

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~XXXXXX~~ of COHOCTON, NEW YORK  
Town  
Village

Local Law No. 1 of the year 1987

A local law to FLOOD DAMAGE PREVENTION  
(Insert title)

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

~~County~~  
~~XXXXXX~~ of COHOCTON STEUBEN County, N.Y. as follows:  
Town  
~~XXXXXX~~

9/9/87

Local Law(s) No. 1  
Year 1987  
Municipality Town of Cohocton

Please be advised that the above-referenced material was received and filed by this office on 8/3/87.

Additional forms for filing local laws with this office will be forwarded upon request.

NYS Department of State  
Bureau of State Records

383602-004 (4/87)

(FOLLOWING COMPLIES WITH NATIONAL FLOOD INSURANCE  
PROGRAM FLOOD PLAIN MANAGEMENT CRITERIA FOR FLOOD-PRONE AREAS  
(44 CFD 60.3(d)) AS REVISED 10/1/86)

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0  
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The TOWN BOARD of the TOWN of COHOCTON finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the TOWN of COHOCTON and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publically and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0  
DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AL-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;

- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means 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 delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means 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.

"Flood Insurance Rate Map (FIRM)" means 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" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

"Flood proofing" means any combination of structural and non-structural 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" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, 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.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"100-year Flood" has the same meaning as "Base Flood."

"Regulatory Floodway" means 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 in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0  
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of: TOWN OF COHOCTON, NEW YORK.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the TOWN of COHOCTON, of STEUBEN County, New York", dated MAY 16, 1987, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at the TOWN CLERK'S OFFICE, COHOCTON, NEW YORK.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the TOWN OF COHOCTON from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the TOWN of COHOCTON, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

#### SECTION 4.0 ADMINISTRATION

##### 4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The TOWN ZONING OFFICER is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

##### 4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

##### 4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

##### 4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and

- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

## SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

### 5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

#### 5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

#### 5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

#### 5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.



## 5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

## 5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

## 5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

## 5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement, or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (2) If the structure is to be floodproofed:

- (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor

factors, standards specified in other sections of this local law and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
  - (ii) the danger to life and property due to flooding or erosion damage;
  - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) the importance of the services provided by the proposed facility to the community;
  - (v) the necessity to the facility of a waterfront location, where applicable;
  - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (vii) the compatibility of the proposed use with existing and anticipated development;
  - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
  - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the ZONING BOARD OF APPEALS may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

## 6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic

Places on the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
  - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
  - (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 30th day of MARCH, 1987 by the  
TOWN BOARD of TOWN OF COHOCTON of  
STEUBEN County, New York, to be effective  
MARCH 31, 1987.

*Robert J. Beuglin*  
*Theresa J. Mulvaney*  
*W. W. Shanley*

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SEAL

*Patricia Bidlack*

ATTEST. TOWN CLERK

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1987.  
~~TOWN~~  
~~CITY~~  
of the ~~Town~~ of COHOCTON was duly passed by the TOWN BOARD  
~~Village~~ (Name of Legislative Body)  
on MARCH 30th 1987 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,\* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
on \_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
on \_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
on \_\_\_\_\_ 19\_\_\_\_\_. Such local law was submitted to the people by reason of a  
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting  
permissive \_\_\_\_\_  
general  
thereon at the special election held on \_\_\_\_\_ 19\_\_\_\_\_, in accordance with the appli-  
annual  
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_  
County  
of the ~~City~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_  
~~Town~~ (Name of Legislative Body)  
~~Village~~  
\_\_\_\_\_ 19\_\_\_\_\_ and was approved \_\_\_\_\_ by the \_\_\_\_\_ on \_\_\_\_\_  
not disapproved \_\_\_\_\_  
repassed after disapproval \_\_\_\_\_ Elective Chief Executive Officer \*  
\_\_\_\_\_ 19\_\_\_\_\_. Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
\_\_\_\_\_ 19\_\_\_\_\_, in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 § 37 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special general election held on ..... 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. .... of 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ..... above.

*Patricia Bidlack*  
Clerk of the ~~County~~ legislative body, ~~City, Town or Village~~ Clerk or officer designated by local legislative body

Date: MARCH 31, 1987

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF STEUBEN.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*John H. Ryan*  
.....  
Signature  
TOWN ATTORNEY  
.....  
Title

Date: APRIL 1, 1987

X County  
X City of COHOCTON  
X Town  
X Village X

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Cohocton
- Town
- Village

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
JAN 11 2007  
MISCELLANEOUS  
& STATE RECORDS

Local Law No. 5 of the year 2006

A local law providing for the administration and enforcement of the  
(Insert Title)  
New York State Uniform Fire Prevention and Building Code.

