle Service Stations or Repair Establishments - Motor Vehicle Service Stations continued…

2. Accessory goods for sale may be displayed outdoors on the pump island and the building island only. The outdoor display of oil and/or antifreeze and similar products may be placed on the respective island if provided with a suitable stand or tank.
3. No motor vehicle establishment with fuel-dispensing equipment shall be located within 300 (three hundred) feet of any church, school, library, hospital or charitable institution. Such distance shall be measured in a straight line from said use to the lot line nearest to the motor vehicle establishment along the street line. The architecture and color scheme of canopies over pump islands shall be consistent with and reflect the design of the primary building of the establishment. Illumination originating from a canopy shall only be directed toward the ground. Canopies shall not be any larger than is necessary to contain extinguisher systems, fuel supply systems, and other necessary utilities.
4. Where such motor vehicle establishments abut single-family, two-family, multi-family dwellings, or abut mixed-use districts, they shall be screened and landscaped in accordance with the regulations in Article X (Landscaping, Screening, and Buffer Regulations) of this Ordinance.

B. Motor Vehicle Service Station or Repair Establishments

In addition to the requirements for Motor Vehicle Service Stations above, the following are required:

1. Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site except in accordance with an approved Site Plan. No motor vehicle part, partially dismantled motor vehicle part or partially dismantled motor vehicle shall be stored outside of an enclosed building.
2. If adequate off-street parking spaces are available, up to 5 (five) unlicensed motor vehicles may be temporarily stored for a period not to exceed 2 (two) months. Said parking spaces are to be located on the side or rear of the building and screened from view.

807- Animals on Lots and Animal Waste

No horse, cow, burro or other large animal, no pig, sheep, goat, small burro, small pony or other small animal may be kept except on a farm in an Agricultural District, or in compliance with the following requirements:

A. The lot on which said animals are kept shall have a minimum area of 40,000 (forty thousand) square feet for the principal building and first large animal, and 20,000 (twenty thousand) square feet for each additional large animal. The minimum area required for small animals is 40,000 (forty thousand) square feet for the principal building for the first 2 (two) small animals, and 20,000 (twenty thousand) square feet for each 2 (two) additional mature small animals. A small burrow or small pony shall be defined as one that is not more than 49 (forty-nine) inches tall as measured to the shoulders.

B. An appropriate shelter, not attached to the residence, having a minimum area of 60 (sixty) square feet for the first large animal and 40 (forty) square feet for each additional large animal shall be provided. Suitable shelter shall also be provided for any small animal. Manure or manure compost shall be setback 100 (one hundred) feet from all property lines and street right-of-ways.

C. The keeping of large and small animals is permitted as a Special Use in non-agricultural zoning districts, and the Town Planning Board shall consider the following, in addition to the regulations and standards set forth in this Ordinance, in determining approval or denial of such applications:

1. The number and type of animals.
2. Whether the proposed location of the fencing, containment, and/or shelter of such animals would be too close to the principal building on the same or adjoining premises.
3. The adequacy and suitability of the fencing, containment, and shelter proposed.
4. The closeness or proximity and number of neighbors.
5. The use of adjoining premises and the character of the neighborhood.

D. Animal Waste Management

The storage and land-application of manure for farm operations shall follow and apply best management practices consistent with the NYS Department of Agriculture and Markets, US department of Agriculture Natural Resources Service Handbook of Conservation Practices, The NYS Department of Environmental Conservation Solid Waste Regulations, and any other applicable agencies and their standards. The following regulations shall apply to animal waste management systems including, but not limited to, lagoons, manure pits, ponds, holding areas, facility retention ponds, reservoirs, or liquid waste facilities:

1. The system shall be designed to prevent animal waste from entering any stream or body of water.
2. In accordance with NYS Department of Health Standards, the system shall be set back a minimum of 200 (two hundred) feet from any public or private well.
3. A system with an open or closed pit shall have warning signs or other devices to prevent hazards associated with drowning, asphyxiation due to gases, or other potential risks.

807- Animals on Lots and Animal Waste - Animal Waste Management continued…

4. Through the use of crops, trees, fencing, or other methods, the farmer/owner shall, to the greatest extent reasonable, provide a buffer or screen between the system and occupied dwellings.
5. It is the intent of this part that the Town of Hopewell Agricultural Advisory Board shall be given an opportunity as early as practical in the reviewing process of the certified Concentrated Animal Feeding Operation (CAFO) Planner and Design Engineer to participate and make comment of proposed CAFO prior to Preliminary and Final Plans.
6. Upon completion of Preliminary Plans and supporting documentation by the Design Engineer and Planner, the CAFO operator shall submit a duplicate set of plans and documentation to the Code Enforcement Officer.
7. Upon receipt of plans and other supporting documents the Code Enforcement Officer shall, within 5 (five) business days, notify the Chairman of the Town of Hopewell Agriculture Advisory Board in writing of receipt of such plans from the CAFO operator.
8. The Chairman of the Agriculture Advisory Board shall, within 10 (ten) business days, call a meeting of the Agriculture Advisory Board. Such meeting shall be held within 30 (thirty) business days or extended for necessary reasons with the agreement of the CAFO operator. The Agriculture Advisory Committee shall review and offer written comment of the proposed plans and supporting documentation in a timely manner in accordance with the procedural rules of said Board.
9. Written comments of the Agriculture Advisory Board shall be forwarded to the CAFO operator and the certified CAFO Planner and Design Engineer for their consideration in the final design.

808 - Junkyards and Recycling Facilities

Junkyards and recycling facilities shall be prohibited in all districts.

809 - Seasonal Farm Stands, Residential Seasonal Stands, Permanent Farm Stands or Farmers' Markets, and Agriculture-Based Businesses

A. Seasonal Farm Stands

1. A seasonal farm stand is a farm stand which is open for business for no more than 6 (six) months in any calendar year. Farm-grown products including, but not limited to, seasonal fruits, vegetables, nursery stock, dairy products, and poultry or eggs may be offered for sale. Farm-grown or farm-produced value-added products including, but not limited to, jams, jellies, pickles, herbs, flowers, homemade breads and/or pastries or homemade cheeses may be offered for sale.
2. A seasonal farm stand may be comprised of a single structure or a combination of no more than 2 (two) structures Said structures shall not exceed 300 (three hundred) square feet in total floor area whether said square footage shall be of a single structure or of both structures combined.
3. A seasonal farm stand may be comprised of open carts or wagons said conveyances which shall not to exceed 4 (four) in number. A single structure, not to exceed 150 (one hundred fifty) square feet in floor area may be used in conjunction with no more than 3 (three) open carts or wagons.
4. Motor vehicles including, but not limited to, tractor trailers, box vans or box trucks, or portable storage units shall be prohibited for use as seasonal farm stands.
5. A seasonal farm stand shall be set back a minimum of 30 (thirty) feet from the highway right-of-way. A seasonal farm stand, including any structures, wagons or carts, located within the highway right-of-way shall be prohibited.
6. Customer parking shall be provided for a minimum of 5 (five) motor vehicles and shall be surfaced with gravel or other hard surface material. Parking on the public right-of-way shall be strictly prohibited. Parking which allows a vehicle to back out onto the paved portion of a highway shall be strictly prohibited. All highway access shall comply with the rules and regulations set forth by the authority having jurisdiction over such highway.

B. Residential Seasonal Stands

Temporary seasonal front yard stands, not to exceed 20 (twenty) square feet in area, which offer for sale fruits, vegetables, flowers or other agricultural products grown or produced on that property shall be permitted. The temporary stand shall not be located in the highway right-of-way. Parking or stopping of motor vehicles within the right-of-way is prohibited without written approval from the authority having jurisdiction over said highway.

809 - Seasonal Farm Stands, Residential Seasonal Stands, Permanent Farm Stands or Farmers' Markets, and Agriculture- Based Businesses continued…

C. Permanent Farm Stands or Farmers' Markets and Agriculture-based Businesses

1. Intent

   The intent of this part is to encourage development of agriculture-based businesses as recommended by the Town of Hopewell Comprehensive Plan while preserving existing rural residential uses and farming neighborhoods. Businesses with increased floor area or development footprints will naturally result in a greater number of customers thus increasing necessary parking requirements, increasing traffic through farming and residential neighborhoods and potentially altering the existing character of the neighborhood community.

   As such, said businesses are more compatible with other existing Commercial Uses or existing Mixed Uses located in more appropriate traffic corridors accommodating a higher volume of traffic and having the infrastructure necessary for more intense business uses.

2. Agriculture-based Businesses including, but not limited to, Farmers' Markets, Farm Stands, or any other form of retail sales of agricultural products intending to operate for business more than 6 (six) months in any calendar year shall be considered a Permanent Business and shall be subject to regulations set forth in this Ordinance for such Uses including Site Plan review by the Planning Board.

3. Agriculture-based Businesses shall be an allowed Use in the Agricultural Zoning District, subject to the following conditions:

   a. The Use shall require issuance of a Special Use Permit reviewed in accordance with §305 of this Ordinance.

   b. The Use may be a principal building or structure, or may be an accessory building or structure to a farm, or other bona-fide agricultural use provided that any building, structure, or combination of buildings or structures for the business use shall not exceed 1200 (twelve hundred) square feet in total floor area. Required parking spaces shall be provided in accordance with §1105 of this Ordinance.

   c. The building, structure or combination thereof, necessary parking areas, necessary space for sewage treatment, and other necessary space for site improvements including storm water treatment, if required, for any Permitted Use allowed above, shall be placed in an area on the subject property not to exceed 2 (two) acres in total developed area, including all required yard space and setback requirements.

   d. All buildings and structures open to the public shall comply with the minimum standards of the NYS Fire and Building Codes.

   e. All site development work exceeding 1 (one) acre shall comply with NYSDEC Soil and Erosion, and Storm Water Management rules and regulations.

Agriculture-based retail business Uses requiring larger building square footages or total footprint area in acres may be located in any Zoning District in the Routes 5&20 or State Route 21 highway corridors, subject to approval of a Special Use Permit in accordance with §305 of this Ordinance.

810 - Greenhouses

Personal greenhouses shall be no taller than 14 (fourteen) feet.
Commercial greenhouses are governed by the following standards:

A. A commercial greenhouse is to be properly maintained and constructed in accordance with the NYS Uniform Code or any other applicable building codes.

B. A commercial greenhouse shall be set back a minimum of 30 (thirty) feet from any property line.

C. A buffer strip consisting of interlocking trees and foliage shall be provided on all sides and rear property lines.

D. The height of the commercial greenhouse shall be no greater than 18 (eighteen) feet, as measured from the natural grade at the base of the greenhouse to the highest peak of the structure.

811 - Adult Entertainment Establishments

Adult entertainment establishments exhibit serious objectionable operational characteristics that can lead to significant adverse impacts on the surrounding community, increase the crime rate, and undermine the economy and welfare of the community.

Adult entertainment establishments as defined by this Ordinance shall include adult bookstores, adult theaters, and adult peep-show theaters. In order to prevent the negative secondary effects of adult entertainment establishments, and to ensure that the effects of such businesses shall not adversely affect the health, safety and economic well-being of the community, the following restrictions apply:

A. No adult entertainment establishments shall be permitted in a building any part of which is used for residential purposes, including nonconforming residential uses.

B. No more than 1 (one) adult entertainment establishment shall be permitted in any building or on any lot.

C. No minor, (a person under the age of 18) shall be permitted onto the premises of any adult entertainment establishment.

D. The exterior of the adult entertainment establishment structure shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood.

E. No exterior sign shall contain any photographic or artistic representation of the human body.

811 - Adult Entertainment Establishments continued…

F. An adult entertainment establishment shall not be located within 1,000 (one thousand) linear feet of any building used for residential purposes, a group care facility, a child care center, a regular place of religious worship, a public or private school, a public or semi-public building, a medical center, a community center, or another adult oriented business. Distance shall be measured from closest lot lines.

G. An adult entertainment establishment shall not be located or operated within 1,000 (one thousand) linear feet of the property line of a public park, recreational facility, health facility, municipal boundary, or trail. Distance shall be measured from closest lot lines.

H. Minimum distance between adult entertainment establishments shall be 1,500 (one thousand five hundred) feet measured to the closest lot line.

I. All adult entertainment establishment activities shall be conducted within enclosed buildings. All building openings, entries, doors, windows, etc., shall be located, covered, or screened in such a manner so as to prevent a view into the interior of the building from the public right-of-way or from adjacent properties. Enclosed rooms, booths, or other private spaces for any adult use shall not be allowed within the structure.

812 - Outdoor Furnaces

A. Any Outdoor Solid Fuel Appliances (OSFA) existing prior to the effective date of this Ordinance shall be permitted to continue operation, provided the use does not constitute a fire hazard due to improper installation or constitute a nuisance to adjacent properties.

B. Complaints alleging improper installation shall be made to the NYSDEC.

C. Prohibited Locations
OSFA shall be prohibited in any of the following locations:

1. Manufactured home communities
2. Residential subdivisions of 4 (four) or more contiguous lots or parcels consisting of lots or parcels each of which is 1(one) acre or less in area.

813 - Manufactured Homes and Communities

A. Intent

It is the intent of this section to regulate the placement of manufactured homes and the design of manufactured home communities to ensure that they are attractive and well maintained thereby protecting the health, safety, welfare, and quality of life of the Town of Hopewell residents.

B. General Regulations

1. Manufactured homes shall conform to the regulations specified in this section and shall be located in licensed manufactured home communities unless permitted by other parts of this Ordinance.
2. All manufactured homes hereafter located in the Town shall comply with the 1976 Federal Mobile Home Construction and Safety Standards (HUD Code) and any updates or amendments.
3. All manufactured homes installed in the Town of Hopewell shall be in accordance with NYS Uniform Code.
4. A Building Permit and Certificate of Occupancy/Compliance shall be required for each manufactured home.
5. Every manufactured home shall be enclosed to ground level by a commercially manufactured skirting to match the exterior of the structure. The enclosure shall be completed within 30 (thirty) days following the installation of the manufactured home.
6. Every licensed manufactured home community in existence on the effective date of this Ordinance shall be permitted to continue in operation of its existing facilities until the license expires. Any expansion in area or density of facilities shall conform to the regulations contained herein.

813 - Manufactured Homes and Communities – General Regulations continued…

7. Licensing, Removal and Revocation
    a. No person shall operate a manufactured home community without having a valid license issued by the Hopewell Town Board. A license may be issued upon the Planning Board's approval of a completed Special Use Permit, subject to the following requirements:
        i. A completed application for a Special Use Permit shall be submitted to the Code Enforcement Officer and immediately forwarded to the Hopewell Planning Board for review and consideration for approval. A completed Special Use Permit application shall consist of a completed application form, payment of application fees, and a site plan subject to Article XVI (Site Plan Review and Approval) requirements of this Ordinance and §813-B9 and 10 of this Section. Any variance requests shall be submitted by the applicant to the Hopewell Zoning Board of Appeals. The results shall be forwarded to the Planning Board.
        ii. Upon approval of the Special Use Permit application and Site Plan and upon taking into consideration any variances granted, the Planning Board shall, in writing, within the time frame prescribed by NYS law, make a recommendation to the Town Board for issuance of a license.
        iii. In determining whether to issue a license, the Town Board shall take into consideration the recommendations made by the Planning Board for the Site Plan review and for the approval or disapproval of the Special Use Permit.
    b. In no event shall the Code Enforcement Officer issue a Building Permit until a license is granted to the applicant by the Town Board.
    c. A license issued by the Town Board shall be valid for a period of 2 (two) years and it shall be the responsibility of the owner/operator of the park to seek a renewal the appropriate time.
    d. The Town Clerk shall keep a record of all manufactured home communities in the Town including their dates of establishment and license renewal dates. A report on such matters shall be made each year at the Town Board's annual meeting.

813 - Manufactured Homes and Communities – General Regulations - Licensing, Removal and Revocation continued…

e. Upon notification by the licensee prior to the expiration of the current license, or as directed by the Town Board, the Code Enforcement Officer shall inspect each manufactured home community for the following:
   i. Compliance with Public Health Law
   ii. Compliance with the conditions established for the issuance of the original Special Use Permit.
   iii. Compliance with any subsequent conditions which may have been attached to the license renewal. The Code Enforcement Officer shall report on the condition of the community and recommend to the Town Board whether the license should be renewed with or without conditions, or not renewed. The Town Clerk shall issue a new biannual license upon direction of the Town Board with a fee, which shall be set by general resolution of the Town Board and amended from time to time.

f. In the event of a violation of any provision of this Ordinance or any other applicable rule or law, and after a Public Hearing, the Town Board may revoke a manufactured community license. Upon effective date of revocation, the premises shall cease to be used for the purpose of a manufactured home community and all manufactured homes located therein shall be removed upon completion of their prepaid term of tenancy, which shall be no more than 1 (one) month. Any deposits or securities paid in advance by any tenant shall be refunded, and no rent shall be paid or received after the revocation date, unless arrears due are owing upon the date of revocation. Within 5 (five) business days from the date of receipt of the revocation notice to the licensee/owner/operator, a copy of the revocation notice along with the lawful 30 (thirty) day notice of termination of tenancy shall be served to all tenants, sub-tenants, and all persons entitled to receive such notice.

813 - Manufactured Homes and Communities – General Regulations continued…

8. Development Requirements
    a. For the establishment or expansion of a manufactured home community, a Site Plan conforming to the requirements specified in Article XVI (Site Plan Review and Approval) of this Ordinance shall be submitted together with the Special Use Permit application. Whereas a Public Hearing is required for the Special Use Permit, no Public hearing shall be required during the Planning Board review of this manufactured home Site Plan.
    b. Dimensions and setback: Each community shall be a minimum of 8 (eight) acres and shall have a 100 (one hundred) foot buffer between the community and adjoining properties and the right-of-way.
    c. Development shall be limited to a maximum of 200 (two hundred) units per community.
    d. The Planning Board may require that fences, walls, or protective shrubbery be provided around areas deemed to constitute a hazard to the public. Landscaping shall be provided along all streets and common and buffered areas in accordance with Article X (Landscaping, Screening & Buffer Regulations) of this Ordinance.
    e. To protect pedestrians from vehicular traffic, on one side of the street a 5 (five) foot wide sidewalk with curbing shall be provided.
    f. From dusk to dawn, community streets, roadways, and public spaces shall be illuminated in accordance with Article XIV (Outdoor Lighting) of this Ordinance. Lights shall be maintained in working order.
    g. Internal Streets and Parking
        i. All streets shall be designed and constructed to permit the safe passage of vehicles at 15 (fifteen) miles per hour.
        ii. Streets shall be paved to a width of at least 20 (twenty) feet.
        iii. All dead-end streets shall have a paved turn-around.
        iv. Each internal street shall be named and identified by street signs located at intersecting corners. The signs shall be well maintained to be legible from the street and not pose a hazard to pedestrians or motorists.
        v. The owner/operator of the community is responsible for maintenance of all streets and for ensuring that the streets are open, passable, and free of snow, ice, and other debris.
        vi. Fire hydrants and/or other fire suppressant systems shall be in accordance with the NYS Fire Code and/or NYS Department of Health requirements.
        vii. Parking shall not be allowed on the streets. Guest parking and parking for deliveries shall be provided by the owner/operator at a given location at a ratio of 1 (one) space for every 6 (six) lots. Parking shall be allowed overnight at designated guest parking location only.

