

## **Local Law No. 1, of 2012**

TOWN OF HANCOCK

LOCAL LAW NO. 1 OF THE YEAR 2012

A local law TOWN OF HANCOCK SITE PLAN REVIEW LAW

### 1 GENERAL PROVISION

#### A. Enactment.

The Town Board of the Town of Hancock, Delaware County, New York, does hereby ordain and enact the Town of Hancock Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of Town Law.

#### B. Short Title

This local law shall be known as the "Town of Hancock Site Plan Review Law." The Town of Hancock is hereinafter referred to as the "Town."

#### C. Intent and purpose.

It is the intent of this local law to ensure optimum overall conservation and use of the natural and man-related resources of the Town, by regulating land use activity within the Town of Hancock through review and approval of site plans. It is not the specific intent of this local law to prohibit any land use activity but to allow all land use activities meeting the standards set forth in this local law for land development. Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the Town.

D. Authorization of Town of Hancock Planning Board to review site plans. The Town of Hancock Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the Town of Hancock in accordance with the standards and procedures set forth in this local law.

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#### E. Applicability of review requirements.

All new land development within the Town, except for the following exempted activities, shall require site plan review and approval by the Town of Hancock Planning Board before being undertaken.

- 1) Construction of one or two-family dwellings and all ordinary residential accessory structures, and related land use activities including home occupations.
- 2) Ordinary repair, maintenance or interior alterations to existing structures

or uses.

3) Exterior alterations or additions to existing structures that would not increase the square footage of the existing structure by more than 50% or 4,000 square feet, whichever is greater.

4) Signs and other customary accessory activities connected with any existing or approved use.

5) All agriculture, timbering and mining activities.

All existing land uses are exempt from this Law, except for expansions and changes of use that fall within the definition of land development. Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Town of Hancock Town Board for a written jurisdictional determination. The Town Board shall also be authorized by resolution to set forth specific land uses that shall require site plan review.

F. Relationship of this law to other laws and regulations.

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive provisions and requirements shall apply. The Town Board hereby supersedes the New York State Town Law pursuant to the Municipal Home Rule Law to establish a \$350 per day fine for violations of this local law and establish a Board of Appeals for granting variances.

G. Further regulations by Town Board.

The Town Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this law.

H. Severability.

The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

I. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

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## 2. DEFINITIONS

A. Word Usage.

Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meaning of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary.

B. Definitions.

HOME OCCUPATION – Any use customarily conducted entirely with a

principal structure and/or other structure accessory thereto and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the principal use and does not change the character thereof. Home occupations are excluded from regulation under this Law.

LAND DEVELOPMENT – A commercial, industrial or other non-agricultural structure or use involving more than 4,000 square feet of floor area, a multi-family residential project of three or more units, a manufactured (mobile) home park, a junkyard or an institutional or recreational use involving more than 10 acres of land.

NONCONFORMING STRUCTURE – Any structure which is in existence within the Town on the effective date of this law which is not in conformance with the dimensional regulations herein.

ONE FAMILY DWELLING – A complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

PREVIOUS SURFACE – A surface that allows storm water to be absorbed by the land.

STRUCTURE – Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks and any fixtures, additions and alterations thereto.

STRUCTURE, ACCESSORY – Any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage she, garden house or similar facility.

TWO FAMILY DWELLING – Two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

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

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Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

### 3. PROCEDURES

#### A. General procedures.

Prior to undertaking any new land development except for a one- or two-family dwelling and other uses specifically excepted in Section 1.6 of this local law, a land development or site plan approval by the Town of Hancock Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

B. Sketch plan.

A sketch plan conference shall be held between the Town of Hancock Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Town of Hancock Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Town of Hancock Planning Board to review the basic land development/site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

- 1) A statement and rough sketch showing the locations and dimensions of Principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- 2) An area map showing the parcel under consideration for site plan review, And all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 500 feet of the boundaries of the parcel; and
- 3) A topographic or contour map of adequate scale and detail to show site topography.

C. Application requirements.

An application for site plan approval shall be made in writing to the chairman of the Town of Hancock Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Town of Hancock Planning Board at said sketch plan conference.

- 1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- 2) North arrow, scale and date;

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- 3) Boundaries of the property plotted to scale;
- 4) Existing buildings;
- 5) Grading and drainage plan, showing existing and proposed contours, Rocks outcrops, depth to bedrock, soil characteristics, and watercourses;
- 6) Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- 7) Location, design and type of construction of all parking and truck loading areas, showing access and egress;

- 8) Provision for pedestrian access;
- 9) Location of outdoor storage, if any;
- 10) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- 11) Description of the method of sewage disposal and location, design and construction materials of such facilities;
- 12) Description of the method of securing public water and location, design and construction materials of such facilities;
- 13) Location of fire and other emergency zones, including the location of fire hydrants;
- 14) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- 15) Location, size and design and type of construction of all proposed signs;
- 16) Location and proposed development of all buffer areas, including existing vegetative cover;
- 17) Location and design of outdoor lighting facilities;
- 18) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- 19) General landscaping plan and planting schedule;
- 20) An estimated project construction schedule;
- 21) Record of application for and status of all necessary permits from other governmental bodies;
- 22) Identification of any permits from other governmental bodies required for the project's execution;
- 23) Other elements integral to the proposed development as may be considered necessary in the particular case by the Town of Hancock Planning Board.

D. Required fee.

An application for site plan review shall be accompanied by a fee that is established by the Town Board and modified from time to time by resolution of the Town Board. The Town Board may also waive fees for good cause.