Be it enacted by the Town Board of the  
(Name of Legislative Body)

- County
- City of Cohocton as follows:
- Town
- Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

## **SECTION 2. DEFINITIONS**

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” or “Certificate of Compliance” shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Town” shall mean the Town of Cohocton.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.



### **SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS**

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy or Certificates of 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 provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town of Cohocton;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town of Cohocton's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town of Cohocton.

#### **SECTION 4. BUILDING PERMITS.**

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the 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. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) 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; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) 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.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change

occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines 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 Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

## **SECTION 5. CONSTRUCTION INSPECTIONS.**

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;

- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

## **SECTION 6. STOP WORK ORDERS.**

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## **SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE**

(a) Certificates of Occupancy or Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required 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 or sub classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy or Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy or Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of 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 the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. 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 the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 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 Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or for Temporary Certificate.

## **SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

The chief of any fire department providing fire fighting services for a property within this Town of Cohocton shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

## **SECTION 9. UNSAFE BUILDING AND STRUCTURES**

Unsafe structures and equipment in this Town of Cohocton shall be identified and addressed in accordance with the procedures established by any applicable Local Law as now in effect or as hereafter enacted or amended from time to time.

## **SECTION 10. OPERATING PERMITS.**

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the 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 assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town of Cohocton.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 12. COMPLAINTS**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

## **SECTION 13. RECORD KEEPING.**

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and

(9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

#### **SECTION 14. PROGRAM REVIEW AND REPORTING**

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town of Cohocton a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Cohocton, on a form prescribed by the Secretary of State, a report of the activities of this Town of Cohocton relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town of Cohocton is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town of Cohocton in connection with administration and enforcement of the Uniform Code.

#### **SECTION 15: VIOLATIONS**

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served 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 personally

or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town of Cohocton.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town of Cohocton, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town of Cohocton, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town of Cohocton.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

## **SECTION 16: FEES**

A fee schedule shall be established by resolution of the Town Board of this Town of Cohocton. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

## **SECTION 17. INTERMUNICIPAL AGREEMENTS**

The Town Board of this Town of Cohocton may, by resolution, authorize the Supervisor of this Town of Cohocton to enter into an agreement, in the name of this Town of Cohocton, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

## **SECTION 18. PARTIAL INVALIDITY**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

## **SECTION 19. CONFLICT BETWEEN LAWS**

In the event of a conflict between the terms of this Local Law and another local law or ordinance, then the provisions of this Local Law shall control in the application and enforcement of the New York State Uniform Prevention and Building Code.

## **SECTION 20. EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2006 of the (County)(City)(Town)(Village) of Cohocton was duly passed by the Town Board on 12/19 2006, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

*Sandra J. Riley*

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body Sandra Riley  
Town Clerk

Date: December 20, 2006

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Patrick F. McAllister*

\_\_\_\_\_  
Signature Patrick F. McAllister, Esq.  
Cohocton Town Attorney

Title

~~County~~  
~~Clerk~~ of Cohocton  
Town  
~~Attorney~~

Date: December 20, 2006

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of COHOCTON

FILED  
STATE RECORDS

MAR 10 2011

DEPARTMENT OF STATE

Local Law No. 1 of the year 20 11

A local law amending the Zoning Law of the Town of Cohocton and Local Law Number 2 of 2006  
(Insert Title)  
to regulate windmills and windmill facilities.

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of COHOCTON as follows:

1. Article X, Section 1010, subdivisions 1 and 2 of the Town of Cohocton Zoning Law is hereby amended to change the definitions of "Windmill":

1. Windmills – Residential AND/OR Commercial – Any wind powered generator that provides electrical or mechanical power to an individual residence, operating farm or single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

2. Windmill – Industrial – Any wind powered generator or series of wind powered generators in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

2. Article XI, Section 1110 of the Zoning Law of the Town of Cohocton is hereby amended to include the following Subdivision 3:

3. Certificate of Compliance

a) The Applicant(s) shall allow the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton to inspect from time to time, at the discretion of the Code Enforcement Officer, any windmill(s) or windmill facility(ies) during the construction phase thereof to insure such windmill(s) or windmill facility(ies) are in compliance with the building permit and special use permit issued therefore.

b) Upon completion of construction of any authorized windmill(s) or windmill facility(ies) the Applicant shall obtain a Certificate of Compliance from the Code Enforcement Officer of the Town of Cohocton, which certificate shall be issued by said officer upon a satisfactory final inspection that such windmill(s) or windmill facility(ies) have been completed in accordance with the building permit and special use permit.