813 - Manufactured Homes and Communities – General Regulations - Development requirements continued…

h. Recreational and Open Space - Each manufactured home community shall provide and maintain at least 20 (twenty) percent of the total area as common open and recreational space for tenants of the community only. Roads, streets, parking areas, and required yards shall be not be included in the calculation for recreation and open space. At a minimum, the space shall consist of a well-drained, level, turfed field with at least 1 (one) recreation facility consisting of picnic tables, a pavilion, a playground, or other criteria, at the discretion of the Planning Board, for the benefit of the residents.

i. All manufactured home communities, and each lot in the community, shall be serviced by approved public water and public or private sanitary sewer system, electricity, and communications. All utilities shall be maintained in accordance with the appropriate utility company and shall be underground.

j. The manufactured home community owner/operator shall provide an adequate system of refuse collection and disposal to all lots. Refuse shall be kept in enclosed containers of sufficient size. At all times, the grounds shall be kept free and clear of refuse and debris. No refuse shall be burned at any time.

k. All fuel supply systems shall be located, installed and maintained in a safe manner and in conformance with the NYS Uniform Code. External tanks of any kind shall be located to the rear of each manufactured home, at least 5 (five) feet from any exit, and shall be maintained in a safe manner.

l. The intention to display and sell manufactured homes shall be specified in the application for the Special Use Permit. If said Permit is approved by the Planning Board, the manufactured homes for display and sale shall be:

    i. Located in an area allowing commercial use
    ii. Connected to all operating utilities
    iii. Limited to no more than 5 (five) homes at any one time.

813 - Manufactured Homes and Communities – General Regulations continued…

9. Individual Lot Requirements
    a. Dimensions and Setbacks: The lot for each manufactured home shall be a minimum width of 60 (sixty) feet and 8,000 (eight thousand) square feet in area. The setbacks for each lot shall be 25 (twenty-five) feet in front, 10 (ten) feet in the rear, and 15 (fifteen) feet at the side. The corners of each lot shall be clearly marked by permanent flush markers, stakes or other means.
    b. Each lot shall be provided with a foundation, a pad or piers, of sufficient size to accommodate a typical manufactured home or double wide to be located in that space. Each lot shall be provided with a platform adjacent to the main entrance of the structure. The dimensions of said platform shall be at least 12x15 (twelve by fifteen) feet and may act as a base for railings or steps. The foundation shall be constructed in accordance with the NYS Uniform Code.
    c. All manufactured homes shall meet the tie-down requirements as defined in the NYS Uniform Building Code.
    d. No more than 1 (one) manufactured home shall occupy any 1 (one) lot.
    e. Each lot shall be numerically identified and said identification shall remain readily visible and identifiable while the lot is in use.
    f. Each lot shall contain a paved parking area of sufficient size for 2 (two) vehicles. Parking for each lot shall be confined to the parking area. Storage of boats, campers, trailers, or other recreational vehicles shall not be permitted except in areas specifically identified by the manufactured home community operator/owner for parking and storage.
    g. Subject to approval of the owner/operator, decks, porches, or other exterior additions may be constructed on a lot. No such accessory building or structure shall be closer than 15 (fifteen) feet to a lot line.

814 - Senior Housing

A. Intent
This section provides guidelines for the development of residential facilities accommodating the needs of senior citizens. Senior citizen housing shall be located on sites accessible to necessary facilities, amenities, services and transportation.

B. Re-Zoning Overlay District
Properties proposed for senior housing development or existing buildings or property proposed as a change in use to senior housing shall be re-zoned by the Town Board to a Senior Housing Overlay District. Such re-zoning shall be accomplished prior to Site Plan review by the Planning Board. Applications received shall be prepared and reviewed in accordance with Article 1700.

C. Prior to final Site Plan approval by the Planning Board, the Planning Board shall require the execution of agreements and/or covenants, approved by the attorney for the Town of Hopewell, in order to assure the Town that the premise shall be used only as senior housing as defined by this Ordinance or other agreement for re-zoning by the Town Board. Said agreement or covenant shall be recorded in the office of the Ontario County Clerk and shall constitute an agreement of covenant running with the land. Such agreement or covenant may only be modified or released as set forth in the agreement or covenant or by local law.

D. Design Standards

1. Minimum setbacks of buildings: Front setbacks from non-dedicated private subdivision or rural development roads shall be 30 (thirty) feet measured from the street curb or pavement edge. Front setbacks from a street dedicated or proposed for dedication as a Town, County or State Connector road (design speed in excess of 30 mph) shall be 60 (sixty) feet measured from the street right-of-way. Front setbacks from a subdivision or rural development road (design speed of less than 30 mph) dedicated or proposed for dedication shall be 30 (thirty) feet measured from the street right-of-way. Front setbacks from private subdivision or rural development roads shall be 30 (thirty) feet measured from the street curb or pavement edge.
   Side and rear setbacks from property lines shall be 30 (thirty) feet to principal structures and 20 (twenty) feet to accessory structures.
   Detached accessory structures such as garages or carports shall not be any closer to any street line than the principal building.
2. Maximum Height shall be 40 (forty) feet. Minimum lot size shall be 3 (three) acres.
3. Minimum distance between structures shall be 50 (fifty) feet. Minimum distance between principal structures and accessory buildings shall be 20 (twenty) feet. Every principal building shall have a minimum setback of 25 (twenty-five) feet from parking area or driveways.

814 - Senior Housing - Design Standards continued…

4. Parking Requirements
    a. All parking spaces shall be paved. Pedestrian walkways shall be concrete or asphalt surfaced.
    b. Dwelling unit parking spaces shall be provided as follows:
       Efficiency/Studio – 1 (one) space for each dwelling unit.
       1(one), 2 (two) or 3 (three) bedroom – 2 (two) spaces for each dwelling unit.
    c. Visitor Parking – In addition to occupant parking as required above, an additional 15 (fifteen) percent of the total number of required spaces shall be provided throughout the development for visitor parking.
    d. Accessory Uses – Spaces for accessory uses such as recreation halls, community centers and administrative office space shall be provided with parking spaces in accordance with the parking regulations of this Ordinance.
    e. The Planning Board may take into consideration visitor and accessory use parking spaces available along private streets. In no instance shall on-street parking interfere with or obstruct fire department or emergency vehicles accessibility, fire hydrant accessibility, snow removal, or other public safety matters.
    f. In order to maintain desired green space and landscaping, no parking area shall be located in a front or side yard abutting a Town, County or State Connector road.
    g. Parking areas or spaces shall be located a minimum of 20 (twenty) feet from adjacent property lines.
    h. Parking for motor homes, campers, boats and other recreational vehicles or equipment shall be provided in a separate area dedicated for such use.
    i. Parking spaces for the physically handicapped shall be provided in accordance with State and Federal requirements as determined by the Code Enforcement Officer.
    j. Parking on public streets shall be strictly prohibited unless so authorized by the Town Board and Town Highway Superintendent.
    k. Landscaping shall be required and approved by the Planning Board.

815 - Student Housing

A. Intent
This section is intended to ensure orderly development of student housing on properties currently owned by Ontario County. It is the intent of this part to require student housing to be part of the College Campus in order to minimize the additional traffic impact of student drivers and to provide safe, privately maintained pedestrian access to campus buildings.

B. Property proposed for Student Housing development shall comply with Local Law #2 of 2006 Community Services Overlay Districts.

816 - On-site Individual Wastewater Treatment Systems

All on-site individual wastewater treatment systems shall conform to the requirements of the Town of Hopewell regulations for on-site wastewater treatment systems as specified in Local Law 1 of 2000 and the NYS Department of Health (NYS DOH).

817 - Mobile Home Definitions, Permitted Uses, Installation and Replacement Standards

A. Definitions

1. Factory- Manufactured Dwelling
   A single-family dwelling unit factory-manufactured to Federal Manufactured Housing Construction and Safety Standards (HUD Code) or the New York State Department of Housing and Community Renewal Standards including the Uniform Fire Prevention and Building Code.

2. Modular Home
   A factory-manufactured dwelling unit constructed in accordance with the New York State Uniform Fire Prevention and Building Code.

3. Mobile Home Single -Wide
   A factory-manufactured dwelling constructed in accordance with Federal Manufactured Housing Construction and Safety Standards (HUD Code) that provides a continuous minimum width of less than 20 (twenty) feet.

4. Mobile Home Double -Wide
   A factory-manufactured dwelling constructed in accordance with Federal Manufactured Housing Construction and Safety Standards (HUD Code) that provides a minimum continuous assembled width of 20 (twenty) feet. Such assembled continuous width shall not include factory manufactured expansion rooms and/or conventionally constructed additions.

5. Mobile Home, Pre-HUD
   A factory-manufactured dwelling unit with a permanent chassis which was constructed prior to June 15,1976 and which was not constructed to Federal Manufactured Housing Construction and Safety Standards (HUD Code).

6. Trailer
   A structure that is designed to be used as temporary living quarters that does not meet the criteria for factory-manufactured dwellings, and that is intended to be transported over street or highways as a motor vehicle or pulled by a motor vehicle.

817 - Mobile Home Definitions, Permitted Uses, Installation and Replacement Standards continued…

B. Permitted Uses

Factory- manufactured modular and double-wide mobile homes shall be permitted uses in agricultural and residential zoning districts.

C. Installation Standards

1. Placement of factory-manufactured dwellings on individual lots shall comply with minimum floor area, lot size, and setback requirements as required by Minimum Area and Setback Tables of the Hopewell Town Zoning Ordinance.
2. Single-wide mobile homes or modular dwellings with continuous widths of less than 20 (twenty) feet shall be permitted in mobile home parks or subdivisions approved for such use.
3. Minimum living space:
   modular or double-wide: 1200 (one thousand two hundred) square feet
   single-wide: 700 (seven hundred) square feet
4. Factory-manufactured dwellings shall be placed on permanent masonry crawl spaces, basements, or cellars.
5. Factory-manufactured dwellings to be located on approved cement slabs shall be provided with a minimum 24 (twenty-four) inch clear space between the slab and chassis or other structural members for leveling, venting, utility connections and maintenance purposes. The perimeter shall be enclosed by bonded (mortared) masonry units for cosmetic purposes. Dry stacking of masonry units is prohibited.
6. Structures shall be secured to the foundation in accordance with the manufacturer's installation instructions.
7. Pre-HUD mobile homes proposed for location within the Town of Hopewell shall comply with the Inspection Certification Requirements of the New York State Uniform Fire Prevention and Building Code.
8. Permanent landings, stairs and railings shall be required at each exterior door.

817 - Mobile Home Definitions, Permitted Uses, Installation and Replacement Standards continued…

D. Replacement of Existing Single-wide and Double-wide Mobile Homes
Single-wide and double-wide mobile homes (Factory Manufactured Homes) located upon individual lots prior to the enactment of this Zoning Ordinance may be replaced in any zoning district in which the structure is presently located, subject to the following standards:

1. The mobile home to be replaced shall be lawfully existing.
2. An existing double-wide mobile home shall not be replaced with a single-wide structure less than 20 (twenty) feet in width.
3. The setback requirements of the Minimum Setback and Area Tables of this Ordinance shall be complied with as much as is reasonably possible, and any inability to comply with said requirements shall not have resulted from the owner's acts.
4. The premises shall be served with an adequate potable water supply, public sewer, or properly functioning septic system adequate in size for the proposed dwelling.
5. The existing electric service shall be safe and of adequate amperage for the proposed use.
6. The structure shall be installed on a frost proof foundation designed in accordance with the manufacturer's installation requirements, or in the absence of such, in accordance with the provisions for Factory Manufactured Homes of the NYS Residential Building Code.
7. Prior to issuance of a Certificate of Occupancy, the structure shall be skirted with vinyl skirting or an equivalent product as approved by the Code Enforcement Officer.

818-Farm-worker Housing

A. Farm-worker housing shall be a Permitted Use in all zoning districts where the principle agricultural products of a farm as defined by this Ordinance are dairy, livestock, poultry, produce or other similar agricultural uses that may warrant employee worker housing in close proximity to the principle farm operation.

B. Permitted farm-worker housing structures may be single-wide or double-wide factory manufactured dwellings or conventional construction that complies with the New York State Building Codes.

C. Farm-worker housing shall be placed on the same original parent parcel as the principle farm structure and shall not require creation of individual building lots conforming to the Minimum Lot Area and Setback Tables of this Ordinance. Farm- worker housing is an accessory use to the farm.

Any purchase or transfer of ownership of lands that creates a new lot or change of lot boundaries for use as worker housing shall be subdivided in compliance with all area and setback requirements of the Minimum Lot Area and Setback Tables of this Ordinance.

D. Permitted number of structures: An original parent parcel occupied by the principle farm use and related farm structures and parcels permitted by (C) above, shall be allowed a maximum of 3 (three) separate farm-worker housing structures or any combination of less than 3 (three), the combined total square footage of which shall not exceed 3600 (three thousand six hundred) square feet. The intent of this part is that farm-worker housing be similar in appearance to other residential housing uses in the district.

E. Structure setbacks: All structures shall be set back a minimum of 60 (sixty) feet from any public highway. Side and rear setbacks to any property line of a parcel not owned by the farm operator shall not be less than 15 (fifteen) feet.

F. All farm-worker housing shall comply with New York State Building Code requirements including a source of potable water and sanitary waste treatment systems in accordance with New York State Health Department standards.

G. Building Permits and Certificates of Occupancy shall be required for all farm-worker housing. Permit fees shall be in accordance with the fee schedule of this Ordinance.

H. Upon request, the farm operator shall provide proof to the Town that occupants of farm-worker housing are employees or the immediate family of the employee. The farm operator may share available farm-worker housing with other farm operators provided that 60 (sixty) percent of the occupants of said housing are employed by the immediate farm owner.

819– Commercial Solar Collection Facilities

A. Intent. This section describes Special Use Permit requirements for proper development of Commercial Solar Collection Facilities. The intent is to allow for generation of clean and renewable energy while minimizing the potential for negative impacts to the public and natural environment.

B. General Regulations

1. Applications for Commercial Solar Collection Facilities shall include verification that the applicant has necessary controlling interest in the property to be developed through ownership, lease or other means deemed acceptable to the Town.
2. The Code Enforcement Officer shall verify that the proposed design and layout comply with applicable health and safety codes, including provisions of the NYS Uniform Fire Prevention and Building Code.
3. Applications shall include verification from the current public utility providing electric service to the site that capacity exists in the utility grid or will be installed that is sufficient to handle the electricity generated from the proposed solar farm.
4. Design Standards:
   a. Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.
   b. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize soil compaction and the extent of roadways constructed.
   c. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
   d. Landscaped buffers in compliance with Article 10 of this Ordinance shall be provided. Said buffers shall be sufficient to screen views of the solar farm from neighboring property and eliminate glare onto adjacent property, roads and other public facilities.
   e. In compliance with §504 of this Ordinance, Commercial Solar Collection Facilities shall avoid impacting valuable agricultural soils and shall be designed in such a way as to allow agricultural use of such soils.
   f. All Commercial Solar Collection Facilities shall demonstrate compliance with §718 of this Ordinance "Environmental Impact Standards"
   g. An erosion control and storm water management plan shall be submitted and found acceptable by the Town for both the construction and the operation of the facility.
   h. Solar collectors may be mounted on the roofs of existing buildings as part of the design of a Solar Collection Facility. Solar collectors located on roofs shall be shielded from ground level view from adjacent properties by parapet walls or by other means deemed acceptable by the Planning Board.

819 - Commercial Solar Collection Facilities continued…

5. Security:
   a. Commercial Solar Collection Facilities shall be surrounded by suitable fencing (minimum fence height shall be 6 feet, chain link type construction) in compliance with §713 of this Ordinance. The Planning Board may waive this requirement if it determines that other forms of security are adequate or if, by reason of location or occupancy, security will not be significantly compromised.
   b. A clearly visible warning sign concerning voltage shall be placed at the base of all pad- mounted transformers and substations
   c. A sign not to exceed 8 (eight) square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

6. Decommissioning:
   a. Applications shall include a decommissioning plan to ensure the site will be restored to a useful nonhazardous condition immediately. Said plan shall describe, but not be limited to, the following:
      i. Removal of all equipment, structures and foundations above and below ground.
      ii. Restoration of the surface grade and soil after removal of equipment.
      iii. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
      iv. A time frame for the completion of site restoration work.
      v. Proposed financial sureties sufficient to implement the decommissioning plan. The site developer shall provide financial surety acceptable to the Town that is equal to 20% (20 percent) of the project installation cost prior to permits being issued for any solar project. The bond shall be in place for the life of the facility and accessible to the Town to fund the de-commissioning of the facility in the event it is abandoned.
   b. Abandonment - Failure to Complete: If construction of the facility is started but not completed and functioning within 18 (eighteen) months of the issuance of the Special Use Permit approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 (one hundred eighty) days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 (one hundred eighty) days of notification by the Town.
   c. Abandonment – Cessation of Operations: Upon cessation of activity of a constructed facility for a period of 1 (one) year, the Town may require the owner and/or operator of the facility to implement the decommissioning plan. Within 180 (one hundred eighty) days of notice being served, the owner and/or operator can either restore operation equal to 80% (eighty percent) of approved capacity, or implement the decommissioning plan.

819 - Commercial Solar Collection Facilities continued…

d. If the owner and/or operator fails to fully implement the decommissioning plan within the required time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover incurred expenses directly from the defaulted owner and/or operator or through use of the approved financial surety. Any remaining costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and enforced and collected with interest by the same officer and in the same manner as other taxes.

ARTICLE IX
Nonconforming Uses, Buildings and Lots

900 - Nonconforming Uses and Buildings

A. Except as otherwise provided in this Ordinance, the lawful use of any land, premise, building or structure existing on the date of the adoption of this Ordinance may be continued although such use does not conform to the regulations specified in this Ordinance. However, the following provisions shall apply to all such nonconforming uses:

1. No nonconforming lot shall be further reduced in size.
2. After the effective date of this Ordinance, property owners may expand an existing nonconforming use up to a 30 (thirty) percent increase in ground floor area while maintaining the same nonconforming use and meeting setback, green space, and building height requirements. Otherwise, a nonconforming use may be expanded by the granting of a Use or Area Variance by the Zoning Board of Appeals.

B. Discontinuance

In all zoning districts, whenever a nonconforming use of any land, premise, building or structure, or any part or portion thereof, has been discontinued for a period of 1 (one) year, such nonconforming use shall not be re-established.

For purposes of this part, the nonconforming use shall be terminated when discontinuance of the nonconforming use is evidenced for a period of 1 (one) year. Such evidence shall be construed as the removal of buildings, structures, portable or fixed machinery, equipment, products offered for sale or use, or by the failure of a business or other use to operate or function as originally permitted.

Nonconforming uses shall be deemed to be terminated regardless of any reservation of an intent not to abandon and regardless of any intent to resume the nonconforming use beyond the 1 (one) year of the evidenced discontinuance.

A lawfully existing building destroyed by fire or act of God may be restored or replaced within 1 (one) year, provided that the minimum lot size and setback requirements of the Zoning Ordinance are satisfied as much as possible, and the inability to comply with any such requirements shall not have resulted from the owner's acts.

C. A mobile home may only be replaced with one complying with the most recent Federal HUD requirements. Every mobile home restoration or replacement shall comply with the skirting provisions of §817 of this Ordinance.

900 - Nonconforming Uses and Buildings continued…

D. Amortization
Except as otherwise provided by NYS Law, the Town Board may provide for the timely modification or removal of a nonconforming structure or for the modification of use of land. After conducting appropriate financial studies to determine a valid amortization schedule, the Town Board may establish a reasonable time period during which the owner may recover or amortize the amount of investment in the nonconforming use, and after which the nonconforming use shall be modified or removed in order to comply with the Town's Comprehensive Plan and the Town Zoning Ordinance.