E. Reimbursable costs.

1) In addition to any other fees required under the Town Code, the Town of Hancock Planning Board and the Board of Appeals are authorized to retain engineering, legal, planning and other expert consulting services and clerical costs for: (1) assistance related to the review and processing

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of applications coming before said bodies and the Town Building Department and (b) the monitoring and inspection of construction of projects by the Building Inspector for projects approved by said Town of Hancock Planning Board and/or Board of Appeals.

2) Payment for the services of any expert consultant is to be made from funds deposited by the applicant with the Town Supervisor to be placed in an escrow account established for that purpose. The Building Inspector, as agent for the Town of Hancock Planning Board and/or Board of Appeals, shall confer with the applicant and compute the amount of the escrow to be posted with the Town. Said amount shall be reasonable related to the costs attendant to the Town's review and processing of the application and/or the monitoring or inspecting of the construction of the project. The Town shall engage any expert at a reasonable rate that is no greater than that customarily charged by said expert and in no event at a rate greater than that paid by the Town to said expert for similar work. If an applicant objects to the amount to be placed in escrow, the applicant may request the Town of Hancock Planning Board or the Board of Appeals, as appropriate, to review the projected amount to be placed in escrow.

3) Once the expert consulting fees are fixed it shall be the responsibility of the applicant to submit to the Town Supervisor a certified or bank check in an amount equal to the estimated costs of the expert consulting fees for services to be rendered to the Town. The Town retains the right from time to time to re-compute the amount of the escrow deposited, after conferring with the applicant, in the event there will be a shortfall in the escrowed funds to cover the estimated costs of the expert consulting fees for services needed by the Town.

4) The Town of Hancock Planning Board or Board of Appeals may, in their sole discretion, permit an applicant to pay the expert consulting fees in installments where the total fees are estimated to exceed \$10,000, provided that sufficient funds are always available to pay current obligations related to the project in question. Any applicant that has been permitted to make installment payments shall be required to make full payment or an additional installment within five days of receipt of the written demand of the Town where there are insufficient funds in the escrow account to pay outstanding invoices.

5) The escrow funds so deposited with the Town shall be paid to its expert consultant upon submission of an invoice and approved voucher and subject to audit in accordance with the provisions of Town Law 118 and 119. Any applicant may request to inspect said invoices and vouchers

submitted by any expert retained by the Town.

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#### E. Referrals to other agencies and boards

1) The Town of Hancock Planning Board may refer the site plan for review and comment to local, and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to, the New York State Department of Transportation, the State Department of Environmental Conservation, and the County Department of Public Works, whichever has jurisdiction.

2) Whenever any site plan involves real property in an area described in Section 239-m of the General Municipal Law, said site plan shall be referred to the Delaware County Planning Board for their review pursuant to Section 239-m of the General Municipal Law.

#### F. SEQR compliance

The applicant shall demonstrate compliance of any actions subject to the New York State Environmental Quality Review Act (SEQR) prior to site plan approval. The Town of Hancock Planning Board shall, after the site plan has been accepted as complete, classify the application according to SEQR, review the Environmental Assessment Form (EAF) and take one of the following actions:

1) If additional information is needed to render a determination of significance, the Town of Hancock Planning Board shall specify exactly what the applicant needs to supply, or

2) If the information is provided and the project is determined to have only small to moderate impacts with little significance on the environment, then a negative declaration may be given, or

3) If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full Environmental Impact Statement (EIS) will be provided.

The Town of Hancock shall, for purposes of this law, consider all agriculture, mining and forestry projects that are not classified as Type I under SEQR as Type II ( in addition to any other Type II actions identified in SEQR).

#### G. Public hearing

The Town of Hancock Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted site plan application. The Town of Hancock Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. The Town of Hancock Planning Board may also, at its discretion in conjunction with major projects, provide

notice of such hearing to adjacent or nearby landowners by regular mail or the posting of the property on which the action is proposed. Failure to provide or receive such notice shall not, however, be cause to delay a hearing or action on an application before the Town of Hancock Planning Board.

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#### H. Town of Hancock Planning Board decision

Within 62 days of receipt of the application for site plan approval or, if a public hearing is held, within 62 days of public hearing, the Town of Hancock Planning Board shall render a decision. In its decision the Town of Hancock Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Town of Hancock Planning Board must render its decision can be extended by mutual consent of the applicant and the Town of Hancock Planning Board.

1) Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Town of Hancock Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

2) Approval with modifications. The Town of Hancock Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Town of Hancock Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due to the Town, the Town of Hancock Planning Board shall endorse its approval on a copy of the site plan and shall immediately fill it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

3) Disapproval. Upon disapproval of the site plan the decision of the Town of Hancock Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Town of Hancock Planning Board's reasons for disapproval.

#### I. Waivers

The Town of Hancock Planning Board may waive any procedural requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which may be subject to appropriate conditions, may be exercised in the event any such procedural requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

#### J. Guarantee of site improvements

The Town of Hancock Planning Board may require a performance guarantee

in the event of any project where the construction of site improvements will be phased. Such guarantee shall, in its particulars, comply with the requirements for financial guarantees as set forth for subdivisions in Section 277 of the New York State Law.

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#### 4 DESIGN STANDARDS

##### A. General standards and considerations.

The Town of Hancock Planning Board's review of the site plan shall include, as appropriate, the following general considerations:

- 1) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- 2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- 3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- 4) Adequacy of storm water and drainage facilities.
- 5) Adequacy of water supply and sewage disposal facilities.
- 6) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation. The Town of Hancock Planning Board shall be authorized to require such buffers where ever required to accomplish these purposes.
- 7) Adequacy of fire lanes and the provision of fire hydrants.
- 8) Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- 9) Overall impact on the neighborhood including compatibility of design consideration.
- 10) Impacts on agriculture, forestry and mining extraction, all of which are important industries to the Town of Hancock that need to be protected.