3. The opening paragraph of Article XI, Section 1120 (3) of the Zoning Law of the Town of Cohocton is hereby amended to read as follows: "For Industrial Windmills and Industrial Windmill Facilities, the applicant in consultation with the Planning Board will prepare:"

4. Article XI, Section 1130 (1) (b) of the Zoning Law of the Town of Cohocton is amended as follows:

- a) subdivision (i) shall allow a maximum height limit no greater than 150 feet.
- b) subdivision (ii) shall allow a kilowatt limit of 100 kw.
- c) subdivision (iv) shall allow a solid tube structure or a lattice type structure.
- d) subdivision (ix) is amended to delete "Only upwind design windmills are allowed in the Town" and the following is added in its place, "Design must be approved by NYSERDA."

5. Article XI, Section 1130 subsection (e) subdivision (i) is hereby deleted and subdivision (ii) shall now be subdivision (i); subdivision (iii) shall now be subdivision (ii); and subdivision (iv) shall now be subdivision (iii).

6. Article XI, Section 1130 (f) (i) is hereby amended to delete "Bond" from the title and deleting the first paragraph of said subdivision that reads as follows: "The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued."

7. This Local Law No. 1 of 2011 shall take effect upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2011 of the ~~(County)(City)~~(Town)(Village) of COHOCTON was duly passed by the Cohocton Town Board on February 21 2011, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on 20   , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Sandra Riley  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body **Sandra Riley**

Date: February 21, 2011

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister  
Signature **Patrick F. McAllister**  
Cohocton Town Attorney  
Title

~~County~~  
~~City~~ of COHOCTON  
Town  
~~Village~~

Date: February 21, 2011

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
MAR 08 2006

~~County~~  
~~City~~ of Cohocton  
Town  
~~Village~~

MISCELLANEOUS  
& STATE RECORDS

Local Law No. 1 of the year 20 06

A local law regulating windmills and wind generating facilities.  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Cohocton as follows:  
Town  
~~Village~~

This local law will regulate and restrict the height, size, location and other features of windmills, and will after reasonable consideration of the character of the Town of Cohocton and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect the existing properties and environment.

1. WINDMILLS - RESIDENTIAL AND/OR COMMERCIAL - a windmill that provides electrical or mechanical power to an individual residence, operating farm or single commercial enterprise and can be either the primary or a secondary source energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.
2. WINDMILL - INDUSTRIAL - a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

3. WINDMILL HEIGHT - the total height of the structure including blades.

4. SEVERABILITY CLAUSE - If any section, paragraph, subdivision or provision of this Local Law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the rest of this local law shall remain valid and effective.

5. EFFECTIVE DATE - All provisions of this local law take effect upon filing by the Town Clerk with the New York Secretary of State.

**I. Residential and/or Commercial Windmills.**

**A. Application Process.**

(1) Special Use Permit.

A special use permit shall be required. Therefore, the pertinent provisions of the Cohocton Town Zoning Law will apply.

(2) Site Plan Review.

A site plan review is required before a building permit may be issued for a residential or commercial windmill.

(3) SEQRA

SEQRA review is required. Developers shall submit the SEQRA long form for evaluation of environmental concerns.

**B. Placement**

(1) Setbacks, Ice and Blade Throw.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be 1 ½ times the maximum structure height.



(2) Districts Allowed In:  
AG-R, LDR, GB, IC, I

(3) Number of Windmills Allowed per Parcel.  
One (1).

(4) Noise Level Limit

Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the special use permit application.

(5) Guy Wires and/or Anchors.

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

(6) Lighting.

No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with consideration of existing residential or Commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

(7) View Impact.

The project developer, in consultation with the Planning Board, will prepare a Visual Impact Assessment (VIA) to evaluate the project's impact on scenic resources within a 5 -mile radius of the project site. The VIA may include any or all of the following as determined in consultation with the Planning Board:

- a) Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.
- b.) Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.

- c.) Description of the character and quality of the affected landscape.
- d.) Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the 5 -mile radius study area to be selected in consultation with the Planning Board.
- e.) Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.
- f.) Recommended visual mitigation measures (in accordance with DEC Policy DEP - 00-2), if warranted, based on the results of the impact evaluation described above.