E. Changes
Once changed to a conforming use, no land, premise, building or structure shall be permitted to revert to a nonconforming use.

F. If, by this Ordinance or any subsequent amendment or change thereof, any area is transferred from one district to another district or to a more restricted use, any nonconforming use then associated with said area may be continued.

901- Pre-existing Nonconforming Lots

Prior to the development or use of any pre-existing nonconforming lot, an Area Variance application shall be required for consideration by the Zoning Board of Appeals in accordance with the standards of this Ordinance.

ARTICLE X
Landscaping, Screening and Buffer Regulations

1000 - Intent

The following regulations are intended to implement the Town of Hopewell's Comprehensive Plan by (1) ensuring an acceptable degree of buffering between land uses, particularly between residential and nonresidential uses, (2) providing a balance between developed uses and open space, (3) enhancing the visual and aesthetic appearance of the community, and (4) encouraging preservation of existing natural features.

Specifically, these regulations are intended to:

A. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.

B. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.

C. Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.

D. Moderate the temperature effects of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural windbreaks.

E. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

1001 - Applicability

These landscaping requirements shall apply to all new development in all districts.

1002 - General Requirements

A. To the greatest extent practical, building permits for construction of new single-family or two-family dwelling subdivisions shall require preservation of existing vegetation.

B. Residential subdivisions shall be required to submit landscaping plans in accordance with §1004 of this Article indicating appropriate landscaping of entrances, common open spaces, recreation areas and perimeter buffer areas.

C. Development activities requiring Site Plan approval shall submit, as part of such approval, a landscaping plan in accordance with §1004 of this Article.

D. To the maximum extent feasible, existing site vegetation and unique site features, such as stone walls, shall be incorporated into landscaping plans. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.

E. Issuance of a Certificate of Occupancy or Conditional Certificate of Occupancy shall require completion of lot grading, seeding and required landscaping. However, if the applicant cannot perform the work due to seasonal impracticalities, posting of a performance guaranty acceptable to the Code Enforcement Officer shall be required.

F. All required landscaping shall be of healthy stock planted according to accepted horticultural practices. Landscaping plans shall also include a landscape maintenance plan which clearly indicates who is responsible for plant maintenance during the first 24 (twenty-four) months after planting, and a performance guaranty shall be posted for assuring replacement in kind of plants which die or become diseased within that time.

G. All required landscaping shall be maintained in healthy condition by the property owner. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this Article shall constitute a violation of these regulations.

H. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.

I. Trees for screening shall be of species and stock that will provide a visual screen from the ground up, and shall be a minimum of 5 (five) feet in height.

J. Pedestrian access to sidewalks or buildings shall be considered in the design of all landscaped areas.

1003 - Landscaping Standards

All plant materials must conform to the American Nursery and Landscape Association's American Standard for Nursery Stock (ANSI Z60.1 – 2004). Applicants are recommended to design and install landscaping that shall be tolerant of typical environmental conditions of this region (USDA Hardiness Zone 6). In order to minimize conflicts and improper pruning techniques, proper trees shall be chosen where any height restrictions (i.e. power lines) exist.

A. Landscaping Adjacent to Public Right-of-Way

On a lot which provides off-street parking, loading area, or any other vehicular uses, public or private, the owner shall provide landscaping between the public right-of-way and the edge of such area.

1. At a minimum, a strip of 5 (five) feet or greater in depth shall be landscaped, and shall include, at a minimum rate, 1 (one) deciduous tree for every 50 (fifty) feet of right-of-way frontage.
2. All plant material adjacent to parking areas, loading areas, and driveways shall be protected by barriers, curbs, or other means from damage from vehicles or storm water runoff.
3. The remainder of the landscaped area shall be landscaped with grass, groundcover, or other appropriate landscape treatments as determined by the Planning Board.
4. Property other than the required landscaped areas found between the public right-of-way and the vehicular area shall be grass or other ground cover material.

B. Parking Areas

The following guidelines shall apply to all parking areas of 10 (ten) spaces or more:

1. The primary landscaping materials for parking areas shall be deciduous trees, which are capable of providing shade at maturity. A minimum of 1 (one) deciduous tree per 10 (ten) parking spaces is required. Shrubbery, hedges and other live plant materials are to be used to complement the tree landscaping.
2. A landscaped buffer shall be provided at the perimeter of the parking area with a mix of deciduous and evergreen species, with no one species dominating. As a component to the buffer, use of berms and other topographical features is also encouraged.
3. All end islands of parking rows and all areas not otherwise used for ingress, egress, aisles or parking must be landscaped. In addition, landscaped islands shall be provided within the parking area every 15 (fifteen) parking spaces and shall be a minimum of 360 (three hundred sixty) square feet or the dimensions of 2 (two) typical parking spaces. Deciduous trees capable of providing shade at maturity are encouraged to be used within the islands, with the remaining open area covered with grass, ground cover, or other similar materials.

1003 - Landscaping Standards continued…

C. Screening

To minimize headlight glare from standing vehicles, to reduce lighting from a parking or loading area, as well as to reduce noise, the following standards are provided. In addition to parking and loading areas, areas used for temporary parking or standing, such as motor vehicle service stations or drive through windows, are included.

1. On properties where parking, loading, or other vehicular allowable storage open areas abut residential properties, the area between said properties shall be properly screened with a wall, fence, berm, hedge, or other plant materials or combination thereof at a height of no less than 3 (three) feet and no greater than 8 (eight) feet.
2. In addition, 1 (one) deciduous, ornamental, or coniferous tree shall be planted every 75 (seventy-five) feet, with the remaining area to be landscaped with grass, groundcover, or any other treatments deemed appropriate by the Planning Board.
3. The landscaped barrier shall be continuous, parallel, and at least 10 (ten) feet from the building, structure, or vehicular area.
4. When adjoining properties are already developed with the required landscaping installed to meet this requirement, the Planning Board may waive additional landscaping requirements.
5. Minimum screening requirements shall also be provided in, but not limited to, the following situations:
    a. Multi-family dwellings abutting single-family or two-family dwellings.
    b. Commercial, industrial, and institutional uses abutting single-family residential uses.
    c. Manufactured home communities abutting a public right-of-way or single-family use.
    d. Contractor yards.
    e. New residential developments adjacent to active farm operations or vacant, open fields that contain prime agricultural soils and could possibly be used for farm operations.
    f. Commercial Solar Collection Facilities.

1004 - Landscaping Plan

A. Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:

1. A title block with the name of the project, the name of the person preparing the plan, a scale, north arrow and date.
2. All existing, significant plant materials on the site.
3. Existing and proposed structures.
4. Parking areas.
5. Access aisles.
6. Drainage patterns.
7. Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and identification of those existing plant materials that are to be removed.
8. Other information as may be required by the Planning Board.

B. The Planning Board may review and consider for approval alternative landscaping plans provided said plans meet the purpose and intent of these regulations.

ARTICLE XI
Off-Street Parking and Loading Regulations

1100 - Intent

The intent of Article XI is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces. Parking and loading spaces are best utilized to the rear and sides of all buildings.

1101- Applicability

A. In all districts of the Town, at the time of any change of use or when any building or structure is erected, enlarged or increased, every industrial, business, institutional, recreational, residential or other use shall provide off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, in particular, Article XVI (Site Plan Approval) and Article X (Landscaping, Screening and Buffer Regulations).

B. Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended for a use involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use public right-of-way or parking area for standing, loading and unloading services.

C. For any change of use, additional bus, taxi or passenger loading spaces may also be required.

1102 - Location of Required Spaces

Parking and loading spaces shall be located in accordance with the following:

A. In all districts of the Town, no part of any parking area fronting or adjacent to a street shall be closer than 20 (twenty) feet to the right-of-way. This minimum setback shall include all emergency service turn-around tees or offset driveway. Farm Stands are excepted.

B. Parking of motor vehicles is prohibited on sidewalks, areas between the sidewalk and curb, and median strips separating travel lanes as prohibited by the NYS Vehicle and Traffic Law.

C. For all new single-family or two-family dwellings, off-street parking shall be provided on the same lot as the building it serves. All residential properties shall be provided with a turn-around tee which tee shall be set back a minimum of 40 (forty) feet from the right-of-way.

1102- Location of Required Spaces continued…

D. For multi-family dwellings, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than 200 (two hundred) feet from the building it is required to serve.

E. Access drives to any commercial or industrial district through any residential or transitional district are prohibited, unless one is required for fire department or emergency access. If so, the access drive shall be gated to prohibit through traffic with access limited to the fire department, police, or emergency services.

F. The location, amount, dimensions and signage of handicapped parking shall meet the requirements of the NYS Uniform Code and Standard ANSI 117.

1103 - Joint Use and Off-Site Parking

A. Joint Uses
A collective arrangement for providing the required number of parking spaces for 2 (two) or more properties or uses, or reduction of the total required spaces, may be authorized by the Planning Board as part of a Site Plan review. The Planning Board may reduce the collective number of required spaces as calculated for the individual uses on properties upon demonstration that a collective arrangement of parking spaces shall adequately serve the proposed uses and any future change in uses.
If the uses, structures or properties are, or may be in the future, under separate ownership the reciprocal right to joint use must be evidenced by a deed, lease, permanent easement, or other appropriate written documentation to establish joint use.

B. Off-Site Parking
Off-site parking may be used to meet the requirements of this Article. Such off-site parking shall be subject to deed, lease or contract restrictions acceptable to the Town Attorney, binding the owner, heirs or assigns to maintain the required number of spaces available throughout the life of such use.

1104 - Nonconforming Parking and Loading

No building or lot alterations or change of use shall be allowed which would increase the degree of nonconformity with the off-street parking and loading regulations of this Article.

1105 - Off-street Parking and Loading Standards by Usage

In adopting these standards requiring off-street parking and loading, the Hopewell Town Board is providing guidance to future developers, tenants and residents. From an environmental and cost perspective, it is always desirable to construct the least number of parking spaces necessary to accommodate a particular use. The following general requirements shall apply to all off-street parking.

A. The Planning Board, at its discretion, may require less off-street parking or loading if warranted based on the information presented that is consistent with recognized standards such as, but not limited to, the Urban Land Institute or the Institute of Traffic Engineers. In any case, where less off-street parking is required, the Planning Board reserves the right to require the set-aside of additional open space sufficient to accommodate the amount of off-street parking which would ordinarily be required.

B. The Planning Board, relevant to judging the adequacy of listed parking and loading standards, may request additional information such as, but not limited to, total occupant load allowed by the NYS Fire Code, expected number of employees and/or students, expected attendance or expected deliveries. Such information may result in application of off-street parking standards higher than those listed.

C. For uses not listed, the required number of off-street parking or loading spaces shall be determined by the Planning Board based on similarity to listed uses and information provided by the applicant.

D. In all cases, provided off-street parking and loading shall be sufficient to prevent frequent on-street parking by users or employees or the loading and unloading of passengers or materials from the public right-of-way in such a manner that is disruptive to traffic.

E. In addition to the off-street parking required based on the standards listed below, 1 (one) appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.

F. Any commercial, residential, institutional or industrial use which involves receipt or distribution of goods shall be provided with adequate off-street parking space.

1105 - Off-street Parking and Loading Standards by Usage continued…

Use	Number of Parking Spaces Required
Single-family and two-family dwellings, per dwelling unit	2
Multiple-family dwellings, per bedroom	1
Hotel, motel, lodging house and boardinghouse, per sleeping unit	1.25
Churches, synagogues, temples or other places of worship, stadiums, gymnasiums or other indoor or outdoor sports arenas, auditoriums, theaters or concert halls having fixed seating, per 3 (three) seats	1
Community center per each 100 (one hundred) square feet of floor area used for assembly	5
Library, museum or art gallery, per each 200 (two hundred) square feet of floor area open to the public	1
Dance hall or studio, per each 60 (sixty) square feet of floor area used for dancing	1
Tennis courts, per court	2
Swimming pool, per each 2 (two) persons in the maximum capacity of the pool or per 40 (forty) square feet of pool surface, whichever will require the larger number of parking spaces	1
Convention hall or skating rink, per each 100 (one hundred) square feet of floor area used by the public	1
Bowling alley, per alley	5
Mortuary or funeral home, per each 60 (sixty) square feet of floor area used for assembly	5
Civic or social club, per each 60 (sixty) square feet of floor area used for assembly	2
Private club or lodge, per each 50 (fifty) square feet of gross floor area of the building	2
Hospital, per bed	1
Nursing homes, proprietary homes and other health-related facilities, per 2 (two) beds.	1

1105 - Off-Street Parking and Loading Standards by Usage continued…

Medical and/or dental clinic, per each 100 (one hundred) square feet of gross floor area of the building, but not less than 10 (ten) spaces	1.5
Offices: business, professional and municipal, per each 200 (two hundred) square feet of gross floor area of the building	1
General business and personal service establishments, per each 100 (one hundred) square feet of gross floor area of the building	1
Standard restaurant, bar, grill, tavern, dining room of hotel, dairy bar and soda fountain, per each 60 (sixty) square feet of the floor area used for assembly	2
Fast-food and drive-in restaurants, per each 40 (forty) square feet of floor area of seating space with a minimum of 20 (twenty) spaces required	1
Industrial and manufacturing buildings, per each 300 (three hundred) square feet of gross floor area of the building	1
Warehouses and wholesale establishments, per each 3,000 (three thousand) square feet of gross floor area of the building	1
Retail stores of appliances, furniture, motor vehicles, machinery, hardware and/or lumber and/or building materials, per each 300 (three hundred) square feet of gross floor area used as retail space	1
Home occupations, exclusive of off-street parking required for the dwelling	3
Shopping center or group of stores with over 20,000 (twenty thousand) square feet of gross floor area, per each 1,000 (one thousand) square feet of gross floor area of the building	4.5
Personal care service, per station	1.5
Outpatient medical/other medical, per each 250 (two hundred fifty) square feet of gross floor area of the building	1
Residential care facility/continuing care, per 2 (two) residents	1
Residential care, unsupervised, per 1.5 (one and one-half) residents	1
Banking, per each 50 (fifty) square feet of gross floor area of the building	1
Day care, per 4.5 (four and one-half) children	1
Industrial, per employee	1

1105 - Off-Street Parking and Loading Standards by Usage continued…

Supermarkets having less than 30,000 (thirty thousand) square feet of retail space,
1(one) for each 200 (two hundred) square feet of retail space

Supermarkets having 30,000 to 60,000 (thirty thousand to sixty thousand) square feet of retail space,
150 (one hundred fifty) plus 1(one) for each additional 300 (three hundred) square feet of retail space

Supermarkets having 60,000 to 90,000 (sixty thousand to ninety thousand) square feet of retail space,
250 (two hundred fifty) plus 1(one) for each additional 400 (four hundred) square feet of retail space

1106 - Design standards for Off-Street Parking Spaces

A. Parking areas serving commercial uses shall be designed in such a manner that, to the greatest extent that is practical for serving the proposed use, only the minimal necessary parking shall be provided in the front of the building.
It is the intent of this part that, to the maximum extent that is practical for the proposed development of the property, the architectural features of the building and the landscaped open space and yard shall be the focal point as visible from the street.

B. All commercial and industrial parking areas shall be located to the side or rear of the primary use. In some instances, at the discretion of the Planning Board, 1 (one) row of convenience parking, not to exceed the primary building front length, may be located to the front of the primary structure if sufficient space is available and appropriate ingress and egress points are located with adequate buffering provided to separate the parking area from the roadway. The setback requirements for parking areas may also be waived by the Planning Board provided adequate buffering and landscaping is provided to separate the parking area from the roadway. (See §1102-A)

C. The size of standard perpendicular off-street parking spaces shall be a minimum of 9 (nine) feet wide by 20 (twenty) feet long.

D. All parking areas, passageways and driveways serving commercial or industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the parking areas are in operation. Adequate shielding shall be provided by commercial and industrial uses to protect adjacent residential uses from the glare of such illumination and from that of automobile headlights. Illumination shall in accordance with Article XIV (Outdoor Lighting Regulations).

E. Off-street parking areas shall include landscaping in accordance with §1003-B.

F. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures, or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.

G. All off-street parking areas of more than 20 (twenty) spaces shall provide a snow-storage area independent of required parking and loading areas.

H. All required parking areas shall be independent of required emergency access lanes, loading areas and drive-in queuing lanes. The Code Enforcement Officer shall determine necessary posting of fire lanes in accordance with the NYS Fire Code.

1106 - Design Standards for Off-Street Parking Spaces continued…

I. No residential driveway shall be located closer than 75 (seventy-five) feet from the intersection of any 2 (two) streets or as permitted by the authority having jurisdiction of said streets. The distances from the driveway to the intersection shall be measured from the right-of-way of the street to the closest point of the driveway.

J. No commercial or industrial driveway leading to an off-street parking area shall be located any closer than 250 (two hundred fifty) feet to the intersection of any 2 (two) streets, or as permitted by the authority having jurisdiction of said street. The distances from the driveway to the intersection shall be measured from the right-of-way of the street to the closest point of the driveway.

K. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way. The NYS Uniform Code requires an access road of 20 (twenty) feet in width for non-single-family or two-family dwellings.
Culverts for driveways and access roads located at the right-of-way shall be a minimum of 30 (thirty) feet in length.

L. At the Planning Board's discretion, a parking facility or area may be required for horse-and-carriage or other similar modes of transportation. The parking area shall be designed to provide 1 (one) hitching post or similar apparatus and area large enough for a typical-size carriage and a mature horse, not to exceed 5 (five) spaces, for every 15,000 (fifteen thousand) square feet of a building. The location of the parking area shall be determined by the Planning Board.

1107- Design Standards for Loading Spaces

A. Required loading spaces shall be 12 (twelve) feet by 35 (thirty-five) feet, with a 14 (fourteen) foot height clearance. If tractor-trailer deliveries are expected, at least one loading space 12 (twelve) feet by 55 (fifty-five) feet shall be provided.

B. All required loading areas shall be independent of required emergency access lanes, parking areas and drive-in queuing lanes.

ARTICLE XII
Sign Regulations

1200 - Intent

For the overall visual enhancement of the community, properties with multiple signs, banners, window signs, sandwich boards and other signs must be, both retroactively and in the future, strictly regulated.
The regulations set forth below have been created in accordance with NYS Recommendations and Guidelines found in the publication "Municipal Control of Signs" NYS Department of State, January 2006.

1201- Compliance with Sign Regulations

A. Classifications

Based upon their purpose as defined by these regulations, all signs within the Town of Hopewell shall be classified as either "Commercial Speech" or "Noncommercial Speech." All signs in existence on the effective date of this Ordinance are classified as follows:

1. A sign for which no permit was heretofore issued.
2. A sign for which a permit or site plan approval was obtained under the provisions of the Hopewell Town Zoning Ordinance, but which is made nonconforming by the enactment of the regulations contained in this Article.
3. A sign for which the Code Enforcement Officer has issued a permit and which conforms to the standards contained in this Article.
4. A sign for which no permit is required.

B. Conformance Required

No sign shall be permitted in the Town of Hopewell except in conformity with the provisions of this section.