##### B. Sight distance.

All street and driveway intersections shall be kept free of vegetation and other structures that would obstruct the vision of drivers between the heights of 3 ½ feet to 10 feet above the average grade of each street on the center line thereof. A minimum sight distance of 80 feet shall be available in both directions and more where determined necessary in the site plan

review.

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C. Storm water management.

1) No application for site plan approval shall be reviewed until the Town of Hancock Planning Board has received a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this local law and as required by New York State. All proposed storm water management improvements shall be designed and constructed in accordance with the New York State Stormwater Management Design Manual and New York Standards and Specifications for Erosion and Sediment Control, provided that such practices shall maximize the use of natural storm water management methods (e.g., grass swales) and minimize the use of dry above-ground storm water detention facilities. Such SWPPP shall be prepared in the manner set forth in the Town of Hancock Subdivision Law.

2) Storm water management system maintenance.

a) The storm water management plan for any major residential or non-residential project shall contain an operation and maintenance plan prepared by the applicant and approved by the Town Engineer. The operation and maintenance plan shall establish responsibilities for the continued operation and maintenance of all common storm water management improvements, which shall include all storm water management improvements designed to serve more than a single lot or dwelling. All such facilities associated with the approved site plan shall be owned and maintained by a home owner's association (HOA) or such other entity as may be approved by the Town of Hancock Planning Board. The HOA or other approved entity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the requirements of this law. Sediment shall, at a minimum be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

b) Prior to approval of any site plan where common storm water management improvements are required, the property owner, HOA or other approved entity shall sign and record a maintenance agreement covering all common storm water management facilities. The form of such maintenance agreement shall be subject to the review and approval of the Town of Hancock Planning Board, Town of Hancock Town Board and Town Attorney.

c) Storm water detention and retention basins or facilities shall be inspected by a registered professional engineer licensed in the State of New York on behalf of the applicant or responsible entity on the following basis:

- i) Annually for the first five (5) years.
- ii) Once every three (3) years thereafter.
- iii) During or immediately after the cessation of a 100-year or greater storm event.

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The professional engineer conducting the inspection shall be required to submit a written report to the HOA or other approved entity, with a copy to the Town of Hancock Building Department, within one (1) month following completion of the inspection. The report will present documentation and include pictures regarding the condition of the facility and recommend necessary repairs, if needed. Any needed repairs shall be implemented by the HOA or other approved entity within three (3) months of the report issuance date.

d) No person shall allow, or cause to allow, storm water discharges into the Town's separate storm sewer system that are not composed entirely of storm water, discharges from fire fighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources.

e) The Town of Hancock Planning Board may require that a site plan include a set of Best Management Practices (BMP's) which the owner of any individual lot must choose in implementing storm water management measures in conjunction with property development. Such BMP's shall be fully specified in the subdivision plans and imposed by restrictive deed covenant making reference to such plans. No person shall modify, remove, fill, landscape or alter any such on-lot storm water management improvements or drainage easement, unless it is part of an approved maintenance program, without the written approval of the HOA or other approved entity.

f) All requirements of the State of New York for Storm Water Pollution Prevention Plans (SWPPP's) are incorporated herein by reference and shall apply in addition to the above standards.

D. Lot development standards.

1) Lot Standards.

The following development standards shall apply to all new lots hereafter created in the Town of Hancock for purposes of placing principal structures or uses:

Table 1 – Lot Development Standards

Development Standards (Per Unit)	Residential	Non-Residential
Minimum Log Area:	1.0 acre	1.0 acre
Maximum Dwellings per acre	1.0	N/A
Minimum Lot Frontage	150 feet	150 feet

Minimum Average Lot width/depth 150 feet 150 feet  
Maximum Lot Coverage 25% 50%  
Minimum Side/Rear Yard 25 feet 25 feet  
Front Yard(measured from centerline) 35 feet 50 feet  
Maximum Building Height 35 feet 45 feet  
Accessory Structure Setback 10 feet side/rear yard 10 feet side/rear yards

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## 2) Yard Standards.

### a) Rear and side yards.

On a corner lot, front yards are required on both street frontages, and one yard other than the front yard shall be deemed to be a rear yard and the other or others, side yards.

### b) Side yard with may be varied.

Where the side wall of a building is not parallel with the side lot line is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than  $\frac{1}{2}$  of the otherwise required minimum width.

### c) Front yard exception.

When an unimproved lot is situated between two improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots but shall be not less than ten (10) feet.

## 3) Height exceptions.

a) Water towers, chimneys, smokestacks, flagpoles, communication towers, masts and aerials, and heating, ventilation, air-conditioning and other accessory utilities shall be exempted from height restrictions except as specifically regulated herein.

b) Farm buildings and structures on farms, e.g., silos, are excluded.

## 4) Accessory structures.

Accessory structures may be placed in side or rear yards only but shall not be placed with ten (10) feet of any property line. No accessory structure shall be placed in the required front yard. Accessory structures shall not cover more than 25% of the required rear yard. Retired storage, trailers or containers may not be employed as accessory structures.

## E. Parking and loading standards.

Any proposed use within the Town of Hancock shall provide sufficient parking to accommodate the traffic generated by the proposed use and associated on-site traffic improvements that are deemed necessary to mitigate potential impacts on the level of service on public roads in the

vicinity of the proposed development. The following specific requirements shall be followed:

1) Off-street parking, loading and unloading facilities shall be provided in connection with every use and be located on the same lot as the use to which they are accessory. Parking needs with respect to all uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:

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2) The Town of Hancock Planning Board shall use the following specific off-street parking requirement standards for the specific land uses listed below:  
Table 2 – General Off-Street Parking Standards

Use Parking Standard

One and two-family home 2 spaces per dwelling unit

Commercial uses 1 space per 250 sq. ft. floor area

Home-occupations 2 spaces, plus required residential spaces

Hotels/motels 1 space per rental room

Industrial uses 1 space per 400 sq. ft. floor area

Places of public assembly 1 space per 5 seats

Offices 1 space per 300 sq. ft. floor area

Restaurants 1 space per 50 sq. ft. floor area

Vacation Rental Cabin 2 spaces per cabin

Vehicle service establishments 4 spaces plus 1 per employee

3) For uses not specifically listed above, the Planning Board may require the applicant to provide industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character.