**(8) Broadcast Interference.**

- a.) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- b.) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.
- c.) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

**(9) Location on Lot.**

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

**C. Specifications.**

**(1) Maximum Height Limit.**

Maximum height limit shall be no greater than 100 feet.

**(2) KW Limit.**

10 KW.

**(3) Color.**

Residential and commercial windmills color will be determined by the planning board unless an agency of the state or federal government mandates something different.

**(4) Structure. Solid tube.**

**(5) Type.**

All types of windmills will be allowed.

(6) Design and Specifications.

Detailed design and specifications will be required during site plan review.

(7) Bird Migration Study.

No bird migration study shall be required for residential windmills.

(8) Ice Buildup Sensors.

Ice buildup sensors are not required for residential and/or commercial windmills.

(9) Connecting Cables.

All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.

(10) Blade to Ground Distance.

The lowest portion of the blade may not be closer than (30) feet to the ground.

**D. Notice and Safety Consideration.**

(1) Fencing.

Access to the tower shall be limited by secured entry to the tower base.

(2) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

**E. Operating Considerations.**

(1) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(2) Landscaping.

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas is a minimum.

(3) Buildings and Grounds Maintenance.

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.

(4) Ownership Changes.

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer.

(5) Windmill Modifications.

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

**F. Certifications.**

(1) Routine Inspection Report.

An inspection report prepared by the turbine supplier/manufacture licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(2) Insurance - Liability.

Prior to issuance of a building permit, the application shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility.

(3) National and State Standards.

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(4) Performance Bond (Removal).

- (a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to

ensure the removal if the use of the windmill is discontinued. The requirements of subdivision c.) below.

- (b) If transmission/distribution service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.
- c.) Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

**(5) Lightning Strike/ Grounding.**

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

**(6) Environmental Contamination by Oil.**

A performance bond will be required to deal with this situation. The owner of a windmill after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

**(7) Wind Speed/ Wind Load.**

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

**(8) Continuing Obligations.**

All requirements set forth above shall remain in force for the life of the special use permit.

#####

**II. Industrial Windmills. (Utility Scale)**

**A. Application Process.**

**(1) Special Use Permit.**

A Special use permit shall be required.

**(2) Site Plan Review.**

A site plan review is required before a building permit may be issued for an industrial windmill.

(3) SEQRA

SEQRA review is required. Developer shall submit the long SEQRA form for the planning boards evaluation. In addition, the developer shall submit the visual Environmental Assessment Form addendum to the long form environmental assessment.

**B. Placement**

(1) Setbacks, Ice and Blade Throw From Property Line.

- (a) The minimum setback distance between each production industrial wind power electric generation unit (wind turbine tower) from adjacent property lines, rights-of-way, easements, public ways, power lines, other generation units or areas 100 ft plus the maximum structure height. Structure height includes the blades. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (i) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

Setbacks, Ice and Blade Throw From Dwellings.

- (b) The minimum setback distance between each production wind power electric generation unit (wind turbine tower) from adjacent dwellings, areas or structures customarily used by the public shall be 1500 ft. Structure height includes the blades. The dwelling setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner or the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback in consented to, and construction within, and use of the easement area is appropriately restricted.

(2) Districts Allowed In.

AG-R

(3) Noise Level Limit.

Individual wind turbine towers shall be located with relation to property lines so that the level of

noise produced during wind turbine operation shall not exceed 50 dba, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcels or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the special use permit application.

(4) Guy Wires and/or Anchors.

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of (50) feet from any anchor point for guy wires or cables.

(5) Lighting.

- (a) Towers shall be lit according to State and Federal agency guidelines. Anything over 200' presently requires lighting.

(6) View Impact.

The project developer, in consultation with the Planning Board, will prepare a Visual Impact Assessment (VIA) to evaluate the project's impact on scenic resources within a 5 - mile radius of the project site. The VIA may include any or all of the following as determined in consultation with the Planning Board:

- a.) Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2), and of local significance, as officially listed by the relevant municipality within the study area.
- b.) Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.
- c.) Description of the character and quality of the affected landscape.
- d.) Photographic simulations of what the proposed project will look like from a reasonable number or representative viewpoints within the 5 - mile radius study area to be selected in consultation with the Planning Board.
- e.) Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.
- f.) Recommended visual mitigation measures ( in accordance with DEC Policy DEP-00-2), if warranted, based on the results of the impact evaluation described above.