1201- Compliance with Sign Regulations continued…

C. Nonconforming Signs

1. Alteration of Signs
   Nonconforming signs shall not be altered, rebuilt, enlarged, extended, or relocated unless such action changes a nonconforming sign into a conforming sign as provided herein. The failure to keep any such nonconforming sign in good repair, within a period of 30 (thirty) days after due notification by the Code Enforcement Officer, shall constitute abandonment of the sign. An abandoned sign shall not be reused and shall be removed by, or at the expense of, the property owner.
2. Early Termination of Nonconforming Signs
   If a project subject to development review is proposed for a parcel upon which a non-conforming sign is located, the reviewing board shall require that said non-conforming sign be brought into compliance as a condition of approval of the proposed development review.
3. On-Premise Signs
   Lawfully erected on premise nonconforming signs, with the exception of any sign found to be a traffic hazard by virtue of an inadequate setback from a public right-of-way, shall be allowed to continue.
4. Off-Premise Signs
   Lawfully erected off-premise nonconforming signs and lawfully erected multiple on-premise nonconforming signs shall be allowed to continue, provided:
   a. Nonconforming signs not lawfully erected shall be considered to be in violation and subject to removal pursuant to this Ordinance.
   b. In the event that any nonconforming sign is damaged or destroyed to the extent that said damage has reduced the fair market value of said sign by at least 51% (fifty-one percent), said sign shall be removed.

1202 - Sign Permits

A. Permits Required
All Commercial Speech Signs require a permit except those listed in Subsection B of this section.

B. Permits Not Required
The following signs do not require a sign permit prior to erecting and maintaining such sign:

1. Noncommercial speech sign provided said sign complies with requirements found elsewhere in this Article.
2. Temporary commercial speech sign erected as a ground sign or affixed to a building which sign meets the standards set forth below:
    a. Temporary signs on temporary buildings for uses incidental to construction work shall be permitted and shall be removed upon completion or abandonment of the construction work. Such signs shall not exceed 20 (twenty) square feet in area unless otherwise specified in federal or state statute.
    b. One temporary ground or wall site development sign, to identify a development of real property, is permitted, subject to the following conditions:
        i. The maximum permitted sign area shall be 20 (twenty) square feet.
        ii. A ground sign shall be permitted only for and during the development of a vacant site.
        iii. A wall sign shall be permitted only for and during the redevelopment of an existing structure;
        iv. A ground sign shall be no taller than 6 (six) feet above average grade.
        v. A temporary site development sign shall be oriented toward the public way in front of the site.
        vi. No sign erected pursuant to this section shall remain after 60 (sixty) days from the date of issuance of a Certificate of Occupancy or termination of work on the project, whichever occurs first, or as otherwise specified herein.
3. One temporary ground or wall-mounted sign to identify the sale of agricultural products shall be permitted.
4. Signs shall be permitted which are used solely for the purpose of identifying the various varieties of seed used in growing crops on the site and only during growing and harvesting season for said crop.
5. Replacement of commercial speech copy on a conforming commercial speech sign with noncommercial speech copy shall be permitted.
6. Credit Card Signs
Credit card advertisements for trade association emblems that are displayed together and the area of which does not exceed 1 (one) square foot are permitted. Such signs shall be displayed flat on window or door surfaces. The purpose of these signs is to offer a service and not to advertise the business.

1202- Sign Permits – Permits Not Required continued…

7. Real Estate Sale, Lease or Open-For-Inspection Signs
    a. In agricultural, residential, hamlet and small business multiple use zoning districts, 1 (one) sign may be located on a parcel advertising the sale, lease, or rental of the premise upon which the sign is located. The sign shall not exceed 6 (six) square feet in area for a single-sided sign or for each side of a two-sided sign, and shall not exceed 4 (four) feet in height above the adjacent grade.
    b. In all commercial and the industrial zoning districts, 1 (one) sign may be located on the parcel advertising the sale, lease, or rental of the premise upon which the sign is located. Such sign shall not exceed 16 (sixteen) square feet in area for a single-sided sign or for each side of a two-sided sign, and shall not exceed 6 (six) feet above the adjacent grade.
    c. A single open house, open for inspection sign, or other such sign advertising such message may be located on any parcel any day of the week between the hours of 8:00 a.m. and 5:00 p.m. Such sign shall not exceed 6 (six) square feet per side.
    d. If applicable, all real estate signs permitted above are allowed the following additional signs:
        i. Should the parcel to be advertised have no common boundary with a public highway or street, an additional off-premise sign may be located on the premise or public way providing access to the parcel to be offered for sale, for lease, for rent or open for inspection.
        ii. Should the parcel to be advertised have a boundary in common with 2 (two) highways or streets, then 2 (two) signs advertising the sale, lease, rental or open for inspection signs shall be permitted, 1 (one) fronting each highway or street.
    e. Real estate signs of any kind shall not be placed in a highway or street right-of-way without written approval of the authority having jurisdiction over said highway.
8. Vehicular Signs
    A commercial speech sign on a licensed/registered motor vehicle used in conjunction with a business is permitted, provided that the primary purpose of such sign copy is not to direct the traveling public's attention to the business location.
    Unlicensed vehicles, or vehicles that may not be legally driven on a highway shall not be utilized for a commercial speech sign.
9. Temporary Identification Signs of Development Sites
    Upon any parcel identified in a valid site development permit as the site of an active construction or development project, a single temporary sign may be erected and maintained during the duration of such project, which sign may identify the primary contractor or owner of the premises and the street address, provided that such sign shall not exceed 32 (thirty-two) square feet in sign area and shall not exceed 7 (seven) feet in height above the adjacent ground.

1202- Sign Permits – Permits Not Required continued…

10. Temporary Identification Sandwich Board Sign
    A sandwich board sign identifying a promotional event being conducted on the premises may be allowed without a sign permit, for a period not to exceed 14 (fourteen) consecutive days, provided the size of said sign shall not exceed 3 (three) feet by 4 (four) feet in size. Said sign shall be located outside.
11. Window Signs
    Window signs that display product, prices, sales events, or any other commercial message shall not exceed 20 (twenty) percent of the total window area of the structure. Window signage in excess of 20 (twenty) percent shall be considered an external wall sign.

C. Issuance by Code Enforcement Officer

1. The Code Enforcement Officer shall have the authority to issue a sign permit in accordance with this part.
2. The Code Enforcement Officer shall refer all applications for commercial speech sign permits to the Town of Hopewell Planning Board for sign Site Plan approval. The Town of Hopewell Planning Board shall have the authority to approve all sign permit applications requiring sign Site Plan approval. The sign Site Plan approval procedures are set forth in these regulations.

D. Application Requirements

1. All applications for a sign permit shall be made in writing, upon forms prescribed and provided by the Code Enforcement Officer, and shall contain the following information:
    a. Name, address, and telephone number of the applicant and, where applicable, the owner of the building, structure or land upon which the sign is to be erected.
    b. Location of the building, structure or land upon which the sign is to be affixed or erected.
    c. A detailed drawing or blue print, to a scale not exceeding 1 (one) inch equals 1 (one) foot showing the construction details of the sign, the lettering and/or pictorial matter, including colors, and the position of lighting or other extraneous devices, and a location plan drawn to scale, showing the position of the sign, whether free-standing or building-mounted, and any existing buildings or structures, building elevation, and proximity of the sign to any private or public street or highway.
    d. The zoning district in which the sign is to be placed and reference cited to the sign requirements as contained in this chapter.
    e. Identification of all other signs existing on said land, including the area of each sign and whether those other signs are conforming, nonconforming or legally nonconforming.
    f. Written consent of the owner of the building, structure or land upon which the sign is to be erected.
    g. The applicant's signature attesting to the accuracy of the application.

1202 - Sign Permits - Application Requirements - continued…

2. The Code Enforcement Officer's review of all sign permits shall be based upon the completed application form, any accompanying photos and/or drawings, and a site inspection.
3. Upon receipt of an application, the Code Enforcement Officer shall:
    a. Review the design, size, and location of the proposed sign to determine whether the proposed sign is in violation of any of the regulations or restrictions set forth in this chapter.
    b. Grant or deny the application within 30 (thirty) days of receipt of a completed application. Upon approval, said permit shall be valid for a period of 120 (one hundred twenty) days from the date of issuance.
4. Upon receipt of a photograph of the sign in compliance with this chapter, the Code Enforcement Officer shall issue a Certificate of Sign Compliance.
5. Upon inspection, should the Code Enforcement Officer find the sign not in compliance with the sign permit, the applicant shall be so notified by certified mail or first class mail within 2 (two) business days of said inspection. The applicant shall have up to 30 (thirty) business days from the date of the receipt of the certified notification letter to correct the cited deficiency and to notify the Code Enforcement Officer of said correction. In no event shall said additional 30 - day (thirty-day) period extend the 120 - day (one hundred twenty-day) validation period for the sign permit.

1203 - Sign Standards for All Signs

A. Design Guidelines

The following design guidelines are provided to the Planning Board and sign applicant in order to: (1) encourage and direct appropriate and compatible graphic design and structural design of the proposed sign and (2) ensure that the physical appearance of the proposed sign shall blend with the surrounding landscapes and existing businesses and uses.

1. Signs shall be designed to be compatible with their natural surroundings and neighborhood. Sign construction materials in Mixed Use Hamlet zoning districts, Low Density Commercial zoning districts and Residential zoning districts shall blend with the open landscaped lawns and open space. The materials and design shall incorporate earth tones and colors and natural wood, stone, brick or other such materials that may simulate these natural materials.

    Painted signs shall be of colors that compliment other colors of buildings or residential structures in the neighborhood. Loud, intense, or phosphorescent colors that bring attention to the sign background rather than to the sign message shall be discouraged.

    Due to their being incompatible with rural landscapes, signs constructed of steel, plastics and/or other man made materials and signs with multiple color schemes and/or unnecessary lighting shall be discouraged.

1203 - Sign Standards for All Signs - Design Guidelines continued…

2. High Intensity Commercial zoning districts and Industrial zoning district signs shall be of materials, graphics, and structural design that are compatible with other businesses or uses in the neighborhood. Designs, materials, lighting, color schemes, graphics, or structures that bring attention to a sign above and beyond the necessary purpose of the sign message shall be discouraged.
   It is the intent of this part that signs shall be in harmony with all businesses or uses in the neighborhood. Unlimited methods of design and construction which produce an undesirable medley of dissimilar signs shall be discouraged.
3. Architectural Harmony
   Commercial and noncommercial speech signs and their supporting structures shall be in harmony architecturally and visually with surrounding signs and sign structures. The Planning Board may consider the overall color schemes, lighting methods, type of materials, and compatibility of such proposed signs with existing uses and businesses within the zoning district.
   a. Upon creation of any new zoning district not previously allowing business or other commercial speech signs, the Planning Board shall determine and maintain architectural methods or appearance themes consistent with the intent and purpose of the new zoning district.
   b. Upon receipt of any application for a new sign that is not subject to Planning Board sign plan review, which sign in the opinion of the Code Enforcement Officer is not consistent with the intent of this part, the Code Enforcement Officer may require a Planning Board sign plan review and approval prior to issuing a sign permit to the applicant.
4. Changeable-Copy Signs
   Changeable-copy commercial speech signs (commonly known as "bulletin boards") for any public, religious or charitable organization located within the Town of Hopewell shall be allowed provided said signs shall not exceed 20 (twenty) square feet in area and provided such signs are in conformance with all other restrictions for that district. All changeable-copy commercial speech signs require a sign permit.
5. Lighting Angle
   If exterior sign lighting is provided, it shall be positioned to reflect away from the surrounding property and away from public ways. No lighting of any sign shall cause glare to extend onto any public way or adjacent property.
6. Lighting Intensity
   The intensity of the light source shall not exceed that which is necessary to illuminate and make legible a sign from the public ways and shall remain at a constant foot-candle power. Lighting constituting a traffic hazard is prohibited.
7. Maintenance
   All signs and structures supporting any sign shall be adequately maintained throughout the lifetime of the sign and structure to a degree that is equal to the condition of the sign and supporting structure when originally placed on the property as new construction.

1203 - Sign Standards for All Signs - Design Guidelines continued…

8. Attention-Getting Devices
   No sign shall change in light intensity. No banners, balloons, inflated figures, pennants, ribbons, streamers, spinners or similar fluttering devices or flashing lights shall be attached to any sign, or used to draw attention to a premise. No sign shall consist of animated or moving parts.
9. Attachments
   No sign shall be attached to fences, streetlights, utility poles, or trees.
10. Pertinent Advertising
    Thirty business days after a sign no longer advertises a bona fide business or activity being conducted, or a bona fide product being sold, said sign shall be removed by the owner, agent, or person having the beneficial use of the building, structure, or lot.
11. Utility Lines Clearance
    No permit for any sign shall be issued and no sign shall be constructed or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that which is prescribed by the laws of the State of New York.
12. Public Safety Signage
    Every principal building or structure shall have Arabic numerals (street identification numbers) at least 4 (four) inches in height, permanently attached to the building near the main entrance and clearly visible from the public way. Where said principal building or structure is located more than twice the minimum front setback required or where street address identification numbers attached to the building are not clearly visible from the public way, there shall be erected within 10 (ten) feet of the property line, next to the site's access point and perpendicular to the road, a column post, which shall have affixed at the top a vertical noncommercial speech sign with a green background and which contains only the street identification number in white lettering.
13. Public Safety Clearance
    No sign shall be allowed to be attached in any form, shape, or manner to a fire escape or to any door or window giving access to any fire escape.
14. Projecting Signs
    No commercial speech sign shall be permitted to project into any public right-of-way. No portion of any projecting sign shall be less than 10 (ten) feet above grade level. There shall be no more than 1 (one) projecting sign for any building, unless the building has public entrances to 2 (two) or more public ways, in which case 1 (one) projecting sign may be erected for and toward each public way.

1203 - Sign Standards for All Signs

B. Computation of Sign Area

1. The area of a sign shall be computed from the algebraic sum of the actual sign configuration, be it a square, rectangle, circle, oval, or other polygon. The area shall be measured from the outer dimensions of the frame, trim, or molding by which the sign is enclosed, where they exist, or from the outer edge of the signboard where they do not exist.

2. When a sign consists of individual letters, symbols, or characters, the area of said sign shall be computed as the area of the smallest rectangle which would theoretically enclose all of the letters, symbols, and characters.

3. When a sign consists of 2 (two) or more faces, all faces of the sign shall be used to compute the sign area.

4. The volume or area of a multi-dimensional sign shall be computed as the volume of the smallest rectangular box which would theoretically encompasses the mass of said multi-dimensional sign.

1204 - General Requirements for Erecting and Maintaining Noncommercial Signs

A. Noncommercial Speech Sign: Residential Uses
Noncommercial speech signs may be permitted on any residential lot without a sign permit, subject to the following conditions:

1. Of the total number of signs, only 1 (one) may be a window sign. No window sign shall exceed 25% (twenty-five percent) of the total window opening, or 4 (four) square feet, whichever is smaller.
2. A building-mounted sign may not exceed 4 (four) square feet in total area. Any building-mounted sign shall be located in proximity to an exterior entrance.
3. A ground-mounted sign shall be subject to the following criteria:
    a. Each sign may be either single or double-sided.
    b. Each sign shall not exceed 8 (eight) square feet in total sign copy area.
    c. Each sign shall not exceed 5 (five) feet in height above existing grade.
    d. Each sign shall be placed outside all public rights-of-way and maintain a minimum front setback of 10 (ten) feet from the property line.
    e. Each sign shall not interfere with vehicle sight distances along or to a public way.
    f. No sign shall consist of any attention-getting device as further specified in this section.
4. Noncommercial speech signs may be placed on a lot up to 21 (twenty-one) days prior to an event and must be removed within 48 (forty-eight) hours after the event.
5. Noncommercial speech signs not relating to an event may be erected and remain for an indefinite period provided the sign is maintained in a safe manner and in a good state of repair.

B. Noncommercial Speech Signs
Subject to the following conditions, nonresidential, noncommercial, and nonindustrial speech signs for nonresidential, noncommercial, and nonindustrial uses may be allowed in any district without a permit:

1. A sign shall not exceed 20 (twenty) square feet in area.
2. A freestanding sign shall be located in the front yard portion of a lot, shall be no closer than 10 (ten) feet to any property line, and shall have a maximum height above grade level of 6 (six) feet.
3. A building-mounted sign not relating to an event may be erected and remain for an indefinite period provided the sign is maintained in a safe manner and in a good state of repair.

1205 - General Requirements for Erecting and Maintaining Commercial Speech Signs

A. Commercial and Industrial Uses

1. The following standards shall guide the regulation of all signs associated with sites located in any Commercial, Mixed Use, Planned Development or Industrial zoning districts when only 1 (one) principal building, use or activity is proposed or exists upon a single parcel of real property.
    a. No more than 1 (one) identification sign shall be erected on a building. Said sign shall face a public way.
    The total square footage for a building-mounted identification sign shall be a maximum of 48 (forty-eight) square feet; or, 1 (one) square foot of area for each linear foot of building frontage, plus 0.25 (one quarter) square foot of sign area for each foot said sign is set back from the public right-of-way.
    b. In addition to a building-mounted business identification sign, there may be erected 1 (one) single-sided or one (1) two-sided ground-mounted business identification sign on the premise.
    Said single-sided ground-mounted business identification sign may contain a maximum total sign area of 20 (twenty) square feet and extend no more than 6 (six) feet above grade.
    Said two-sided ground-mounted business identification sign may contain a maximum total sign area of 40 (forty) square feet and may extend no more than 6 (six) feet above grade.
    c. As an alternative to a building-mounted or a ground-mounted identification sign, there may be erected an awning sign which shall be subject to sign Site Plan approval by the Planning Board. Said awning sign shall be uniform in vertical dimension and height above ground.
    When awnings are used on businesses in the same structure in an industrial park, a commercial plaza, a strip mall, an enclosed commercial mall, or any combination thereof, the awnings shall be uniform in vertical dimension and in height above the ground. In addition, awnings shall be of the same color, material, and extension, and shall display lettering of the same size, style and color.

2. The following standards shall guide the regulation of commercial speech signs associated with a site located in any zoning district specified above where more than 1 (one) principal building, use or activity is proposed or exists upon a single parcel of real property, such as in the case of a shopping center, plaza, office complex or other multiple commercial-use facility, industrial complex or park:
    a. A single, double-sided ground-mounted sign which identifies the name of the shopping center, plaza, office complex, industrial business or activity may be erected, provided said sign shall not exceed 48 (forty-eight) square feet in area and shall not exceed 15 (fifteen) feet in height.
    b. All ground signs shall be approved by the Town of Hopewell Planning Board as part of any sign site plan application.
    c. Ground-mounted signs identifying individual businesses shall be prohibited.

1205 - General Requirements for Erecting and Maintaining Commercial Speech Signs- Commercial and Industrial Uses continued….

d. Each individual business or use that has an exterior entrance may have 1 (one) building-mounted identification sign. Each sign shall be uniform in design, style and location on the building. Each sign shall not exceed the sum of 1 (one) square foot of area for each linear foot of building frontage, plus 0.25 (one quarter) square foot of area for each foot said sign is set back from the closest public way. Any business or use having a second exterior entrance on more than one public way shall be allowed a second building-mounted identification sign located next to the second exterior entrance. The maximum size for the second entrance sign shall not exceed eight (8) square feet.
e. A multiple-use structure having one main entrance may have one building-mounted sign located on the same elevation as the main entrance. Such sign shall identify, if a group, all of the tenants or building uses. Such sign shall not exceed 20 (twenty) square feet in area.
f. The signs allowed shall be placed on the side of the building facing the common parking area and shall be in proximity to the main entrance to the building. In the event that a multiple-use structure does not have a common parking area, all building-mounted signs shall be on the side of the building facing the public way and located next to the main entrance.
g. In addition, next to each building entrance, a directory sign containing the name of each tenant in the building may be erected. The building directory sign shall not exceed six (6) square feet. Such directory shall be compatible with the commercial signs located on said building.