4) The Planning Board shall also take into consideration recommendations from other public agencies which suggest, based on experience, the appropriate amount of parking required in connection with a given use.

5) The Planning Board may allow for a reduction in the amount of parking on a given site where the applicant can document that the shared parking arrangement will meet the parking needs of the proposed use without causing any parking shortage.

6) Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking spaces required above, shall provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet. It shall be accessible by driving in and not require backing in from off the public right-of-way.

F. Lighting of non-residential properties.

Lighting shall be designed, directed and shielded in such a manner that direct light does not leave the perimeter of the site. All outdoor lighting,

including the fixture, pole, and other supporting elements, shall be designed to complement the overall design of the site and prevent excessive glare. Lower level lighting should be used where possible. The following additional standards shall be required.

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- 1) All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source.
- 2) Timing mechanisms and photo cells to reduce light levels and conserve energy during non-operational hours.
- 3) Light that is mounted on the building shall also be down-lit and integrated as an architectural component of the building.
- 4) Light pole heights shall not exceed building heights and none shall exceed twenty-five (25) feet in height.
- 5) Low pressure or high pressure sodium lights, metal halide, florescent and compact florescent lights are encouraged. All lighting over 2,000 lumens in strength shall meet the full cut-off standard of the Illuminating Engineering Society of North America (IESNA).
- 6) All pole mounted lighting shall have a full cut-off lens that does not allow light to shine above a 90 degree angle measured from the vertical line from the center of the lamp.
- 7) Globe lights shall not be permitted.
- 8) All gasoline canopy lighting shall be fully recessed and the maximum light level under the vehicular canopy shall not exceed twenty (20) horizontal maintained foot candles.
- 9) Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public right-of-ways and avoid light spillage onto adjacent properties.

#### G. Noise

- 1) Proposed new land uses subject to this Law shall not generate cumulative sound levels (SPL), at or beyond any lot line, that exceeds the ambient noise level by 10 or more decibels (dBA). Any sound of 5 to 10 decibels above the ambient noise level shall be attenuated or mitigated to the maximum degree practical, as shall be determined by the Planning Board during Site Plan Review. The Planning Board may, as a condition of Site Plan Review and approval, require additional set-backs, buffers and fencing, or reasonable limit the hours of operation to attenuate or mitigate any potential noise impacts of any proposed use.
- 2) The determination of noise levels shall be made using New York State

Department of Environmental Conservation guidelines (see Assessing and Mitigating Noise Impacts Program Policy), as amended. The increase in ambient noise level shall be determined for all lot lines at the site where the project is to take place and any other locations as shall be specified by the Planning Board, taking into account existing noise generators.

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3) The maximum permissible sound levels of this section shall not apply to emergency or security alarms, repair or construction work to provide public utilities, construction operations between the hours of 7:00 AM and 7:00 PM, emergency repairs, agricultural activities, forestry activities and/or sawmills, mining activities (except stationary off-site equipment), residential land uses, motor vehicles when used on public streets in accord with state regulations, aircraft, government authorized public celebrations, unamplified human voices or routine ringing of bells or chimes by a place of worship or similar facility.

#### H. Access

Access to and from non-residential off-street parking, loading and vehicle service areas along public right-of-way (excluding activities exempted from this Law) shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:

- 1) All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Hancock Highway Superintendent, the Delaware County Department of Public Works or the New York State Department of Transportation, as the case may be, and approval of any permits here-under may be conditioned upon the application for and/or receipt of such permits from these authorities.
- 2) Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.
- 3) No driveway center line shall intersect a street line less than 100 feet from the intersection of any two street lines, including intersections on the opposite side of the street.
- 4) The maximum grade for new driveways shall not exceed 15%. All driveways shall have a negative 2% grade within 50 feet of the center line of the street, or within 25 feet of the property line of the street, whichever distance is greater.
- 5) The Planning Board, at its discretion, may require a traffic impact study by an independent engineer with any Site Plan review application hereunder involving an activity likely to generate more than five-hundred (500) trip-ends per day or create specific traffic issues. The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to

identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board. This requirement shall apply in the case of County or State, as well as Town roads.

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## I Lake and Stream Protection

1) Construction in those areas designated on the Federal Emergency Management Agency's Flood Insurance Rate Map as areas of special flood hazard, as defined by the one hundred (100) year floodplain boundary, shall be avoided or minimized. Disturbed areas shall be properly stabilized to prevent future damage from storms, heavy runoff and flooding. Any development within Flood Hazard Areas shall be subject to the standards outlined in the Town's Floodplain Prevention Law.

2) No alteration of watercourses, whether by excavation, filling, grading, cleaning, draining, or otherwise, shall be made that affects the water levels or flow of such watercourses without review as to the affect of such alteration and any related facilities on water recharge areas, water table levels, water pollution, aquatic animal and plant life, temperature change, drainage, flooding, runoff and erosion. This review and approval of such alteration shall be made by the Planning Board in consultation with Delaware County and the DEC. Where the applicant must obtain a stream disturbance or discharge permit from the DEC, Planning Board approval shall be conditional on the DEC's permit approval.