(7) Broadcast Interference.

- a.) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to

- b.) produce electromagnetic interference in the link's operation. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, televised or wireless phone or other personnel communication systems would likely to produce electromagnetic interference with signal transmission or reception.
- c.) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

**(8) Location on Lot.**

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review

**(9) Substations and/or Switch yards and connecting Distribution/Transmission Lines.**

Planning Board shall review locations and visual considerations at time of site plan approval.

(10) The turbine supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The project developer shall document local road conditions in the vicinity of the project prior to construction. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

**C. Specifications.**

**(1) Maximum Height Limit.**

Maximum height limit shall be no greater than 500 feet.

**(2) Color.**

Industrial windmills must be color approved by the Planning Board unless an agency of the state or federal government mandates something different.

**(3) Structure.**

Solid tube.

**(4) Type.**

All types of windmills will be allowed.

**(5) Design and Specifications,**

Detailed design and specifications will be required during site plan review.

**(6) Bird Migration Study.**

A bird migration study shall be performed for industrial windmills as required by the New York State Department of Environmental Conservation.



(7) Connecting Cables.

All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facility to the collection station. All other circumstances would be reviewed during the site plan process.

(8) Blade to Ground Distance.

The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

**D. Notice and Safety Considerations.**

(1) Fencing.

Access to the towers shall be limited by secured entry to the tower base.

(2) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

**E. Operating Considerations.**

(1) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(2) Landscaping.

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

(3) Building and Grounds Maintenance.

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept in a fenced designated storage. Oil shall be legally disposed of.

(4) Ownership Changes.

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Code Enforcement Officer.

(5) Windmill Modifications.

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

#### **F. Certifications.**

##### **(1) Routine Inspection Report.**

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

##### **(2) Insurance - Liability.**

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission facility.

##### **(3) National and State Standards,**

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

##### **(4) Performance Bond (Removal)**

- (a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of subdivision c.) below shall apply. An Engineer selected by the Town and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in subdivision c.) below.
- (b) If transmission/distribution service from the windmill is discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within (18) eighteen days following the expiration of the (6) six month discontinuance period.
- c.) Any windmill which has been out of active and continuous service for a period of one (1)

year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill. Any foundation left must be at least 3' below surface land or facilities shall be left at the discretion of the land owner.

**(5) Lightning Strike/Grounding.**

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmills have been or are being complied with.

**(6) Environmental Contamination by Oil.**

A performance bond will be required to deal with this situation. The owner of the windmills after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

**(7) Wind Speed/Ice Load.**

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

**(8) Continuing Obligations.**

All requirements specified above shall remain in force for the life of the special use permit.

**III. Enforcement.** This local law shall be enforced by the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton.

**IV. Penalties.**

- a.) Any person who shall violate any of the provisions of this local law shall be guilty of an offense and subject to a mandatory fine of Two Hundred Fifty Dollars (\$250.00) for each offense. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
- b.) In addition to the above provided penalties, the Board may also maintain an action or proceeding in the name of the Town in a court or competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of

this local law.

- V. **Separability.** Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.
- VI. **Effective.** This law shall be effective upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2006 of the ~~(County)(City)~~(Town)(Village) of Cohocton was duly passed by the Town Board on Jan. 24th 2006, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

(Seal)

Sandra J. Riley  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body **Sandra Riley**  
Cohocton Town Clerk  
Date: February 13, 2006

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister  
Signature **Patrick F. McAllister**

Town of Cohocton Attorney  
Title

~~County~~  
~~City~~ of Cohocton  
Town  
~~Village~~

Date: February 13, 2006

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Cohocton
- Town
- Village

Local Law No. 2 of the year 20 06

A local law Amending the Zoning Law of the Town of Cohocton, New York to regulate windmills and  
*(Insert Title)*  
windmill facilities.

Be it enacted by the Town Board of the  
*(Name of Legislative Body)*

- County
- City of Cohocton as follows:
- Town
- Village

Article III, section 310 of the Town of Cohocton Zoning Law is hereby amended to include the following allowed uses by special permit:

1. Residential and/or Commercial Windmills and Industrial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Agricultural-Residential District as a Special Permit Use.
2. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Low-Density Residential District as a Special Permit Use.
3. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton General Business District as a Special Permit Use.
4. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Interchange Commercial District as a Special Permit Use.
5. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Industrial District as a Special Permit Use.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**Article III, Zoning Schedule of the Town of Cohocton Zoning Law is hereby amended to allow maximum height and required setbacks as follows:**

1. Residential and/or Commercial Windmills Maximum Height – one hundred (100) feet.
2. Industrial Windmills Maximum Height – five hundred (500) feet.