B. Agricultural Uses

1. Provided it is no larger than 20 (twenty) square feet in size, a single, freestanding double-sided commercial speech sign identifying permitted wholesale or retail sales of agricultural products shall be permitted in the agricultural district.
2. A building-mounted, single-sided commercial speech sign identifying permitted wholesale or retail products shall be permitted, provided that the total square footage of said sign shall be the lesser of: 1 (one) square foot for each linear foot of building frontage, plus 0.25 (one quarter) square foot of sign area for each foot said sign is set back from the public way; or 48 (forty-eight) square feet.

C. Residential Uses

A single double-sided freestanding commercial speech sign identifying a permitted home occupation, not larger than 3 (three) square feet per side, may be permitted in a residential zoning district.

1206 - Review and Approval of Signs by Planning Board

Every commercial speech sign permit application that involves a sign other than the first to be erected on a site shall require a sign Site Plan to be approved by the Town of Hopewell Planning Board. All applications for sign Site Plan approval are to be submitted to the Code Enforcement Officer on forms provided. The Code Enforcement Officer shall process all completed applications in accordance with the following procedures:

A. The Code Enforcement Officer shall refer the application, along with an application for sign Site Plan approval to the Town of Hopewell Planning Board.

B. All sign Site Plan approval applications to be heard by the Planning Board are hereby classified as unlisted actions, under Part 617 of the State Environmental Quality Review Act (SEQRA) Regulations. All applications for sign Site Plan approval must be accompanied by a completed Short-Form Environmental Assessment for unlisted actions.

C. Upon a referral from the Code Enforcement Officer of a completed application, the Planning Board shall, within 60 (sixty) days, approve, modify, or deny any application for a sign Site Plan. Any modification or denial of a sign Site Plan shall be accompanied by a written statement of the reason for such modification or denial.

D. The Planning Board may modify a sign Site Plan application provided that such modification does not result in the need for any Variance to these sign regulations, or reduce the permitted size of any sign. All sign Site Plan modifications shall directly relate to the statement of intent set forth above in this Article. The Planning Board shall set forth written findings for any modification.

E. The Planning Board's action on a sign Site Plan application shall be the basis for the Code Enforcement Officer to approve or deny a sign permit, which action is declared ministerial in nature. A sign permit fee shall be waived as part of sign Site Plan application.

F. If the sign authorized under any such permit shall not have been completely erected within 120 (one hundred twenty) days from the date of the issuance of such permit, the permit shall become null and void. Prior to the expiration of said 120 (one hundred twenty) day period, and upon the approval by the Code Enforcement Officer and upon payment of an additional fee, a permit may be renewed for 1 (one) additional 60 (sixty) day period.

1207 - Signs Prohibited in All Zoning Districts

The following types of signs are prohibited in all districts:

A. Posted Advertisements

1. Posted advertisements are prohibited in any district.
2. Any sign, structure, advertising medium, method, or device that advertises or brings attention to any business, article, product or service sold, or offered for sale elsewhere than on the property on which the sign is located, is prohibited.

B. Moving Signs

Signs that move or simulate motion are prohibited. This prohibition shall include flashing, blinking, electronic animation, and signs that rotate or signs whose illumination or projected surfaces change with time.

There shall be 2 (two) exemptions: (1) Time-and-temperature signs are permitted. (2) Electronic changeable copy sign on which the message (lettering) and/or background lighting simultaneously change a maximum of 6 (six) times per hour are permitted. However, animation on light changes is prohibited.

C. Pertinent Advertising

Commercial speech signs are prohibited unless such sign advertises a bona- fide business conducted in or on the premises.

D. Price Signs

Signs, other than window signs, specifying price, cost or value are prohibited, unless advertising the price of gas at a gasoline station, as required by county law.

E. Product, Trade Names, or Logos

Product names, trade names or logos are prohibited as a part of a sign unless the product name, trade name or logo is integral to the use of the premises. No more than 10 (ten) percent of the area of such sign may be used to display the product name, trade name, or logo of any product or commodity actually sold on the premises.

F. Reflective Surfaces

Signs with reflective surfaces which create a glare to motorists traveling along the public rights-of-way are prohibited.

G. Roof Signs

Signs, banners, flags or other such advertising devices are prohibited on the roof of any building or structure, and are not to be mounted so as to project above the eaves line.

H. Signs Causing Traffic Hazards or Driver Confusion

Permanent or temporary signs at or near the intersection of any street, said signs which are erected in such a manner so as to cause a traffic hazard at the intersection, are prohibited. Permanent or temporary signs at any given location where, by reason of position, shape, color or illumination of the signs, said signs may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, are prohibited. Permanent or temporary signs which make use of the words, "stop," "look," "drive-in," "danger," "go slow," "caution," "warning," "right," "left," or any other similar word, phrase, symbol or character which may interfere with, mislead or confuse vehicle operators are prohibited.

I. Off-premise Commercial or Noncommercial Speech Signs

Off-premise Commercial or Noncommercial Speech Signs are prohibited.

1208 - Standards for Temporary Promotional Displays or Signs

A. Within the Commercial Zoning Districts, banners, streamers and other promotional display which would otherwise be prohibited by the provisions of this chapter, may be temporarily erected and maintained within these 2 (two) districts, provided that the following standards are met:

1. Such displays shall only be erected and maintained for a maximum cumulative duration of 30 (thirty) days within any given calendar year. Although no permit shall be required to be issued for such displays, an informational form briefly describing the display and the dates thereof shall be filed with the Code Enforcement Officer. Should no such form be provided, or should the maximum cumulative duration of 30 (thirty) days be exceeded, then this subsection shall be deemed to be of no effect and such display shall in that event be considered to be in violation of this chapter.
2. Such displays shall conform to any standards and limitations identified for that purpose by a resolution of the Planning Board. Any display failing to conform to such standards and limitations shall be deemed to have failed to comply with the provisions of this subsection and consequently to be in violation of the Hopewell Town Zoning Ordinance. Should the Planning Board fail to impose by resolution such standards or limitations, then such displays shall continue to be permitted, provided that they comply with the other provisions of this subsection.

B. In order to promote seasonal sales of agricultural products by Town residents, temporary on-site and off-site commercial speech signs may be allowed by the Town Code Enforcement Officer within districts. These types of temporary commercial speech signs are intended to either identify the site to be used for the seasonal sales of agricultural products, or to direct the traveling public from along the highways to the site of the seasonal sales of agricultural products. These temporary commercial speech signs may be permitted only during the period of time specified on the Seasonal Agricultural Products Sign permit.

C. Each site conducting the seasonal sales of agricultural products may be allowed up to a total of 2 (two) off-site freestanding Commercial Speech directional signs and 1 (one) on-site freestanding Commercial Speech sign subject to the following conditions:

1. The applicant shall submit an application to the Code Enforcement Officer for a Seasonal Agricultural Products Sign permit. Said application shall include the location of the temporary on-site promotional sign, the number of off-site temporary promotional signs, the locations of said off-site temporary promotional signs, the number of single and double-sided signs, and the description of each sign, including sign size and message. Within 10 (ten) business days of the receipt of a completed application, the Code Enforcement Officer shall either issue or deny said sign permit.
2. All temporary promotional sign permits issued by the Code Enforcement Officer shall specify the maximum period of time for the signs to be erected. At the end of the specified period of time, the applicant shall remove the signs within 48 (forty-eight) hours.

1208 - Standards for Temporary Promotional Displays or Signs continued….

3. Of the 2 (two) total off-site freestanding signs allowed, only 1(one) single-sided or 1 (one) double-sided off-site freestanding commercial speech sign, identifying the seasonal agricultural product being sold, the name of the business and a directional arrow, may be allowed along the rights-of-way of each major highway. Prior to the issuance of a Seasonal Agricultural Products Sign Permit, the applicant shall obtain written approval from either the New York State Department of Transportation or the Ontario County Department of Public Works for the placement of said signs within the respective rights-of-way jurisdiction.
4. Where a seasonal sale of agricultural products site is to be located along a Town of Hopewell highway, temporary promotional display signs may be allowed which are determined to be necessary by the Code Enforcement Officer to guide the traveling public from along the above-cited state and county highways to the agricultural products site. All temporary promotional display signs are to be located within the Town highway right-of-way and shall be subject to the Town Highway Superintendent's written approval. Furthermore, there may be either 1 (one) single or 1 (one) double-sided freestanding on-site commercial speech sign and up to a maximum of 2 (two) off-site commercial speech signs identifying the directions to each seasonal agricultural products site. In the event there are off-site commercial speech directional signs located along the state or county highways listed above, then the number of signs allowed along the Town highway right-of-way shall be reduced accordingly.
5. Each Seasonal Agricultural Products Sign may be double-sided and shall be no taller than 72 (seventy-two) inches in height from the ground to the top of the sign and shall not exceed 24 (twenty-four) square feet in total sign area. Any single-sided sign shall not exceed 12 (twelve) square feet in total sign area.
6. A fee for processing and administering the temporary promotional signs shall be established by the Hopewell Town Board and shall be paid at the time of issuance of the Seasonal Agricultural Products Sign permit.

1209 - Sign Enforcement and Penalties; Fees; Removal of Signs; Maintenance of Signs

A. Enforcement and Penalties

1. It shall be the duty of the Code Enforcement Officer or his delegate to administer and enforce the provisions of this chapter.
2. Should a violation occur under this Ordinance, the Code Enforcement Officer shall cause notice to be given to the owner or occupant of the premises upon which the offending sign is located, or to the agent of, or to the person receiving the benefit from, the offending sign. Said notice of violation may be delivered by certified mail, by first class mail or by personal service by the Code Enforcement Officer. When delivery occurs by either certified mail or first class mail, service shall be deemed complete on the day said notice of violation is mailed. If any of said persons fails to abate said violation within 10 (ten) days after such notice has been served to said person by certified mail or first class mail at their home or business, or fails to abate said violation within 5 (five) business days after such notice has been personally served upon them, said person shall be subject to a civil penalty of $250 (two hundred fifty dollars) for each and every day that said violation continues, recoverable by suit brought by the Code Enforcement Officer in the name of the Town and to be retained by the Town of Hopewell.
3. The Code Enforcement Officer or authorized representative may serve a written stop-work order upon the applicant or other person who commits or assists in any such violation of this Ordinance.
4. The Code Enforcement Officer, on behalf of the Town of Hopewell, may maintain an action for an injunction to enjoin violations of these regulations.
5. A permit issued pursuant to this chapter may be revoked by the Code Enforcement Officer if it appears that the sign erected pursuant to the permit no longer conforms to the provisions of these regulations.
6. The remedies provided herein shall be cumulative and shall be in addition to any other remedies provided by law.

B. Fees

All fees associated with these regulations shall be established and maintained by the Hopewell Town Board and made part of the Town's Fee Schedule, which is on file in the Town Clerk's office.

1209 - Sign Enforcement and Penalties; Fees; Removal of Signs; Maintenance of Signs continued…

C. Removal of Signs

1. Signs Not Permitted
   a. The owner of any sign which no longer serves a purpose for which a permit was issued or is otherwise in violation of the provisions hereof shall be notified, in writing, by the Code Enforcement Officer to either:
      i. Remove the sign within 30 (thirty) days of such notice,
      ii. . Correct the specified unsatisfactory condition in the manner stated by the Code Enforcement Officer.
   b. If the Code Enforcement Officer's notice is not appealed within 30 (thirty) days of the date of the written notice, the notice automatically becomes an order and shall be enforced in accordance with the provisions of this chapter.
2. Signs Causing Immediate Peril
   a. The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure on the part of the sign owner to comply within 5 (five) business days of having been served such notice shall be construed as an authorization to the Code Enforcement Officer to remove or cause removal of such sign, with all costs and expenses charged as provided for above.
   b. Any sign placed in a public highway without approval of the respective Highway Department authority shall constitute an infringement and violation of public property and as such may be removed, without notice, by the Highway Department.

D. Maintenance of Signs

All signs in the Town of Hopewell shall be properly maintained at all times. The Code Enforcement Officer shall have the authority to order the painting, repair or removal of any sign and accompanying landscaping which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. Said order may be delivered by certified mail, by first class mail or by personal service by the Code Enforcement Officer to the owner or occupant of the premises upon which the offending sign is located, or the agent of, or to the person receiving the benefit from, the offending sign.

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ARTICLE XIII
Wind Energy Facilities

1300 - Intent

The purpose of this Ordinance is to provide a regulatory framework for the construction and operation of Wind Energy Facilities in the Town of Hopewell, subject to reasonable regulations, which will preserve the public's health, safety, welfare, and quality of life.

1301 - Tower Classifications

A. Small Wind Tower or Facility
A wind generation facility that consists of a single tower that provides electrical power to an individual dwelling, home occupation, farm or agricultural operation, or any other single commercial enterprise in which the tower is located on-site. Sale or credit of excess electricity to the utility grid is permitted.

B. Industrial Tower or Facility
A wind generation facility that consists of a tower or series of towers in a facility that generates electricity for the sole purpose of selling electricity into the utility grid.

C. Meteorological Tower (MET)
A temporary tower used for the collection of wind and meteorologically related data for a proposed location to determine the feasibility of a wind energy facility. Under this definition, "tower" refers to the structure itself, support members, foundation, ground connections, and data collecting equipment and instruments.

1302 - General Requirements

A Special Permit shall be required prior to construction, re-construction, modification, or operation of an Industrial or Meteorological Tower in accordance with the general regulations of this part. Small wind towers shall be allowed by Special Use Permit and in accordance with Part §1303. Small wind towers shall not be permitted within a mobile home park.

A. Setback

1. The distance from all lot lines or public right-of-way to any tower support base of the wind power generation facility shall be determined according to the wind power generation facility setback table below. Intermediate rotor size distances shall be interpolated.
2. The distance from any tower support base of a wind power generation facility to any tower support base of another wind power generation facility under other ownership shall be a minimum of 5 (five) rotor distances figured by the size of the largest rotor.
3. See Table 1302.1 on the following page.

1302 - General Requirements continued…

B. Safety

1. To limit climbing access to the wind power generation facility tower, a fence 6 (six) feet high with a locking portal shall be placed around the facility's tower base or the tower climbing apparatus shall be limited to no lower than 12 (twelve) feet from the ground, or the facility's tower may be mounted on a roof top.

Table 1302.1

Wind Energy Facility Rotor Diameter (in feet)	Facility Setback Distance (in feet)
5	300
10	365
15	420
20	470
25	510
30	540
35	565
40	585

2. Wind energy systems shall comply with applicable Federal Aviation Administration (FAA) regulations, including any necessary approvals for installations close to airports.
3. Data pertaining to the machine's safety and stability shall be submitted with the application. Such data shall include safety results from test facilities.
4. Prior to issuance of a Building Permit, the applicant shall provide the Town of Hopewell proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.
5. All wind energy facilities shall have some form of governing system to prevent uncontrolled rotation or speeding and excessive pressure on the wind energy turbine and structure.
6. The minimum distance between the final grade at the base of the tower and any part of the rotor blade shall be 30 (thirty) feet.

C. Structure and Turbine Siting

1. Wind turbine towers shall be located so that the level of noise produced by wind turbine operation shall not exceed 6 (six) decibels (DBA) over the ambient noise levels or 45 (forty-five) decibels (DBA), whichever is greater, at any period of time when measured at the adjacent property line of any residence, school, hospital, church, public park or library, or any other public gathering space. The facility shall not cause interference with radio, television, or any wireless telecommunication reception on any adjoining property. Independent certification shall be provided before and after installation demonstrating compliance with this requirement.
2. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall be submitted. This analysis is frequently supplied by the manufacturer.

1302 - General Requirements continued…

D. Environmental

1. In order to minimize visual impacts to the surrounding environment, appropriate camouflaging of buildings, towers and associated structures shall be used, as determined by the Planning Board. This can be achieved through the use of evergreen screenings, berms with plantings, paint to match the surrounding environment, or other appropriate means, without impacting the performance or safe operation of the facility. Landscaping and screening standards and maintenance shall be in accordance with Article X (Landscaping, Screening and Buffer Regulations) of this Ordinance.
2. Brand names associated with any installation shall not be visible from any public access. No advertising shall be allowed on any part of the tower.
3. The applicant shall comply with the New York State Environmental Quality Review Act (SEQRA).

E. The applicant shall agree to indemnify and save the Town of Hopewell, its officers, agents, and employees harmless from any liability imposed upon the Town, its officers, agents, or employees arising from negligence, active or passive, of the applicant.

1303 – Small Wind Tower Requirements

In addition to the general requirements, the following additional standards and requirements shall apply to small wind towers.

A. Height
Small wind towers shall not exceed 100 (one hundred) feet in height from the final grade at the base of the tower to the tip of any rotor blade in its most vertical position.

B. Utility Connection
The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities.

C. Site Plan
In addition to applicable Special Use Permit details required by §305D, the following additional information shall be supplied by the applicant:

1. A detailed drawing of the wind turbine structure, including the tower, base and footings.
2. Other elements integral to the proposed development considered necessary by the Planning Board shall also be included, which may include proof that the tower will provide adequate power to the site only.

D. Notice of Application
The Planning Board shall forward a notice of application to property owners within 500 (five hundred) feet of the proposed wind tower, prior to a Public Hearing, for any proposed tower exceeding 40 (forty) feet in height.

E. Visual Environmental Assessment Form (EAF)
A Visual Environmental Assessment Form (EAF) may be required by the Planning Board.

1304 - Industrial Towers or Facilities Requirements

In addition to the general requirements, the following additional standards and requirements shall apply to industrial towers or facilities.

A. Application Fee

1. Application fee shall be determined by the Town Board. (Note Fee Schedule)
2. The applicant shall pay the fees and expenses for any consultant used by the Town to assist in the review of the application. Payment for any consultant shall be made throughout the review process.
3. The Town may set up an escrow fund to receive funds in advance for payment of these fees and expenses.
4. Any application shall not be deemed complete until the funds are deposited with the Town.

B. Height

An industrial tower shall not exceed 200 (two hundred) feet in height from the final grade at the base of the tower to the tip of any rotor blade in its most vertical position.

C. Site Plan and Installation

1. The site of the facility shall comply with the NYS Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Wind Power Projects." (i.e. use of existing roads, drainage protection, depth of utilities, etc.)
2. The applicant shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.
3. The building permit applications for wind energy systems shall be submitted with the Site Plan.
4. The transmission lines between turbines and to the substation shall be underground and, to the greatest extent feasible, run along the proposed access roads. The Site Plan shall detail the location of all utilities. Applicant shall use existing substations.
5. The proposed facility shall not be installed in a location where existing microwave communications links may be interrupted during operation of said facility or where interference may be caused to the broadcast, or retransmission, or reception for radio, television, or wireless communication facilities.
6. Site Plan

   The information required in this section may be submitted as an independent package or may be included as part of the Full Environmental Assessment Form. In addition to applicable Site Plan information required in Article XVI (Site Plan Review and Approval) of this Ordinance, the following information shall also be supplied:

   a. A detailed drawing of the wind turbine structure, including the tower, base and footings.
   b. The tax account numbers, existing use, and acreage of the location of each wind turbine and access road.