3) Any project offering dwelling units with lake or waterfront access on Basket Pond, Delaware Lake, Pierce Pond, Sand Pond and Somerset Lake shall be limited to providing a maximum of one dwelling of one (1) dwelling unit per two-hundred (200) lineal feet of waterfront at the high mark, whichever shall be less. This shall not require every dwelling unit to front water to receive lake or waterfront rights but the averages shall be met as a minimum. Also, any new individual lake or waterfront access intended for the use of more than one dwelling shall be a minimum of two-hundred (200) lineal feet in width. These provisions shall be applied cumulatively such that calculations with respect to any new project providing access particular lake or waterfront must all incorporate previous projects offering access rights to the same body of water. Notwithstanding this requirement, however, any owner of a parcel with actual lake frontage waterfront shall be permitted to grant lake or waterfront rights for up to one (1) dwelling unit or the equivalent per two-hundred (200) lineal feet of such frontage.

4) Any project regulated by this Law that is proposed within the Upper Delaware Scenic and Recreational River corridor, as defined in the River Management Plan, shall be reviewed for consistency with the Land and Water Use Guidelines contained therein, provided the Town of Hancock Planning Board shall be solely responsible for assessing such

consistency and determining any site plan modifications that may be appropriate to address such criteria.

#### J Wind Energy Facilities

1) No wind energy facility shall be constructed, reconstructed, modified, or operated in the Town of Hancock except by first obtaining a Wind Energy Facility Permit as provided under this law. No permit or other approval

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shall be required under this law for mechanical, non-electrical wind turbine utilized solely for agricultural operations. Replacement in-kind or modification of a wind energy facility may occur without Planning Board approval when there shall be no increase in total height or other substantial alteration of the appearance or operation of the facility.

2) As used in this section, the following terms shall have the meanings indicated:

**WIND TURBINE** – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

**WIND TURBINE (SMALL)** – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce consumption of utility power at that location.

**WIND ENERGY FACILITY** – Any wind turbine, small wind turbine or wind measurement tower or combinations of these, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

3) A complete application and site plan for a wind energy facility shall include, in addition to other applicable site plan requirements, the following:

a) Location, approximate dimensions and types of major existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbines, or 1 ½ times the total height of such wind turbines, whichever shall be greater.

b) Location and elevation of each proposed wind turbine. This shall include a vertical drawing of wind turbines showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors.

c) Location of all above and below ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.

d) Locations of buffers as required by this law.

e) All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.

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f) A lighting plan showing any FAA-required lighting and other proposed lighting.

g) A decommissioning plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the site restored, less any fencing or residual minor improvements requested by the landowner.

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 action on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

i) A study of potential shadow flicker, including locations where this may be caused, the expected durations of the flicker at these locations and potential impacts on other properties. The study shall describe measures to be taken to eliminate or mitigate any such impacts.

j) A visual impact study of the proposed wind turbines as installed, which may include a computerized photographic simulation and digital elevation modes demonstrating visual impacts from strategic vantage points.

k) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed site, as well as Delaware County Emergency Services.

l) A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed wind turbine, existing noise levels at site property lines and at the nearest residence not on the site. The noise analysis shall include low frequency noise. The applicant shall also submit plans for post-development noise monitoring.

m) An assessment of potential electromagnetic interference with microwave, radio television, person communication systems and other wireless communication.

n) An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species.

4) The following standards shall apply to wind energy facilities in the Town of Hancock, unless specifically waived by the Planning Board.

a) All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

b) No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town of Hancock Planning Board.

c) No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.

d) No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the wind energy facility development plan.

e) All applicants shall use measures to reduce the visual impact of wind turbines to the extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme.

f) No wind turbine shall be installed in any location where it proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of site plan review approval for the specific wind turbine or wind turbines causing the interference.

g) Wind turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the State Department of Agriculture and Markets, to the maximum extent practicable.

h) Wind turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.

i) No shadow flicker shall be permitted on any off-site residences.

j) All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

k) Wind energy facilities shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.

l) Warning signs shall be posted at the entrances to the wind energy facility and at base of each tower warning of electrical shock or high voltage and containing emergency contact information.

m) No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.

n) Construction and delivery vehicles for wind turbines and/or associated facilities shall propose, and the Planning Board shall approve or modify, designated traffic routes to minimize traffic impacts from construction and delivery vehicles, wear and tear on local roads and impacts on local business operations. The applicant shall be responsible for remediation of damaged roads upon completion of the installation or maintenance of a wind turbine. A financial guarantee may be required by the Planning Board for this purpose.

o) Each wind turbine shall be set back a distance of 500 feet or 1 ½ times the total height of the largest wind turbine, whichever shall be greater, from any public road, off-site residence, lodging facility, public building, church and other institution. No wind turbine shall be located within its own total height of a site boundary line.

p) The statistical sound pressure level generated by a wind turbine shall not exceed L10 – 30 dBA measured at the property line. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement. Should the ambient noise level (exclusive of the development in question) exceeds this standard, the applicable standard shall be ambient dBA plus 5 dBA. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than six

(6) minutes per hour. Ambient noise level measurements shall be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation.

q) An applicant may, with approval from the Planning Board, meet noise and setback standards by obtaining written consents from affected property owners stating they are aware of the wind energy facility and the noise and/or setback limitations imposed by this law, and that consent is granted to allow noise levels to exceed the maximum limits provided herein or reduce setbacks to less than required. Such consents shall be in the form required for easements and be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the decommissioning of the benefited wind turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the wind turbine. No such easement shall permit noise levels at any other location within or outside the areas prescribed to exceed the limitations of this law.