**Article X, section 1010 of the Town of Cohocton Zoning Law is hereby amended include the following definitions.**

1. Windmills – Residential AND/OR Commercial – a windmill that provides electrical or mechanical power to an individual residence, operating farm or single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.
2. Windmill – Industrial – a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.
3. Windmill Facilities – infrastructure related to Residential and/or Commercial Windmill or Industrial Windmill, or a series of Windmills, including electrical lines and substations, access roads and accessory structures necessary to operate said windmill and transmit the electrical power which is generated.
4. Windmill Height - the total height of the structure including blades, above the existing ground level.

**Be it further enacted that a new Article XI of the Zoning Law of the Town of Cohocton shall be added as follows:**

#### **1100 PURPOSE**

This Article is intended to regulate and restrict the height, size, location and other features of windmills and windmill facilities, and will, after reasonable consideration of the character of the Town of Cohocton and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect existing properties and the environment.

#### **1110 REQUIRED APPROVALS**

1. Special Use Permit.

Applicants shall submit an application and be required to obtain special use permit approval from the Town of Cohocton Planning Board to install



or operate a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town of Cohocton.

2. Site Plan.

- (a) Applicants shall submit an application and be required to obtain site plan approval from the Town of Cohocton Planning Board before a building permit may be issued for the construction or operation of a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town.
- (b) A site plan drawn in sufficient detail to show the following, shall be required:
  - i. Location of the tower(s) on the site and the tower height, including blades, rotor diameter and ground clearance.
  - ii. Utility lines, both above and below ground, within a radius equal to the proposed tower height, including blades.
  - iii. Property lot lines and location and dimensions of all existing structures and uses on site within 500 feet of Windmill Facilities
  - iv. Surrounding land use and all structures within 1000 feet of the location of towers.
  - v. Dimensional representation of the various structural components of the tower construction, including base and footing.
  - vi. Design data indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions.
  - vii. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the New York State Uniform Fire Prevention and Building Code.
  - viii. Industrial Windmill site plan applications shall include a separate plan for each tower location.
  - ix. The Planning Board may require any further information it finds may be necessary to review the application.

**1120 ENVIRONMENTAL REVIEW**

- 1. Compliance with the State Environmental Quality Review Act shall be required.
- 2. Applicants shall submit the following materials to the Town of Cohocton Planning Board:
  - (a) Residential and/or Commercial Windmill

Applicants shall be required to prepare and submit Part 1 of a full Environmental Assessment Form.

(b) Industrial Windmill

Applicants shall be required to prepare and submit a Draft and Final Environmental Impact Statement;

3. For Residential and/or Commercial Windmills, Industrial Windmills, and Windmill Facilities, the Applicant in consultation with the Planning Board will prepare:

(a) Visual Impact Analysis

- i. Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.
- ii. Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.)
- iii. Description of the character and quality of the affected landscape.
- iv. Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the 5 -mile radius study area to be selected in consultation with the Planning Board.
- v. Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.
- vi. Recommended visual mitigation measures (in accordance with DEC Policy DEP -00-2), if warranted, based on the results of the impact evaluation described above.

(b) Bird Migration Study

Appropriate bird migration studies shall be submitted. The Applicant shall solicit input from the New York State Department of Environmental Conservation on such studies.

(c). Predicted Windmill Only Noise Analysis:

- i. A noise level analysis shall be prepared to determine predicted windmill-only noise and pure tone components at property lines of the wind development project which abut non-project parcels and existing residences.
- ii. Windmill only noise shall be predicted based upon appropriate reference noise levels obtained from field measurements of the windmill proposed to be installed.
- iii. Except as otherwise provided herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 50 dB(A), and windmill only noise at existing residences located on non-project parcels shall not exceed 45 dB(A).
- iv. In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A), and windmill only noise at existing residences located on non-project parcels shall not exceed 40 dB(A).

A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

### 1130 REVIEW STANDARDS

The following shall govern the siting, size, dimension, appearance, operation and use of windmills in the Town of Cohocton:

1. Residential and/or Commercial Windmills.

(a) Placement:

(i) Setbacks, Ice and Blade Throw.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be the structure height plus one-hundred (100)

feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

- (ii) Number of Windmills Allowed per Lot: One (1).
- (iii) Windmill Noise Level Limit.
- v. Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

- (iv) Guy Wires and/or Anchors.