1304 - Industrial Towers or Facilities Requirements - Site Plan and Installation continued…

c. A survey of the proposed project which shall include the location of any wooded areas, wetlands (federal or state), municipal or local parks, heritage or historic areas, important bird areas as determined by the NY Audubon Society database or other professional organization.
d. A visual Environmental Assessment Form which shall include "before and after" photos or computer simulations from key viewpoints as determined by the Planning Board, such as, but not limited to, hills, public roads, public gathering spaces, or parks. The photos or simulations shall be taken within a 3-mile (three-mile) radius of the site and shall number no less than 4 (four) directions.
e. A property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values to properties neighboring wind energy facility sites.
f. A transportation plan detailing the proposed routes for all turbine components, any improvements that may be necessary to accommodate such delivery vehicles or construction equipment, and a transportation reconstruction remediation plan. A public improvement bond shall be posted prior to the issuance of a Special Use Permit in an amount determined by the Hopewell Town Board, sufficient to compensate the Town for any damage to local roads.
g. A decommissioning plan detailing the removal of any nonoperational, unused, or nonfunctioning tower along with all associated above and below ground infrastructure and structures.
h. A complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant/owner shall make every reasonable effort to resolve any complaint.
i. A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the NYS Department of Environmental Conservation (NYS DEC).
j. An anticipated construction schedule for the facility
k. An operation and maintenance schedule for the facility.

7. The applicant shall provide the Town with evidence that the wind facility shall be granted the right to connect to the local utility and transmission grid by producing a valid and approved "Certificate of Environmental Compatibility and Public Need" from the NYS Public Service Commission. No Special Use Permit shall be granted unless such evidence is given.
8. Within 60 (sixty) days of the cessation of construction, and to the greatest extent feasible, all land disturbed during construction shall be restored and re-vegetated to match the surrounding environment.

1304 -Industrial Towers or Facilities Requirements continued…

D. Environmental

1. A full Environment Assessment Form shall be presented initially to the Town Planning Board for review. All applications for industrial wind generation facilities shall be considered a Type I Action.
2. The applicant shall submit an avian study performed by a recognized authority, said authority shall have been recognized and accepted by the Planning Board prior to said submission. The applicant shall submit an analysis which shall include an explanation of potential impacts; a mitigation plan, if necessary; information about existing conditions and anticipated impacts for a minimum of 2 (two) years after installation; and any other information pertaining to critical flyways. The study and analysis shall be submitted prior to final approval.
3. The applicant shall submit an analysis showing the projected location and amount of shadow flicker within the project and surrounding area. Shadow flicker shall be limited to the facility site or sited so as to limit the amount of flicker on any adjacent residential dwelling, hospital, church, park, school, or other public gathering space to no more than 10 (ten) minutes per day. The shadow flicker analysis shall be submitted during the Preliminary Site Plan review.
4. The tower shall not impair any scenic vistas or corridors as identified in the Town of Hopewell's Comprehensive Plan or other published source.

E. Facility Discontinuance/Removal

1. In conjunction with the issuance of a Special Use Permit, the applicant shall post a bond or deposit which amount is to be determined by the Town Board based upon an estimate determined by an engineer. Said bond or deposit shall be held in escrow and maintained throughout the duration of the operation. The Town reserves the right to review the bond amount at any time and reevaluate the amount by a third party or consultant to ensure sufficient monies are available for removal pursuant to this Article.
2. Any wind energy facility that is out of service for more than 6 (six) months or found to be unsafe by the Code Enforcement Officer and not repaired by the owner within a time frame established by the Code Enforcement Officer, shall be deemed to be abandoned. The Code Enforcement Officer shall issue a Notice of Abandonment in the form of a letter to the owner. The Code Enforcement Officer shall withdraw the Notice of Abandonment if the owner provides documentation within 30 (thirty) days of said Notice which documentation causes the Code Enforcement Officer to determine that the facility has in fact not been abandoned.

1304 - Industrial Towers or Facilities Requirements - Facility Discontinuance/Removal continued…

3. If the facility is planned to be abandoned or continues to be abandoned for 3 (three) months following the issuance of a Notice of Abandonment with no further documentation from the owner, the owner must provide the Code Enforcement Officer with a written Notice of Termination.
   Within 3 (three) months of receipt of the Notice of Termination, the owner must, at his/her own expense:
   a. Remove all above ground structures and components associated with the facility.
   b. Remove all foundations, pads, and underground electrical components to a depth of 4 (four) feet below the existing grade.
   c. Remove all hazardous materials from the property and dispose of them in accordance with state and federal regulations.
   d. De-compact all disturbed areas and replace topsoil to original depth, reestablishing original contours where possible. To the greatest extent feasible, the disturbed areas shall be re-vegetated to match the surrounding area.

1305 - Meteorological Tower (MET) Requirements

A Meteorological Tower may be allowed by Special Use Permit and shall comply with the following requirements:

A. No more than 1 (one) tower shall be allowed in the Town of Hopewell on any property at any one time.

B. The tower shall be placed on the property for a period not to exceed 18 (eighteen) months from the date of issuance of the Special Use Permit. The time period may be extended no more than 1 (one) additional time for a time period agreed upon by the applicant and the Planning Board. Justification must be presented to the Board for the time extension.

C. The tower shall be temporary in nature and shall be designed to support the wind and ice load of the tower and associated instruments in accordance with the Uniform Code.

D. All applicable safety requirements specified in §1302 shall be followed.

E. The tower shall be set back from any property line in accordance with the requirements of Table 1302.1. The setback distance shall be determined according to the proposed tower that is to be constructed at that location.

F. The tower installation electrical wiring and equipment, including all grounding systems, shall comply with the National Electric Code (NEC).

G. The tower shall have no advertisements of any kind nor any kind of illumination, except where required by the FAA.

H. Any and all violations of this Ordinance shall be subject to penalties in accordance with Article IV (Violations).

Article XIV
Outdoor Lighting Regulations

1400 - Intent

The purpose of this Ordinance is to provide specific guidelines for Site Plan and Special Use Permit application reviews or Variances in order to minimize environmental impacts of lighting proposed for a new development or use. Furthermore, the purpose of this Article is to provide minimum standards for the control or elimination of lighting throughout the community said lighting which may cause unsafe glare or be a hazard to motorists, which may cause objectionable glare or which may result in injurious illumination on adjacent properties.

1401 - Applicability

The regulations set forth in this Article shall apply to all new outdoor lighting proposed as part of a Site Plan or Special Use Permit application, or as may be applicable to a Variance application and shall apply to any change in occupancy classification requiring issuance of a new or revised Certificate of Occupancy.
All outdoor lighting functioning or existing prior to the effective date of the Local Law adopting this Zoning Ordinance and this Article that, as a result of these regulations, is now functioning or operating as a nonconforming light source shall be exempt from the new installation standards set forth in the following sections of this Article except in the following cases:

1) Any outdoor lighting which shall replace existing nonconforming lighting, or any pole light or other light source installation which shall be relocated on a given property. In such case, the standards for new lighting set forth in the following sections of this Article shall apply.

2) Upon receipt of a written bona fide complaint to the Code Enforcement Officer alleging that an existing outdoor light source is causing unsafe glare or light trespass which is injurious to an adjacent property owner and which complaint is confirmed upon investigation by the Code Enforcement Officer. In such case, the Code Enforcement Officer shall order the property owner of the offending light source to shield, redirect or otherwise correct the offending light source in accordance with §201 of this Ordinance.

3) Lighting which directs light toward a public or private road, parking lot, or public way which causes unsafe glare to motorists or otherwise creates an unsafe condition or hazard to the general public. In such case, violations shall be remedied in accordance with §201 of this Ordinance.

1402 - Exemptions

The following are exempt from this Article, unless stated otherwise:

1) All temporary construction lighting and emergency lighting needed by police or emergency services, provided that lighting is temporary and discontinued immediately upon completion of the work needing said lighting.

2) All hazard warning luminaries required by a federal regulatory agency, except that all luminaries used must be as close as possible to the federally required minimum lumen output requirements for the specific task.

3) All outdoor light fixtures producing light directly from the combustion of fossil fuels (such as kerosene lanterns and gas lamps) or equivalent.

4) Lighting use for holiday decorations.

5) Lights located within a fountain.

6) Lighting associated with farm or agricultural operations. However, farm or agricultural operations within 100 (one hundred) feet of a residential dwelling shall be shielded to prevent light trespass onto the adjoining property.

7) Low voltage lighting, as defined by the National Electric Code (NEC).

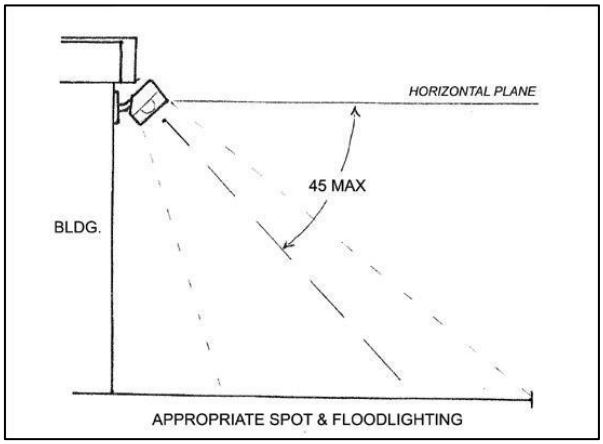
1403 - General Requirements

A. On any given business day, all nonessential outdoor lighting, including display lighting and signs, shall be turned on no sooner than 30 (thirty) minutes prior to the opening of the business day and shall be turned off within 30 (thirty) minutes upon the closing of the business day. Nonessential lighting is any lighting not associated with security or safety.

B. Lights which are controlled by photocells and timers are encouraged, as is the use of motion-sensor lights. Such motion-sensor lights shall not be triggered by motion off of the property and shall turn off no more than 15 (fifteen) minutes after activation.

C. Upward lighting shall be limited to flagpoles that display federal, state and/or local government flags only, provided the maximum light output is 1,300 (one thousand three hundred) lumens and the illumination is shielded to direct the light onto the flagpole only.

D. Spotlights and floodlights shall be aimed 45 (forty-five) degrees or more below the horizontal plane of the light. Photocell-powered light and or motion-sensored lights are permitted.



E. All lighting, including spot and floodlights, shall be confined to the property from which it originates.

F. High-pressure sodium, metal halide, compact fluorescent or low-pressure sodium shall be used for all light sources rated over 1,000 (one thousand) lumens or 75 (seventy-five) watts incandescent. Compact fluorescent or LED lighting is preferred for lighting with fewer than 1,000 (one thousand) lumens.

G. Lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by the Illuminating Engineers Society of North America (IESNA or IES) for the activity or area being lit. Lighting for automatic teller machines (ATMs) shall conform to the latest New York State ATM Safety Act. Where no standard from IES exists, the Planning Board shall determine the appropriate level in consultation with the Town Engineer, taking into account levels for the closest IES activity.

H. Lighting shall be evenly distributed throughout the area, sign, or feature being illuminated.

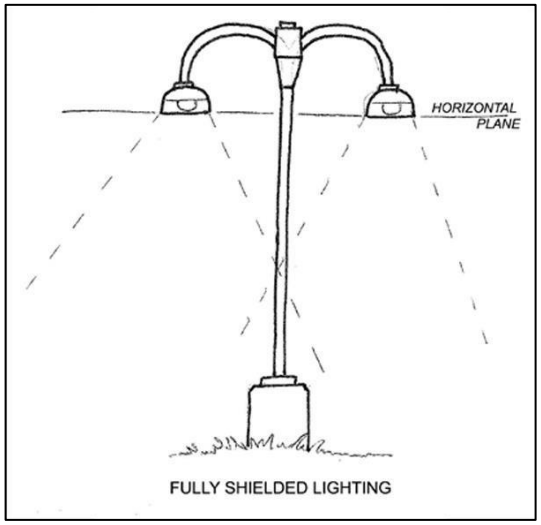
1404 - Temporary Lighting

The Code Enforcement Officer may permit, at his discretion, nonconforming temporary lighting.
The applicant shall submit to the Officer a detailed description of the proposed nonconforming temporary lighting. After taking into account the following considerations, and within 2 (two) weeks of having received said description, the Officer shall render a decision on said lighting request:

1. The public and/or private benefits which may result.
2. The annoyance and/or safety hazards associated with the use of the temporary lighting.
3. The duration of the lighting.

1405 - Shielding Requirements

A. Outdoor lighting shall be shielded to minimize light trespass and reduce glare. The method of shielding shall be approved by the Planning Board, which may choose to consult with the Town Engineer.



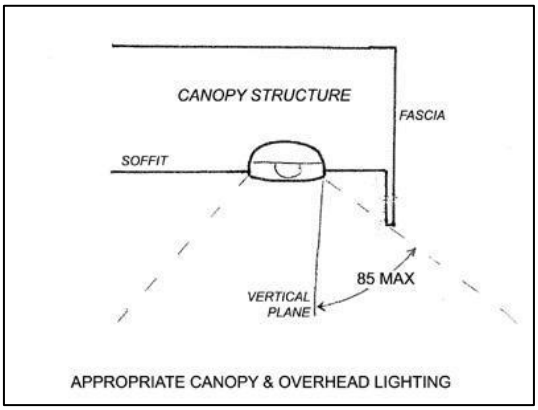
FULLY SHIELDED LIGHTING

B. Lamps of 1,000 (one thousand) lumens or 75 (seventy-five) watts or less shall not require shielding, provided the light trespass limitations are met.

C. Lighting used for recreational facilities, including but not limited to football, soccer, baseball, softball fields or tennis courts, shall be fully shielded.

D. Canopy and Roof Overhang Lighting

1. Lights shall not be mounted on the top or fascia of the canopy or overhang. The sides of the canopy or overhang shall not be illuminated.
2. Internally lit signs of an opaque or translucent material shall be allowed on the sides of a canopy.
3. Luminaries mounted under roof overhangs or canopies shall be recessed so that the lens cover is recessed or flush with the soffit or bottom surface of the canopy. Luminaries may also be shielded by the light fixture or by the edge of the canopy so that light is restricted to no more than 85° from vertical.

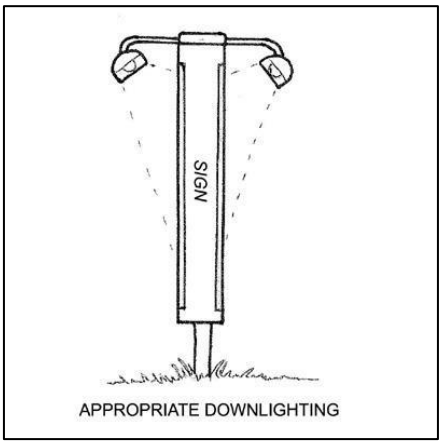


APPROPRIATE CANOPY & OVERHEAD LIGHTING

1405 - Shielding Requirements continued…

E. Outdoor Signs

1. Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign structure and shall be shielded in a manner so that the light is contained on the sign itself.
2. Bottom mounted or up lighting shall not be used.
3. Internal illumination of a sign shall be concealed behind opaque, translucent, or other similar style glass.



1406 - Prohibited Lighting

A. Bottom mounted or up lighting, except for flags specified in §1403-C.

B. All moving, flashing, and revolving lights, unless associated with temporary construction or emergency services as indicated in §1402-A.

C. The use of laser source light or any similar high-intensity light for outdoor advertising or entertainment when projected above the horizon.

D. Searchlights and strobe lights.

1407 - New Construction Requirements

All applications for Site Plan Review, Special Use Permit, or variances or approvals required by any provision of the Town of Hopewell shall require a lighting plan showing conformity with the standards contained in this Article. Single-family and two-family dwellings are not required to submit a lighting plan, but shall comply with other provisions in this Article to minimize light trespass and unwanted glare onto adjacent properties. The lighting plan shall indicate the following:

1) Location of lighting on the premises.

2) Type and number of illuminating devices with associated hardware.

3) Mounting height.

4) Luminance and glare control options.

5) Type of luminary.

6) Photometric charts or data (typically supplied by manufacturer).

7) Any additional documentation requested by the Planning Board or Code Enforcement Officer to show conformance with the standards in this Article.

ARTICLE XV
Telecommunications Facilities

1500 - Intent

The intent of these regulations is to promote the health, safety and general welfare of the residents of the Town of Hopewell. Specifically, these regulations are intended to:

A. Provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations.

B. Minimize the number of telecommunications towers in the community by encouraging shared use of existing and future towers and promoting the installation of telecommunications equipment on or within existing tall buildings or other existing structures.

C. Minimize adverse visual effects from telecommunications facilities by requiring careful siting, appropriate screening, and mitigation of adverse visual impacts.

1501 - Applicability

A. The telecommunications regulations shall apply to only those districts in which telecommunications facilities are permitted. Permitted districts shall be Agricultural, Industrial, and Commercial Districts.

B. A Special Use Permit and Site Plan approval shall be obtained before any telecommunication structure is constructed, relocated, or significantly altered or the equipment located on the structure is significantly altered. A significant alteration to the structure or equipment would entail the alteration of the existing height or an observable change which increases the visual appearance of the structure (larger equipment, change in color, or a change in the type of structure).

C. The telecommunications structure shall be designed to accommodate future shared use by at least 2 (two) other telecommunication service providers. Any subsequent locations of telecommunication equipment by other service providers on towers specifically designated for shared use shall not require a new or modified Special Use Permit provided there shall be no increase in the height of the tower.

D. No existing structures shall be modified to serve as a telecommunications facility unless in conformity with these regulations.

E. Exemptions to these regulations are limited to:

1. New uses which are accessory to residential uses including, but not limited to, satellite dishes and television antenna.
2. Lawful or approved uses existing prior to the effective date of these regulations.

1501 - Applicability continued…

F. Where these regulations conflict with other laws and regulations of the Town of Hopewell, the more restrictive shall apply, except for tower height restrictions, which are governed by these Special Use standards.

1502 - General Requirements

Telecommunications facilities shall be considered a Type I Action by the Town of Hopewell under §617.4(a) (2) of the Environmental Conservation Law. Each application for a proposed facility shall be accompanied by a State Environmental Quality Review Act (SEQRA) long Environmental Assessment Form (EAF). No application shall be considered for either new facilities or modified facilities unless the Telecommunication Facility meets the following criteria:

A. It meets current or expected demands for services.

B. It conforms with all federal and state laws and all applicable rules or regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), or any other federal agencies having jurisdiction.

C. It is considered a public utility in the State of New York.

D. It is sited, designed and constructed in a manner which shall minimize visual impacts and minimize adverse impacts upon migratory birds and other wildlife.

E. It complies with all other requirements of this Ordinance, unless expressly superseded here-in.

F. It is located in the most appropriate site, among those available, within the technically feasible area for the location of a telecommunication facility.

G. It is designed to accommodate future shared use by at least 2 (two) other telecommunication service providers. Any subsequent locations of telecommunication equipment by other service providers on towers specifically designated for shared use shall not require a new or modified Special Use Permit provided there shall be no increase in the height of the tower.

H. Documentation is provided certifying that the design of the structure, as determined by a licensed engineer, shall be a self-collapsing design or that the tower shall collapse within the specified fall zone.

1503 - Co-location

The shared use of existing telecommunications facilities or other structures shall be preferred over the construction of new facilities. Any application for renewal or modification of a facility or tower shall include proof that reasonable efforts have been made to co-locate on or within an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.