5) If any wind turbine remains non-functional or inoperative for a continuous period of 24 months, the applicant shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.

6) The applicant shall, if required by the Planning Board, fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Planning Board in response to complaints by neighbors.

7) A wind turbine shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind turbine become inoperable, or should any part of the wind turbine be damaged, or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Planning Board. Should a wind turbine not be repaired or made operational or brought into permit compliance after

said notice, the Town may after a public meeting at which the operator or

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owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, order either remedial action within a particular timeframe, or order revocation of the site plan review approval for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Planning Board shall have the right to use the security posted as part of the decommission plan to remove the wind turbine.

8) Installation of wind measurement towers, also know as anemometer towers, shall be permitted, upon site plan review approval, to determine the wind speeds and feasibility of using particular sites. The distance between a wind measurement tower and the property line shall be at least 1 ½ times the total height of the tower. Approvals for wind measurement towers shall be issued for a period of two years and shall be renewable upon application to the Planning Board. Application and development standards as set forth above for wind energy facilities shall be applied to the maximum extend practicable, as determined by the Planning Board, recognizing the temporary nature of wind measurement towers.

9) The Planning Board is hereby authorized to approve, approve with conditions, or disapprove small wind turbine applications designed for residential, institutional and business use on the same parcel. Such applications shall be processed in the same manner as those prescribed above for all wind energy facilities, but may be appropriately modified by the Planning Board to reflect the scale of the proposed facility. All small wind turbine shall comply with the following standards and, to the maximum extent practicable, with all other requirements of this law not in conflict herewith:

a) A system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application.

b) Only one small wind turbine per legal lot shall be allowed, unless there are multiple applicants, in which their join lots shall be treated as one site for purposes of this law.

c) Small wind turbines shall be used primarily to reduce on-site consumption of electricity.

d) Total heights shall be a maximum of 100 feet on parcels between one and five acres and 150 feet or less on parcels of five or more acres.

e) The maximum turbine power output is limited to 100kW.

f) Tower-climbing apparatus shall be located no closer than 12 feet from the ground, a locked anti-climb devise shall be installed on the tower or a locked, protective fence of at least six feet in

height that encloses the tower shall be installed to restrict tower access.

g) Anchor points for any guy wires for a system tower shall be located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

#### K. Multi-Family Dwellings and Townhouses

1) New multi-family dwelling and townhouse developments shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family or townhouse projects, accordingly, will be made to the Planning Board in the manner provided under the Town of Hancock Subdivision Law. The subdivider shall also submit all information required by such Regulations plus the following additional data;

a) An application for site plan approval and a brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.

b) A proposed plot plan showing the approximate locations of all buildings and improvements including parking areas, landscaped areas, signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use area (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards that may be applicable in the Town of Hancock. Setbacks from property lines, improvements and other buildings shall also be indicated.

c) A schedule or plan and proposed agreement(s) either with the Town or a home owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any

event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either;

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(1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.

2) The Planning Board shall act on the Preliminary Development Plan and Site Plan application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of an Preliminary Development Plan, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval and the filing of financial guarantee as required. This requirement notwithstanding, the building permit application shall be made with the Development Plan and shall, if granted, be valid for a period equal to that for Preliminary Development Plan approval. If the Preliminary Development Plan shall be rejected no building permit shall be granted.

3) Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Development Plan approval. No Certificate of Occupancy shall, however, be issued until such time as; (1) Final Development Plan approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Code Enforcement Officer.

4) Complete final building plans shall also be submitted as part of the Final Development Plan Application.

5) No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Development Plan approval shall have been granted (unless the improvements shall have been guaranteed), and the Plan has been recorded in the Office of the Delaware County Clerk.

6) Multi-family dwelling density shall be limited to the same number of dwelling units per acre that would be permitted if the parcel on which the units are to be constructed were to be developed for one-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages;

a) Land contained within public rights-of-way;

b) Land contained within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved, the width shall be assumed to be twenty-five (25) feet);

c) Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service;

d) All wetlands, floodplains, slopes of 25% or greater grade, water bodies and other undevelopable areas (unless such areas are used for some active recreational purpose such as trails or employed for some other development purpose such as a stormwater detention area); and dividing by the number of proposed units.

7) All areas of a multi-family or townhouse development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:

a) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in sub-section (2) below. They shall be useable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.

b) Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future

development” on all Development Plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a “pre-approved plan” if density or other requirements shall have been modified to preclude such development.

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c) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc) provided the permanence of the open space is guaranteed.

d) Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Development Plan approval for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.

e) Developments of fifty (50) units or more shall provide one-half acre of playground area per fifty (50) units unless restricted to adult occupancy only.

8) All multi-family developments shall be served with central sewage facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.

9) The following design criteria shall apply to multi-family developments:

a) There shall be no more than ten (10) dwellings in each multi-family building.

b) No structure shall be constructed within twenty-five feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area.

c) Access roads through the development shall comply with minor street requirements of the Subdivision Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a thorough road. Instead, there shall be a defined entrance and exit to and from each parking area.

d) Access and egress from the proposed development shall be to a public road and a traffic engineering study shall be an integral part of the site plan application. Such entrances and exits shall be at least one hundred (100) feet from any intersection and shall have at least three hundred (300) feet of sight distance in both directions.

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e) Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.

f) No more than sixty (60) parking spaces shall be provided in one lot, nor more than fifteen (15) parking spaces in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.

g) No structure shall be erected within a distance equal to its own height of any other structure.

h) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.

i) Walks shall be provided throughout the development area to ensure that roads shall not be required for pedestrian circulation.

j) The side yard applicable to a multi-family structure shall be increased by five (5) for each dwelling unit over four (4) within the structure.

k) A landscaping plan shall be submitted and be subject to approval of the Planning Board.

10) Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.

11) The association or manager, as the case may be, shall be responsible

for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a Certified Public Accountant review such financial data to determine proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

12) The developer shall, in filing a Preliminary Development Plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the

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maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs for on-going routine maintenance costs. A narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program shall also be provided. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, to determining that the developer has in fact, made long-term arrangements for maintenance of common facilities.

13) Any developer who proposed to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall;

a) Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;

b) Be in an amount equal to the amount collected or to be collected for

long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by the total number of expected purchasers.

14) If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family or townhouse occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this sub-section such certification shall suffice as to conformance with these requirements.

15) Conversions of existing structures to multi-family dwelling or townhouse use (regardless of whether such conversions involve structural alterations) shall be considered subdivisions and moreover, be subject to the provisions of this Law. Motels and hotels, however, shall not be converted to multi-family residential or townhouse use. If the proposed project does involve structural alterations, the Preliminary Development Plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code as they may pertain to such activities.

#### L. Manufactured Housing

Manufactured homes and manufactured home parks shall be subject to the following standards and review criteria.

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1) Manufactured homes shall be permitted within manufactured home parks and in the same locations as other single-family residences, subject to the standards below.

2) Standards applicable to individual manufactured homes.

a) A manufactured home may be placed in the Town only after obtaining a manufactured home/building permit and shall require

- a) Certificate of Occupancy before initial occupancy.
- b) Manufactured homes located outside of manufactured home parks shall comply with all area and bulk requirements that apply to one-family houses.
- c) All manufactured homes shall be connected to an adequate supply of potable water; shall be connected to a community wastewater system or septic system constructed to all State and local requirements; and shall be connected to all applicable utilities including but not limited to electric power, telephone, propane gas and fuel oil. All the foregoing connections or services shall be provided to the manufactured home within ninety (90) days of permit issuance for placement of the home.
- d) All manufactured homes hereafter erected in the Town shall be Underwriter Laboratory certified; and bear the seal of the U.S. Department of Housing and Urban Development. The Board of Appeals may waive this requirement for just cause and attach conditions to protect public health and safety.
- e) All manufactured homes shall have peaked roofs, with a minimum pitch of three (3) feet vertical to twelve (12) feet horizontal.
- f) Manufactured homes, outside of manufactured home parks, shall be installed on a load-bearing foundation complete with footings, such as a crawl space or full basement meeting New York State building code standards.
- g) Structure frames of manufactured home must be securely attached to the foundation as provided by New York State building code standards.
- h) Permanent steps and hand rails shall be constructed at all access points of the manufactured home to ensure a safe means of ingress/ egress into the dwelling unit.
- i) Exceptions to permanent placement requirements may be granted for a single manufactured home unit temporarily used as a construction field office, real estate sales office or manufactured home sales office provided a building permit has been issued under the New York State building code. Such offices may not be

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installed prior to thirty (30) days before the commencement of the relevant project and must be removed within thirty (30) days after the completion of the relevant project, a maximum of one year, with a one-year extension subject to approval of the Planning Board. It shall otherwise be unlawful to store any residentially unoccupied mobile home on any property within the Town of Hancock for a period in excess of thirty (30) days, except as part of licensed retail manufactured home sales use.

j) Manufactured homes shall be used for single-family dwelling purposes, only. All other uses, including but not limited to use as a warehouse, storage shed, tool shed, outbuilding or garage are prohibited, although the Planning Board may grant exceptions for offices. No manufactured home previously occupied as a dwelling may be converted to a use prohibited by this Law.

3) The Planning Board shall, in reviewing and acting upon applications for manufactured home parks, which shall include any parcel on which two (2) or more manufactured are placed for residential occupancy, apply the following standards and review criteria:

a) The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control as provided herein.

b) There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Offsite or centralized water facilities shall be provided.

c) The park shall be designed to buffer individual manufactured homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.

d) Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.

e) Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.

f) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.

g) There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed.

h) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and

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requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing Urban Development regulations under the Manufactured Housing Act.

i) The park shall be located on a well-drained site that is properly graded to ensure rapid drainage and free at all times from stagnant pools of water.

j) The park shall be at least ten (10) acres in size and have at least two-hundred-fifty (250) feet frontage on a public road. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new road may be approved as part of the plan.

k) Each manufactured home lot shall have a total area of not less than one (1) acre if served by an on-site sewage disposal or water supply, but may be reduced to 10,000 square feet where both central sewage and central water are provided. No more than one (1) manufactured home shall be placed on any manufactured home lot.

l) All manufactured homes shall be parked or otherwise be located at least forty (40) feet from an adjacent manufactured home; at least fifty (50) feet from an adjacent manufactured home park property line; at least seventy-five (75) feet from right of way line of any existing public street or highway; and at least forty (40) feet from the nearest edge of any roadway located within the park.

4) Each manufactured home lot shall have a manufactured home stand (concrete pad) that will provide for the practical placement on a base on the lot of both the manufactured home and its appurtenant structures and provide for the retention of the home on the lot in a stable condition.

5) Accessibility and lighting.

a) Any manufactured home park shall provide, two (2) points of entry/exit at least one hundred (100) feet apart. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street. No individual manufactured home shall have direct access to a State, County or Town road without first entering a street or driveway in the manufactured home park leading to an exit. All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street and shall be of sufficient width to facilitate the turning movements of vehicles with manufactured homes attached and shall be at least fifty (50) feet in width for a least fifty (50) feet into the property.

b) Each manufactured home park shall have roads to provide for the convenient access to all manufactured home lots and other facilities within the park. All streets shall be provided with safe, all-weather surfaces with

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a minimum pavement width of eighteen (18) feet. Road features, including shoulders and sidewalks, shall otherwise be constructed in accord with the requirements set forth in the Town Subdivision Law and Town of Hancock Road Law and/or highway specifications.