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

- (v) Lighting.

No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with consideration of existing residential or Commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

- (vi) Broadcast Interference.

No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(b) Specifications:

(i) Maximum Height Limit.

Maximum height limit shall be no greater than 100 feet.

(ii) Kilowatt Limit: 10 KW

(iii) Color

Residential and commercial windmills color will be determined by the planning board unless an agency of the state or federal government mandates something different.

(iv) Structure. Solid tube.

(v) Type.

All types of windmills will be allowed.

(vi) Ice Buildup Sensors.

Ice buildup sensors are not required for residential and/or commercial windmills.

(vii) Connecting Cables.

All power transmission distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.

(viii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than (30) feet to the ground.

(ix) Windmill Design.

Only upwind design windmills are allowed in the Town.

(x) Signage

No advertising signs are allowed on any part of Residential and/or Commercial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations and Requirements:

(i) Fencing.

Access to the tower shall be limited by secured entry to the tower base.

(ii) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(d) Operating Considerations and Requirements:

(i) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill

shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas is a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.

(iv) Ownership Changes

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer.

(v) Windmill Modifications

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

(vi) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A) at non-project property lines, when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill-only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second  $L_{eq}$  measurements at an appropriate position on non-project property lines. If an arithmetic average of higher than 50 dB(A) is measured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second  $L_{eq}$  measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$$10 \text{ Log}_{10}(10^{0.1C} - 10^{0.1A})$$

\*C = the recorded ambient noise level when the turbine is on;

A = the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

(e) Certifications

(i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacture licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(ii) National and State Standards

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit



shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(iii) Lightning Strike / Grounding

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

(iv) Wind Speed / Wind Load

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(f) Sureties.

(i) Performance Bond (Removal).

The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued.

If transmission/ distribution service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmills shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.

Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of sale and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Insurance – Liability.

Prior to issuance of a building permit, the application shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance,

of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility.

(iii) Environmental Contamination by Oil.

A performance bond will be required to deal with this situation. The owner of a windmill after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

2. Industrial Windmills.

(a) Placement:

(i) Setbacks, Ice and Blade Throw from Property Line.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be the structure height plus one-hundred (100) feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

(ii) Setbacks, Ice and Blade Throw From Dwellings.

The minimum setback distance between each production wind power electric generation unit (wind turbine tower) from adjacent

dwellings, areas or structures customarily used by the public shall be 1500 ft. Structure height includes the blades. The dwelling setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner or the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

(iii) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

(iv) Guy Wires and/or Anchors

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of (50) feet from any anchor point for guy wires or cables.

(v) Lighting.

Towers shall be lit according to State and Federal agency guidelines. Anything over 200' presently requires lighting.

(vi) Broadcast Interference

No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, televised or wireless phone or other personnel communication systems would likely to produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(viii) Substations and/or Switch yards and connecting Distribution/ Transmission Lines.

Planning Board shall review locations and visual considerations at time of site plan approval.

(b) Specifications:

(i) Maximum Height Limit

Maximum height limit shall be no greater than 500 feet.

(ii) Color

Industrial windmills must be color approved by the Planning Board unless an agency of the state or federal government mandates something different.

(iii) Structure. Solid tube.

(iv) Type.

All types of windmills will be allowed.

(v) Ice Buildup Sensors

No wind turbines shall be permitted which lack an automatic shutdown feature in the event of blade icing.

(vi) Connecting Cables

All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facility to the collection station. All other circumstances would be reviewed during the site plan process.

(vii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

(viii) Windmill Design.

Only upwind design windmills are allowed in the Town.

(ix) Signage

No advertising signs are allowed on any part of Industrial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations:

(i) Fencing.

Access to the towers shall be limited by secured entry to the tower base.

(ii) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(d) Operating Considerations

(i) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept in a fenced designated storage. Oil shall be legally disposed of.

(iv) Ownership Changes

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Code Enforcement Officer.

(v) Windmill Modifications

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

(vi) Windmill Noise Level Limit.