The applicant must demonstrate that, due to one or more of the following reasons, the proposed telecommunications facility cannot be accommodated on existing, inventoried, telecommunications facility sites:

1. The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or their structure, considering existing and reasonable anticipated future use for those facilities and structures.
2. The planned equipment would cause radio frequency interference with other existing or planned equipment, said interference which cannot reasonably be prevented.
3. The existing or approved telecommunications facilities or other structures do not have space and cannot be modified to provide space on which proposed equipment can be placed so it can function effectively and reasonably.
4. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities and structures.
5. The owner of the existing telecommunications facility or other structure refuses to allow such co-location.

1504 - Dimensional Standards

A. A fall zone around any tower constructed as part of a telecommunications facility shall have a radius at least equal to the height of the tower and any attached antennas. The entire fall zone shall not include public roads and shall be located on the property either owned or leased by the applicant or for which the application has obtained an easement, and shall not, except as set forth below, contain any structure other than those associated with the telecommunications facility.

B. All telecommunications facilities shall be set back a distance equal to the fall zone of the structure, including any additional antennae or equipment extending beyond the top of the structure.

C. All components of the tower, including support structures, guy wires or anchors, and any accessory buildings shall be within the fall zone.

D. Towers shall not exceed 200 (two hundred) feet in height, including the support structure and any antenna, receivers, or other such devices.

1505 - Lighting and Marking

Towers shall not be artificially lighted and marked beyond the requirements of the FAA. An applicant may be permitted to add FAA-style lighting and marking, even if not required by FAA if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety and would not unduly adversely affect residents of any surrounding property.

1506 - Appearance and Buffering

A. The use of any portion of a telecommunication facility for signs, promotional or advertising purposes, including, but not limited to, company name, phone numbers, banners, streamers, and balloons is prohibited.

B. The facility shall be designed to have the least practical visual impact on the surrounding environment, including, but not limited to, major view sheds, public property and rights-of-way, historic areas, or sensitive environmental areas. To that end, the following shall apply:

1. The facility shall have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board, or shall blend in with the surroundings through the use of screening, camouflage, architectural design, and/or imitation of natural features, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
2. Accessory structures, building materials, colors, and textures shall be designed to blend in with the natural surroundings.
3. Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunication facility shall not be stored or parked on the facility site.
4. Existing on-site vegetation shall be preserved to the maximum extent possible. Clear-cutting of all trees in a single continuous area exceeding 10,000 (ten thousand) square feet shall be prohibited.
5. Planting of deciduous or evergreen trees shall be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential, public, or private property, including streets, at least 1 (one) row of native evergreen shrubs or trees forming a continuous hedge at least 10 (ten) feet in height at the time of planting shall be required to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include height of berm.

1507- Access and Parking

A. Access ways shall make maximum use of existing public or private roads. To ensure minimal visual disturbance and to reduce soil erosion potential, new access ways constructed solely for telecommunication facilities shall be at least 20 (twenty), but no more than 30 (thirty) feet wide and shall closely follow natural contours.

B. Parking areas shall be sufficient to accommodate the usual number of service vehicles expected on the premises at any one time. Space off of public highways shall be provided, (not necessarily in parking areas), to accommodate the greatest number of service vehicles expected on the premises at any one time.

C. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles shall not have to back out into a public thoroughfare. A hammerhead turn around shall be provided per NYS Uniform Code.

1508 - Security

A. Towers, anchor points of guyed towers, and accessory structures shall be each surrounded by suitable fencing. The Planning Board may waive the requirement of fencing if, at its discretion, it determines that other forms of security are adequate, or that by reason of location or occupancy, security will not be significantly compromised by the omission or reduction in size of the otherwise required fencing.

B. Motion-activated or staff-activated security fencing lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off site. Such lighting shall only be activated when the area within the fenced perimeters has been entered.

C. There shall be no permanent climbing pegs within 15 (fifteen) feet of the ground of any tower.

D. To obstruct entry by unauthorized vehicles, a locked gate at the junction of the access way and a public thoroughfare may be required. When it is in the open position, such gate shall not protrude into the public right-of-way. Locked gates shall be provided with a lock box or other method of immediate access approved by the Fire Chief.

E. A security alarm system shall be installed which shall be linked to an alarm company central station.

1509 - Engineering and Maintenance

A. All plans for telecommunications facilities shall bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including, but not limited to, the most recent applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

B. For the purpose of certifying that electromagnetic exposure to the general public does not exceed standards set by the FCC or any permit granted by the FCC, a safety analysis by a qualified professional shall accompany any Special Use Permit or Special Use Permit Application or renewal or modification thereof.

C. The municipality, at the expense of the applicant, may employ its own consulting assistance to examine the application and related documentation and make recommendations as to whether the specific criteria identified by the Planning Board for granting the special approval have been met.

D. Landscaping maintenance of facility and grounds shall be provided. Areas that shall not be maintained and allowed to return to a natural state shall be detailed in the site plan and subject to approval by the Planning Board.

1510 - Removal

A. At the time of submitting an application for a Special Use Permit for a telecommunication facility, the applicant shall submit an agreement that, should said facility become technologically obsolete or cease to perform its originally intended function for more than 6 (six) months, the applicant shall remove, within 90 (ninety) days, all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower dedicated solely for use within said telecommunications facility. Upon removal of such facility, the land shall be restored to its previous condition, including, but not limited to, the seeding of exposed lands.

B. If required by the Town Board, at the time of obtaining a Building Permit, the applicant shall provide a financial security bond for the removal of the telecommunications facility and property restoration, with the municipality as the assignee, in an amount selected and approved by the Town Board.

1511- Modifications

If a Special Use Permit is modified, and in order to adequately cover the cost of removing the telecommunications facility and the subsequent property restoration, the Town Board may, at its discretion, adjust the amount of the financial security bond required under §1510.

1512 - Amateur Radio Operator Antenna Installation Standards

Amateur radio operators who hold a valid license to operate from the Federal Communication Commission (FCC) may provide necessary and invaluable service in times of emergency. Necessary towers or structures supporting antennas shall be a permitted accessory use to any residential use. A Building Permit shall be required for any antenna or tower structure necessary to support antennas and shall be subject to the following standards:

A. Operators shall provide to the Code Enforcement Officer a copy of a valid FCC license to operate together with an application for a tower structure.

B. Maximum height of any antenna or the height of any tower plus the antenna shall not exceed 50 (fifty) feet in height above the adjacent grade .

C. No antennae tower or antenna structure supporting an antenna shall be located between the principal dwelling and the street unless the setback from the right-of-way to the tower or structure is greater than 100 (one hundred) feet.

D. Antennas, towers or a structure supporting an antenna shall be set back from the side or rear property lines at a distance equal to or greater than the height of the tower or height of the structure plus the antenna. Antennas attached directly to buildings shall be attached in such a manner and in such a location that should such antenna collapse, no part of it shall cross a property line.

E. No antenna, tower, or structure supporting an antenna shall be placed in any location where the antenna, tower or structure may collapse onto overhead electric services, propane tanks, or other equipment and thus create a public or private hazard.

ARTICLE XVI
Site Plan Review and Approval

1600 - Intent

The purpose of this Article is to provide an opportunity for the Planning Board to review Site Plans for certain land uses in the Town of Hopewell in order to determine compliance with the requirements and purpose of this Ordinance, to ensure satisfactory land development practices, to protect the public's health, safety, general welfare and quality of life, and to provide for the best interest of the property owner. Good land development practices minimize conflicts between uses in the same or adjoining districts, minimize adverse impacts to the environment, ensure safe and sustainable construction, and preserve and enhance the community character. The Site Plan shall also conform to all other applicable laws and regulations, including, but not limited to, Hopewell Town Law, state agency rules and regulations and SEQRA, and shall complement the recommendations for future land uses found in the Comprehensive Plan.

1601 - Applicability

Prior to the issuance of a Building Permit, or approval of any use of land for commercial, industrial, or agriculture-based business purposes requiring site improvements, storm water management, potential environmental or neighborhood impacts, or modification of a previously approved Site Plan, the Zoning Officer shall refer a Preliminary Site Plan, prepared in accordance with §1603, to the Planning Board for review in accordance with the standards and procedures set forth in this Ordinance. The applicant may prepare maps and/or plans when, as determined by the Planning Board, the proposed structure or proposed use of land does not warrant a professionally prepared site plan or maps. The applicant shall be responsible for providing information and details required by §1603.
Subject to specific findings, the Planning Board may waive any or all of the details or information requirements set forth in this section when, in the opinion of the majority of the Planning Board Members, the rendering of a decision regarding the application under review does not warrant or otherwise require details or information as set forth in this section.

1602 - Sketch Plan Conference

A. The applicant shall meet with the Code Enforcement Officer and/or the Planning Board to review the basic site design concept and determine the information required on the Preliminary Site Plan. The purpose of the Sketch Plan Conference is to discuss with the applicant the project's conformity with the Town of Hopewell Comprehensive Plan, to determine whether the activity is subject to the Environmental Impact Standards of this Ordinance, and to advise the applicant of other issues or concerns. The Sketch Plan Conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detailed plans are incurred.

1602 - Sketch Plan Conference continued….

B. Required information to be included on the sketch plan is as follows:

1. Title of the drawing.
2. An area map showing the parcel under consideration for site plan review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 500 (five hundred) feet of the boundaries thereof or at the discretion of the Code Enforcement Officer.
3. A map of site topography at no more than 10-foot (ten-foot) contour intervals, including 200 (two hundred) feet of adjacent property. If general site grades exceed 5 (five) percent or if portions of the site have susceptibility to erosion, flooding or ponding or contain Prime Farmland Soil, a soil overlay and topographic map showing contour intervals of not more than 2 (two) feet of elevation shall also be required.
4. The general identification of all existing natural features and utilities on the site and in the area.
5. The location of all existing and proposed structures on the site and designated uses for each.
6. The identification of existing zoning classification(s) of the property and all properties within 1/4 (one-fourth) mile and any restrictions on land use of the site.
7. The name of the owner of subject property and the names of the owners of adjacent properties within 500 (five hundred) feet.

C. The Planning Board shall be permitted a reasonable time to review the sketch plan, but in no instance more than 45 (forty-five) days.

1603 - Preliminary Site Plan Application

A. Application for Preliminary Site Plan Approval
An application for Preliminary Site Plan approval shall be made in writing to the Code Enforcement Officer by the 4th Wednesday of the month, and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the Sketch Plan Conference. All site plan information and building designs shall be prepared by a licensed architect or engineer.

1603 - Preliminary Site Plan Application continued…

B. Preliminary Site Plan Checklist

Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The Preliminary Site Plan shall include:

1. Title of drawing, including name and address of applicant and the seal of a NYS registered architect, engineer, or surveyor responsible for the preparation of such drawing.
2. North arrow, date, and graphic scale; minimum 1(one) inch = 50 (fifty) feet.
3. Boundaries of the property, plotted to scale.
4. Location of existing property lines, easements, structures, streets, driveways and natural features within 500 (five hundred) feet of the proposed site or at the discretion of the Planning Board. Natural features which may restrict development or other development constraints such as those listed in the Flood Plain Local Law #2 1989.
5. Grading and drainage plan, showing both existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
6. Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
7. Number, location, design and construction materials of all parking and loading areas, showing ingress and egress. Location of reserved parking areas as required by the Off-Street Parking Regulations of Article XI (Off-Street Parking and Loading Regulations) of this Ordinance.
8. Provision for pedestrian access.
9. Size, type, location and screening of all facilities used for recycling and disposing of solid waste.
10. Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes, if applicable.
11. Building elevations showing building side elevations, window and door spacing, treatments and other architectural features and indication of building materials.
12. Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
13. Location, size, and type of material for screening any proposed outdoor storage, including box trailers.
14. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.
15. Description of the type and quantity of sewage anticipated. Method of sewage disposal and the location, design, and construction materials of such facilities.
16. Description of the type and quantity of water supply needed. Method of securing water supply, and the location, design, and construction materials of such facilities.
17. Location of fire lanes and other emergency zones, including the location of fire hydrants.

1603 - Preliminary Site Plan Application - Preliminary Site Plan Checklist continued…

18. Location, design, and construction materials of all energy-distribution facilities, including electric, gas, wind power, solar energy and other public utility facilities, such as cable or phone service.
19. Location, size, design, and construction materials of all proposed signs.
20. Location of proposed buffer areas, including existing vegetative cover.
21. Location, type, height, brightness and control of outdoor lighting facilities in accordance with Article XIV (Outdoor Lighting Regulations) of this Ordinance.
22. Size, location and features of recreation areas for multifamily dwellings as required by §803 of this Ordinance.
23. Identification of permanent open space or other amenities provided in conjunction with cluster or incentive zoning provisions.
24. Table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of ingress, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
25. Landscaping plan and planting schedule in accordance with Article X (Landscaping, Screening & Buffer Regulations) of this Ordinance.
26. Other elements integral to the proposed development as considered necessary by the Planning Board.
27. All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
28. An agricultural data statement, pursuant to the requirements specified in§305a of the NYS Agriculture and Markets Law, if the proposed use is located on, or within 500 (five hundred) feet of, a farm operation in a County Agricultural District.
29. A copy, as required by New York State Department of Environmental Conservation (NYSDEC), of the Storm Water Pollution Prevention Plan (SWPPP) for all developments disturbing more than 1 (one) acre. The owner is required to comply with the NYSDEC's "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit # GP-02-01.

C. Required Fee

The fee schedule shall be established by the Hopewell Town Board and shall be paid when the application is made.

1604 - Planning Board Review of Preliminary Site Plan

The Planning Board's review of a Preliminary Site Plan shall include, as appropriate, but is not limited to, the following:

A. General considerations as to:
   1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
   2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
   3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
   4. Location, arrangement, size, design, and general architectural compatibility among structures and the overall compatibility of the proposed buildings, lighting, signs and landscaping of the site.
   5. Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site runoff and maintain water quality.
   6. Adequacy of water supply and sewage disposal facilities.
   7. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
   8. Size, location, arrangement and use of required open space and adequacy of such to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering, and to provide recreation areas.
   9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
   10. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
   11. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
   12. Provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
   13. Conformance with the Hopewell Comprehensive Plan and other planning studies.
   14. Conformance with density, lot size, height, yard and lot coverage and all other requirements of district regulations.
   15. Performance guarantees, if required.

1604 - Planning Board Review of Preliminary Site Plan continued….

B. Applicant to Attend Meetings
Applicant and/or duly authorized representative shall attend the meeting of the Planning Board. Failure of an applicant to be present before the Board shall allow the Planning Board, at its discretion, to take no action on the application.

C. Environmental Impact Standards
The uses proposed on the Site Plans shall also conform to the Environmental Impact Standards of §718 of this Ordinance.

D. Consultant Review
The Planning Board may consult with the Hopewell Town Board, Code Enforcement Officer, Town Engineer, Town Attorney, Fire Marshall, and other appropriate Local and County Officials and Departments and its designated private consultants, in addition to Representatives of Federal and State agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

E. Public Hearing
If a Public Hearing is considered desirable by a majority of the members of the Planning Board, such Public Hearing shall be conducted within 62 (sixty-two) days of the receipt of a completed application for Preliminary Site Plan approval, said completion having been determined by the Planning Board. Said Public Hearing shall be advertised in a newspaper of general circulation in the Town of Hopewell at least 5 (five) days before the Public Hearing. If the site is within 500 (five hundred) feet of a municipal boundary, the secretary of the Planning Board shall notify the Town Clerk who shall also notify the Clerk of the adjacent municipality according to Town Law §239-nn.

1605 - Planning Board Action on Preliminary Site Plan

A. If the Planning Board is acting as the lead agency, it shall render a determination of significance prior to preliminary approval of the Site Plan.

B. Within 62 (sixty-two) days after the Public Hearing or, if no Public Hearing is held, within 62 (sixty-two) days after the Planning Board has determined the application is complete, the Planning Board shall act on the application for Preliminary Site Plan approval. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the Preliminary Site Plan is approved, disapproved, or approved with modifications or conditions.

1605 - Planning Board Action on Preliminary Site Plan continued…

C. The Planning Board's statement may include recommendations of desirable modifications to be incorporated into the Final Site Plan, and conformance with said modifications shall be a condition of approval. Should the Preliminary Site Plan be disapproved, the Planning Board's statement shall contain the findings supporting said disapproval. Should the Site Plan be disapproved, the Planning Board may recommend modifications to said Preliminary Site Plan. A resubmission to the Planning Board after said Preliminary Site Plan has been revised or redesigned shall be allowed.

1606 - Referral to County Planning Board

Prior to taking action on the Final Site Plan, the Planning Board shall refer the plan to the County Planning Board for review in accordance with §239-m of General Municipal Law.

1607 - Final Site Plan Approval/Disapproval Procedure

A. After receiving the Planning Board's approval, with or without modifications, of a Preliminary Site Plan, the applicant shall submit for review a Final Site Plan to the same Board. Should more than 6 (six) months have elapsed since the time of the Planning Board's action on the Preliminary Site Plan and the submission of the Final Site Plan and should the Planning Board find that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the Preliminary Site Plan for further review and possible revision prior to accepting for review the proposed Final Site Plan. The Planning Board may also require a new Public Hearing. The Final Site Plan shall conform substantially to the approved Preliminary Site Plan. It shall incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.

B. The following additional information shall accompany an application for Final Site Plan approval:

1. Record of application for and approval status of all necessary permits from local, state, and county officials.
2. Estimated project construction schedule.
3. Legal description of all areas proposed for municipal dedication.
4. Conservation easement or other recordable instrument executed by the owner for any permanent open spaces created and whether such open space is the result of Site Plan Review, clustering or incentive zoning provisions.
5. Detailed sizing and final material specifications of all required infrastructure.

C. Within 62 (sixty-two) days of receipt of a completed application for a Final Site Plan, the Planning Board shall render a decision. The Planning Board shall file its decision with the Town Clerk within 5 (five) business days of having made said decision.

1607 - Final Site Plan Approval/Disapproval Procedure continued…

D. Upon approval of a Final Site Plan and payment by the applicant of all fees, reimbursable costs due, and performance guarantee submitted, if required, to the Code Enforcement Officer pursuant to §1610, the Planning Board shall endorse its approval on the original Mylar Final Site Plan and all copies. A copy of the approved Final Site Plan shall be filed with the Code Enforcement Officer and shall be provided to the applicant.

E. Upon disapproval of a Final Site Plan, the Planning Board shall so inform the Code Enforcement Officer. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

1608 - Time Limit on Final Site Plan Approval

If no building permit has been issued, or if no significant work has commenced within 1 (one) calendar year of the date of the Final Site Plan approval, the Final Site Plan approval shall become null and void.

1609 - Reimbursable Costs

Costs incurred by the Town of Hopewell for consultation fees and/or other expenses generated by the Town in order for it to render an informed decision of a proposed Site Plan shall be charged back to the applicant. The Planning Board Secretary shall confirm with appropriate Town Officials that all expenses have been reimbursed to the Town. Upon notification from the Secretary or other appropriate Town Official of such reimbursement, the Planning Board Chairman may endorse the Final Site Plan as approved.

1610 - Performance Guarantee

The Town Board shall have the authority to require a performance guarantee for any site improvements proposed to be made to or impacting any public infrastructure including, but not limited to, water systems, sewer systems, and public highways maintained by local government.

Said guarantee shall be in the form of an irrevocable letter of credit or other form of surety acceptable to the Town Board.

Said guarantee shall be approved as to form by the attorney for the Town in the amount to be recommended by the engineer for the Town, or other authority designated by the Town Board.