- c) No parking shall be allowed on the street.
- d) All means of egress, drives and public places shall be adequately lighted.
- e) One non-flashing, illuminated sign shall be permitted on the park. Such sign shall not be greater in area than 50 square feet and shall not extend more than eight (8) feet above ground level. Such sign shall be located at least 20 feet from any property line or street right-of-way line.
- 6) Two (2) off-street parking spaces shall be provided on each manufactured home lot. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet.

7) Recreation and open space.

a) Each manufactured home park shall provide common open space equal to at least thirty-five (35) percent of the gross land area of the park including all lots and unplatted areas.

b) Any manufactured home park shall provide, as part of its open space, areas for active recreational use. These recreation areas shall not include any wetlands, steep slopes or other land areas unusable for development and shall consist of contiguous land areas that can be used for active recreational activities such as ball fields. No less than 20% of the open space provided shall be dedicated to such recreational areas and no individual area so designated shall be less than one (1) acre in size.

8) Landscaping.

a) Ground cover shall be provided on those areas not used for the placement of manufactured homes and other buildings, walkways, roads and parking areas.

b) Screening acceptable to the Planning Board shall provide for adequate shade and a suitable setting for the manufactured homes and other facilities. A side or rear yard adjacent to an existing developed area shall be a minimum width or depth of 100 feet and the 50 feet nearest to the existing developed area shall be planted or screened with materials designed to create and maintain a high quality neighborhood character for existing residents as well as new manufactured home park residents. The Planning Board shall also require and approve a landscaping plan for the interior of the manufactured home park to buffer individual manufactured homes, provide shade and green areas and ensure a wholesome living environment.

c) Skirting acceptable to the Planning Board shall be installed along the perimeter of each manufactured home, extending from the stand to the floor of the manufactured home and fully screening the area beneath the unit from view. The landscaping plan required above shall also address landscaping of individual manufactured home sites and ensure effective

separation of manufactured homes from each other for purposes of privacy as well as aesthetics.

9) The owner or operator of each manufactured home park shall keep a register wherein there shall be recorded the name and permanent address of the owner and occupant of each manufactured home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into court. Such register shall be open for inspection to the Town Code Enforcement Officer or the Town Assessor at all reasonable times. Registers shall be kept for a period of seven (7) years.

10) No application for a manufactured home park license shall be approved unless and until the appropriate officer of the applicable Town fire district shall have reviewed the plans as well as the site and determined the district firefighting equipment can provide adequate coverage of the park and that there are no major obstacles in the design or layout of the facility to providing fire protection. If the fire district approval cannot be obtained because the district lacks the specific services and facilities needed to serve the proposed park, the Town shall be authorized, through its Planning Board, to require, as a condition of site plan review approval, a financial contribution from the applicant toward providing those services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the manufactured home park.

11) Annual renewal of site plan review approval shall be required based upon inspection by the Town as to continued conformance with the requirements of this section. Such renewal shall also be considered a license for continued operation of the manufactured home park, as provided under New York State Town Law. No manufactured home park shall continue to operate without such renewal and license. All licenses to operate manufactured home parks shall expire on December 31 of each year absent submission, review and approval of an application for renewal (for the following calendar year) prior to that date.

## 5 BOARD OF APPEALS

### A. Establishment

Pursuant to the provisions of the Town Law, a Board of Appeals is hereby established in the Town of Hancock. The Board shall consist of three (3) members to be appointed by the Town Board. The terms of the initial appointees shall be for one (1) two (2) and three (3) years from and after the date of appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of three (3) years after the expiration of the terms of their

predecessors in office. Appointments to fill vacancies shall be for the unexpired term of the members whose

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term or terms become vacant. Such appointment to fill vacancies shall be made in the same manner as the original appointment. The Board of Appeals may continue to legally operate while vacancies are waiting to be filled provided there are enough members to constitute a quorum. The Board shall perform all the duties and have all the powers prescribed by Section 267-b of the Town Law of the State of New York. The Town Board may also appoint alternates to serve on the Board of Appeals in the absence of regular members or in cases where regular members recuse themselves due to conflicts.

#### B. Types of Variances

Area variances involve relief from dimensional or other requirements under the terms of this Law. Each of the followings findings of fact shall be made in writing by resolution by the Board of Appeals prior to granting such variances. The Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) whether the requested area variance is substantial;
- 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
- 5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- 6) whether the applicant possesses adjoining property.

The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### 7 NON-CONFORMING USES (GRANDFATHER CLAUSE)

This law does not apply to uses or structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of one (1) year or more shall be subject to review pursuant to the terms of this

law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially

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commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law. A non-conforming structure is any building which does not conform to the dimensional and bulk requirements of this Law with respect to lot area, width, or depth; front, side or rear yards; maximum height; etc. Nonconforming structures may be continued, repaired, structurally altered, moved, reconstructed or enlarged, provided that such action does not increase the degree of or create any new nonconformity with respect to the bulk requirements of this Law.

## 8 ENFORCEMENT

No permit or certificate of occupancy shall be issued by the Building Inspector, except upon the authorization by and in conformity with an approved site plan where required. The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this local law. Such officer shall be responsible for the overall inspection of site improvements including coordination with the Town of Hancock Planning Board, Town Board and other officials and agencies, as appropriate. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this local law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350.00. Each day an offense is continued shall be deemed a separate violation of this local law. In addition to the penalties provided above, the Building Inspector, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

Filed with the Department of State – January 25, 2012

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