The Final Site Plan shall not be signed by the Planning Board Chairman or his authorized deputy until and unless any required performance guarantee is secured and/or deposited to the satisfaction of the Town Board.

1611 - Inspection of Improvements

The Code Enforcement Officer, or his duly authorized representative such as, but not limited to, the Town Engineer or a qualified consultant, shall be responsible for the overall inspection of site improvements. For the purpose of coordinating inspection, the applicant shall be responsible for providing notice to the appropriate officials and agencies. The applicant shall reimburse the Town for all charges and/or expenses incurred by the Town for necessary site improvement inspections including, but not limited to, all storm water management, installation of utilities or other infrastructure to be dedicated to the Town, or other site development issues determined by the Code Enforcement Officer as requiring special inspection for determining compliance. For utilities, such as water, or highway improvements to be dedicated to the Town, the authority having jurisdiction over such Town entity shall determine necessary inspection requirements including the necessity for full time inspection. The Code Enforcement Officer shall confirm with the appropriate Town Officials that all charges have been fully reimbursed to the Town prior to the issuance of a Certificate of Occupancy.

1612 - Integration of Procedures

Whenever the particular circumstances of a proposed development require compliance with either the Special Use Permit requirements pursuant to §305-D of this ordinance, or the requirements for the subdivision of land, the Planning Board shall attempt to integrate, as appropriate, Site Plan review as required by this section with the procedural and submission requirements for such other compliance.

ARTICLE XVII

1700 - Planned Unit Development (PUD)

A. Intent

1. It is the intent of this Planned Unit Development (PUD) District to provide flexible land use and design regulations through the use of performance criteria so that large-scale neighborhoods may be developed within the Town of Hopewell which incorporate a variety of residential types and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a PUD is to be designed and organized so as to be capable of satisfactory use operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This section specifically encourages innovation in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments.
2. This section recognizes that while the standard zone-function and the subdivision function are appropriate for the regulation of land use in areas of neighborhoods that are already substantially developed, these controls represent a type of pre-regulation, regulatory rigidity and uniformity, which may be harmful to the techniques of land development contained in the totally planned development concept. Further, this section recognizes that a rigid set of space requirements alone with Minimum Lot Area and Setback Tables specifications would frustrate the application of the PUD concept. Thus, where PUD techniques are deemed appropriate through the rezoning of land to PUD district by the Town Board, the use and dimensional specifications elsewhere provided for in the Hopewell Town Zoning Ordinance are herein replaced by an approval process in which the approved plan becomes the basis for continuing land use controls.

1700 - Planned Unit Development (PUD) continued…

B. Objectives

In order to carry out the intent of this section, a PUD shall achieve the following objectives:

1. A maximum choice in the types of environment, occupancy tenure (i.e., cooperative, individual ownership, condominium, leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents.
2. A maximum of usable open space and recreation areas.
3. A maximum of convenience in location of accessory commercial and service areas.
4. The preservation of trees, outstanding natural topography and geologic features, and prevention of soil erosion.
5. A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.
6. An efficient use of land resulting in small networks of utilities and streets.
7. A development pattern in harmony with the objectives of the Town of Hopewell Comprehensive Plan.
8. A more desirable environment than would be possible through the strict application of other Sections of the Town of Hopewell Zoning Law.
9. The design and construction of all improvements within the PUD shall conform to the Town of Hopewell specifications for the design and construction of developments.

C. General Requirements for Planned Unit Development

1. Minimum Area
   Under normal circumstances, the minimum area requirements to qualify for a PUD District shall be 10 (ten) contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section, the Town Board may consider for approval projects with less acreage.
2. Ownership
   The tract of land for a project may be owned, leased or controlled by a single person, a corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approval plan shall be binding on all owners.
3. Location of PUD District
   The PUD District shall be applicable to an area of the town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.

1700 - Planned Unit Development (PUD) - General Requirements for Planned Unit Development continued…

4. Permitted Uses
   All uses within an area designated as a PUD District are determined by the provisions of this Article and the approval of the project concerned.
   a. Residential Use
      Residences may be of a variety of types. In developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with this Article. In keeping with the objectives found above in Paragraph B Sections 1 and 7, the developer must demonstrate that he is reaching as broad a market as possible. In making its determinations, the Town Board shall consider the size of the site, its location with respect to community services and facilities, transportation, and area-wide market surveys as are available from several sources in Ontario County. Developers may avail themselves of such state, federal, and other housing programs as may be available to accomplish these objectives.
   b. Service and Other Non-residential Use
      Service and other non-residential use may be permitted where such uses are:
      i. Retail business establishments, which are clearly of a neighborhood service character such as, but not limited to, the following:
         (1.) Stores selling groceries, meats, baked goods, and other such food items.
         (2.) Drugstores and variety stores.
         (3.) Stationery, tobacco and newspaper stores, and confectionery stores.
      ii. Personal service establishments which are clearly of a neighborhood service character.
   c. Customary Accessory or Associated use
      Accessory uses such as private garages, off-street parking, storage space for auxiliary vehicles such as travel trailers, campers, boats and snowmobiles, shall also be permitted as appropriate to the proposed design concept.
   d. Other Uses
      Religious use, schools, child care service, fire and emergency service shall be permitted uses.
5. Intensity of Land Use
   Because land is used more efficiently in a PUD, improved environmental quality can often be achieved with a greater number of dwelling units per gross building area than usually permitted in traditionally zoned districts. The Town Board shall determine in each case the appropriate land use intensity and/or dwelling unit density for individual projects. In most cases, however, the gross density shall not exceed 4 (four) dwelling units per acre. Generally, at least 30 (thirty) percent of the PUD dwelling units should be detached, single-family units.

1700 - Planned Unit Development (PUD) continued…

D. PUD Application for Zoning Map Amendment, Preliminary Site Plan Approval and Final Site Plan Approval Process

1. Whenever any PUD is proposed, before any Permit for construction of a permanent building in such PUD shall be issued, and before any subdivision plat of any part thereof may be filed in the office of the Ontario County Clerk, the developer or his authorized agent shall apply for and secure approval of such PUD in accordance with the following two-part procedure:
    a. The applicant shall obtain a zoning map change of approval from the Hopewell Town Board creating the PUD zoning district.
    Acting in its legislative capacity, should the Town Board choose to entertain such a re-zoning request, the Town Board shall follow the procedures set forth in §311 of this Ordinance and the NYS Town Law for zoning map changes including, as the Lead Agency, the compliance requirements of the State Environmental Quality Review Act (SEQRA).
    At the time of requesting a change to the zoning map to create a PUD zoning district, the applicant shall submit Preliminary Plans to the Town Board for the Town Board to review. Preliminary Plans shall be prepared in accordance with part 2 below. The legislative process is described in further detail in §1700E of this Ordinance.
    b. Upon receiving approval from the Town Board for a zoning map change and the approval of the Preliminary Site Plan, the developer shall submit a Final Site Plan to the Planning Board for final review.
    The Planning Board shall conduct the Final Site Plan review in accordance with the provisions of Article 16 §1606-1612 of this Ordinance.
    The Planning Board, in accordance with Article 16 of this Ordinance, shall render a decision within 62 (sixty-two) days of receipt of a complete application, said application having been determined complete by the Planning Board, unless an extension is allowed by mutual agreement of the Town Board and the applicant.
    The legislative process is described in further detail in §1700E of this Ordinance.

1700 - Planned Unit Development (PUD) - PUD Application for Zoning Map Amendment, Preliminary Site Plan Approval and Final Site Plan Approval Process continued…

2. The application for a Preliminary Site Plan of the PUD which shall be submitted to the Town Board shall contain, as a minimum, the following information and any additional information as may be requested by the Town Board:
    a. The location of various proposed uses and their respective areas in acres.
    b. The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private. A statement addressing any anticipated offer of dedication to the town of any proposed roadways or utilities.
    c. The adequacy of emergency service access including, but not limited to, necessary emergency vehicle turnarounds, fire lanes, or emergency use areas.
    d. The delineation of various residential areas indicating for each area its general extent, size, and composition in terms of the total number of dwelling units, approximate allocation by dwelling unit type (for example single-family detached, duplex, townhouse, garden apartments) and general description (for example luxury, middle-income, senior housing) plus the calculation of the residential density in dwelling units per gross acre, excluding total of roadways, for each such use.
    e. The interior open-space plan and recreational features, if proposed, and a general description of how the space will be owned and maintained.
    f. A preliminary study or design of storm water management methods including a topographic map at no less than 10 (ten) foot elevations showing existing and preliminary design elevations after storm water management improvements.
    g. A preliminary study or design of necessary site grading including a topographic map showing contour intervals at no less than 10 (ten) feet of elevation showing existing site elevations and preliminary design elevations of all anticipated necessary site work.
    h. The anticipated method of providing municipal water supply, sewer service, and public utilities.
    i. The general description of any anticipated additional community facilities or services such as schools, fire protection and emergency services, or municipal services.
    j. A location map showing uses and names of property owners within 500 (five hundred) feet of the proposed development.
    k. The specific details demonstrating how the developer's particular mix of land uses, proposed residential uses, and overall project plans satisfy the objectives noted in §1700B of this Ordinance.
    l. The specific details demonstrating that the proposed development is consistent with the goals of the Town of Hopewell Comprehensive Plan.
    m. If the development plan is to be staged, a general plan as to how the staging is to be completed.

1700 - Planned Unit Development (PUD) - PUD Application for Zoning Map Amendment, Preliminary Site Plan Approval and Final Site Plan Approval Process continued…

n. The specific details that shall demonstrate the applicant's experience and ability to carry out the proposed plan for both the physical construction and financial obligations of such construction.
o. A completed Part 1: Long Environmental Assessment Form, as required by the State Environmental Quality Review Act (SEQRA).

3. The Planning Board shall review the sketch plan and related documents and forward comments and recommendations for approval or disapproval to the Town Board.
   a. A favorable report shall include a recommendation to the Town Board that a Public Hearing be held for the purpose of considering a PUD district. Such a report shall be based on the following findings which shall be included as part of the report:
      i. The proposal conforms to the Town of Hopewell Comprehensive Plan.
      ii. The proposal meets the intent and objectives of a Planned Unit.
      iii. The proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principals in the proposed functional roadway and pedestrian system, land use configuration, open space system, drainage systems, and scale of the elements both absolutely and to one another.
      iv. There are adequate services and utilities available, or to be made available with costs to be incurred by the developer.
   b. An unfavorable report shall clearly state the reason for such a finding.

E. Legislative Review Process

The Town Board legislative review process and the Planning Board review process for a PUD are as follows:

1. The application fee for a Re-Zoning request and for Preliminary Site Plan review by the Town Board shall be found in the Town of Hopewell fee schedule and paid to the Town upon receipt of the applications for Re-Zoning and Site Plan review.
2. Upon determination from the Town Board, acting in its legislative capacity, that the Board will consider the application for Re-Zoning to a PUD and that the Re-Zoning request and Site Plan application are complete, the Town Board shall refer the applications to the Town Planning Board for review and comment. The Planning Board shall forward comments within 45 (forty-five) days of the receipt of the applications. At the discretion of the Town Board, either due to the scope or the complexity of the Preliminary design, the 45 (forty-five) day period may be extended if deemed necessary for an informed, thorough review by the Planning Board. In addition, the Town Board shall forward the completed applications for Re-Zoning and Site Plan review of the proposed PUD to the County Planning Board for review and comment pursuant to the provisions of Section 239-mm of the NYS General Municipal Law.

1700 - Planned Unit Development (PUD) - Legislative Review Process continued….

3. Within 62 (sixty-two) days of receiving comments on the Re-Zoning and Preliminary Site Plans from the Town Planning Board and Ontario County Planning Board, the Town Board shall conduct no less than 1 (one) Public Hearing for the Re-Zoning and Site Plan applications. The notice of Public Hearing shall be advertised in the official newspaper of the Town and on the Town web-site at least 10 (ten) business days in advance of the scheduled Hearing.
4. Upon completion of the required review mandated by the State Environmental Quality Review Act (SEQRA) and the completion of the required Findings Statement, the Town Board may take action to approve, approve with modifications or conditions, or disapprove the applications for Re-Zoning and Preliminary Site Plan approval.
5. As a legislative authority, the Town Board shall not be compelled to render a decision on the Re-Zoning or Preliminary Site Plan applications within a specified time frame unless required to do so by other NYS law or General Municipal Law. Upon taking action to approve, disapprove with modifications or conditions, or disapprove, the Town Board shall file notice of such action with the office of the Town Clerk within 5 (five) business days. Any action for approval of the Re-Zoning application shall be subject to a condition that no Re-Zoning application shall be considered final by the Town Board until such time as the Town Planning Board shall have granted Final Site Plan approval.
6. Upon approval or approval with modifications or conditions of the PUD for Re-Zoning and Preliminary Site Plan approval from the Town Board, the applicant shall submit Final Site Plans to the Town Planning Board for review in accordance with the Final Site Plan review requirements of Article XVI including §1606-1612 of this Ordinance. Such plans shall include all necessary final construction details of all proposed development, site work, infrastructure construction details, and/or modifications or conditions approved by the Town Board. The Planning Board shall comply with time tables set forth in Article XVI for the review of the final plans. This time frame may be extended by mutual agreement of the Town Board and the applicant.
7. Upon the granting of Final Site Plan approval by the Planning Board, said Board shall notify the Town Board, and within 5 (five) business days of such notifying, shall file a copy of the Final Resolution or Notice of Action with the office of the Town Clerk. Such filing shall include any recommended performance guarantee amounts for municipal utilities or roads as recommended by the Engineer for the Town.
8. Upon the receiving of the Planning Board's final action of approval, and upon the filing of any required performance guarantees by the applicant in a method approved by the Attorney for the Town, and upon the receiving of payment from the applicant for any necessary engineering or other review fees incurred by the Town, the Town Board shall, within 62 (sixty-two) business days, amend the Official Zoning Map of the Town to the PUD District and shall file such Local Law with the Town Clerk and as required with the Secretary of State.

1700 - Planned Unit Development (PUD) - Legislative Review Process continued….

9. Should the Planning Board disapprove the Final Site Plan, said Board shall provide to the applicant and the Town Board written findings supporting such conclusion. Said written findings shall be recorded in the office of the Town Clerk within 5 (five) business days of the Planning Board's action.
10. Acting in its legislative authority, the Town Board may override the disapproval of a Final Site Plan which disapproval may have been executed by the Planning Board. To override such a disapproval and instead to grant a Final Site Plan approval requires a majority plus one vote by the Town Board. No such action shall take place without the Town Board's conducting a minimum of 1 (one) Public Hearing said Hearing which shall be advertised in the official newspaper of the Town and on the Town web site a minimum of 10 (ten) business days in advance of the scheduled date of such Hearing. Upon taking final action to approve the Final Site Plan, the Town Board shall provide written findings supporting such action with the office of the Town Clerk within 5 (five) business days of the Board's action.

1701 - Cluster Zoning

A. Intent

These rules and regulations are adopted by the Town Board to provide for the future growth and development of the Town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare of its population. Consistent with such purposes, these rules and regulations will ensure the orderly development of residential areas, the coordination of existing streets and public utilities with new service, the proper provisions of open spaces for passive and active recreation and the proper location of future sites for public buildings and shopping areas, all for the mutual benefit of the developer in providing more stable values and of the future home owner in providing the necessary services.

B. Authority

The Town Board of the Town of Hopewell, in accordance with the provisions of the Town Law of the State of New York, has heretofore created a Planning Board and has assigned to it the responsibility and authority to review and approve, modify and approve, or disapprove plans for land subdivision with the Town but outside any incorporated Village, which show lots, blocks or sites, with or without new streets or highways. Pursuant to the above authority, as well as Section 276, 277, and 278 of Article 16 of the Town Law, the Planning Board has prepared and recommended approval by the Town Board of these Subdivision Rules & Regulations setting forth standards to be followed in the preparation and review of preliminary layouts and subdivision plats. By the same authority, the Planning Board has the power and authority to pass and approve the development of plats already filed in the office of the Clerk of Ontario County if such plats are entirely or partially undeveloped.

1701 - Cluster Zoning continued…

C. Clustering Modifications

1. For the purpose of enabling and encouraging flexibility of design and development of land in such a manner so as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands, the Planning Board, simultaneously with the approval of a plan, may, in appropriate cases, modify applicable provisions of the Hopewell Town Zoning Ordinance provided that:
    a. The owner makes written application for such modification.
    b. The lands are in an agricultural or residential zoning district, or lands determined b**y** the Planning Board to be Prime Farmland Soil that may be preserved by cluster design methods.
    c. The modifications would not result in a greater number of dwelling units or building plots than are permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Hopewell Town Zoning Ordinance applicable to such land.
2. In the event such modifications shall result in a plan showing lands available for park, recreation, open space, or other municipal purposes directly related to the plan, the Planning Board, as a condition of plan approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to ensure the preservation of such lands for their intended purposes. Such conditions shall be approved by the Town Board before the final plan may be approved by the Planning Board.
3. No such modifications shall be granted by the Planning Board until the proposed plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways, and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of the modifications requested, are considered at a Public Hearing conducted by the Planning Board.
4. No modifications granted by the Planning Board may change or enlarge the Permitted Uses of such lands as set forth in the Hopewell Town Zoning Ordinance.
5. The Planning Board shall record in its minutes the grounds for granting any modification and note the date of such modification and the nature thereof on the Final Subdivision Plan to be recorded in the Office of the County Clerk. The Town Clerk shall make appropriate notations and references of such modifications on the official Zoning Map of the Town.

APPENDIX

1900 – Town of Hopewell - Local Laws
1901 – Minimum Lot Area and Setback Tables
1902 – Zoning Maps

1900 – Local Laws

LL	**#2/1989**	**(Amending Local Law #1/1987) Flood Damage Prevention**
LL	**#1/1998**	**An Act to Implement Parking Regulations Upon Certain Public Highways within the Town of Hopewell, Ontario County, New**
LL	**#2/1990**	**Commercial and Industrial Hazardous Materials and Pesticide Storage, Processing and Handling**
LL	**#2/1989**	**Flood Plain Management**
LL	**#1/2000**	**On-site Individual Wastewater Treatment System Law**
LL	**#1/2006**	**Lock Boxes Fire Department Access**
LL	**#2/2006**	**Creating a Community Service Overlay Zone**
LL	**#3/2006**	**Administration and Enforcement of the NYS Uniform Fire Prevention Building Code**
LL	**#1/2007**	**Fire Alarm Maintenance and Avoidable Alarm Law**
LL	**#1/2009**	**Right to Farm Law**
LL	**#2/2013**	**Adopting the Zoning Ordinance of the Town of Hopewell**
LL	**#2/2016**	**Adopting the Zoning Ordinance of the Town of Hopewell**
LL	**#1/2018**	**Amending the Zoning Ordinance of the Town of Hopewell**
LL	**#1/2019**	**(Amending Local Law #3/2006) Administration and Enforcement of the NYS Uniform Fire Prevention Building Code**
LL	**#2/2019**	**Amending the Zoning Ordinance of the Town of Hopewell**

1901- MINIMUM LOT AREA AND SETBACK TABLES
Section 600 - Agriculture (AG)
Section 601 - Low Density Residential (R-1)
Section 602 - High Density Residential (R-1)
Section 603 - Retail/Commercial (C-1)
Section 604 - Low Intensity Commercial (C-2)
Section 605 - Industrial (I-1)
Section 606 - Hamlet Mixed Use (H-MU)
Section 609 - Small Business Multiple Use (SB-MU)