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A), when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second  $L_{eq}$  measurements at an appropriate position on non-project property lines. If the arithmetic average of noise at non-project property lines is equal to or below 50 dB(A), then the project shall be considered in compliance with this Article. If an arithmetic average of higher than 50 dB(A) is measured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second  $L_{eq}$  measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$$10 \text{ Log}_{10}(10^{0.1C} - 10^{0.1A})$$

\*C = the recorded ambient noise level when the turbine is on;

A = the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

- (e) Certifications
  - (i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

- (ii) National and State Standards

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(iii) Lightning Strike/Grounding

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmills have been or are being complied with.

(iv) Wind Speed

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(f) Sureties

i. Performance Bond (Removal)

The owner of a windmills, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmills is discontinued. An Engineer selected by the Town and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified herein.

If transmission/distribution service from the windmill is discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within (15) fifteen days following the expiration of the (6) six month discontinuance period.



Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmills shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill. Any foundation left must be at least 3' below surface land or facilities shall be left at the discretion of the land owner.

ii. Insurance – Liability

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission facility.

iii. Environmental Contamination by Oil

A performance bond will be required to deal with this situation. The owner of the windmills after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

iv. Road Repairs

The turbine supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The project developer shall document local road conditions prior to construction for all roads to be utilized in connection with the project, and shall submit a quarterly report to the Town Highway Superintendent which identifies all material changes in the condition of roads so utilized, which report shall be verified by the Town Highway Superintendent. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

**1140 Modifications and Waivers**

1. The Planning Board, in addition to the foregoing section, may require such additional provisions and conditions that appear to promote further understanding of the applicant's proposal and are necessary for the purposes of ultimately protecting the health, safety and general welfare of the town's residents.
2. The Planning Board may, at its discretion, judge that certain requirements of this Article are not applicable in its approval of a site plan or special use permit, and may therefore, modify the applicable requirements and allow the applicant to submit only those elements which it deems necessary to the review and approval of the particular application.

#### **1150 Duration of Special Use Permit and Continuing Obligations**

Any special use permit approved pursuant to this Article shall remain in force and effect unless or until the windmill related windmill facilities are removed in accordance with the foregoing sections.

#### **1160 Enforcement**

This local law shall be enforced by the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton.

#### **1170 Penalties**

In addition to Penalties and Remedial Actions allowed pursuant to Section 756 of these Regulations, the Code Enforcement Officer of the Town or such enforcement officer duly empowered by the Town of Cohocton may assess a civil penalty in an amount not to exceed \$1,000 for any and all violations of this Article. Each day the violation continues once notice of the same is provided to the responsible party shall constitute a separate violation.

**BE IT FURTHER RESOLVED THAT,** this local law shall supersede all prior inconsistent local laws, ordinances or regulations.

**BE IT FURTHER RESOLVED THAT,** this local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 06 of the (County)(City)(Town)(Village) of Cohocton was duly passed by the Town Board on November 21 20 06, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ (Elective Chief Executive Officer\*)~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 \_\_\_\_\_, above.

*Sandra J. Rhy*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11-30-06

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF STEWART

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Patrick F. McAllister*

Signature Cohocton Town Attorney  
Title

County \_\_\_\_\_  
City of Cohocton  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: November 30, 2006

65

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

STATE OF NEW YORK  
DEPARTMENT OF STATE

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**FILED**

APR 30 2002

~~County~~  
~~City~~ of Cohocton  
~~Town~~  
~~Village~~

**MISCELLANEOUS  
& STATE RECORDS**

Local Law No. 1 of the year ~~19~~ 2002

A local law entitled "Zoning Law of the Town of Cohocton, New York"  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Cohocton as follows:  
~~Town~~  
~~Village~~

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF COHOCTON  
ZONING LAW**

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## Local Law Filing Instructions

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET, ALBANY, NY 12231

### PLEASE OBSERVE THESE RULES FOR FILING LOCAL LAWS WITH THE SECRETARY OF STATE:

1. Each local law shall be filed with the Secretary of State within 20 days after its final adoption or approval as required by section 27 of the Municipal Home Rule Law. The cited statute provides that a local law shall not become effective before it is filed in the office of the Secretary of State.
2. Each local law to be filed with the Secretary of State shall be an original.
3. Each local law shall be filed on a form provided by the Department of State, as attached hereto. In case additional pages are required, they must be on the same letter size as the form provided. For convenience, printed, mimeographed or typewritten copies of the local law may be pasted on the form, but these must not be of a size larger than the form and printing must be on only one side of the sheet. Only true and legible copies will be accepted for filing.
4. ONLY THE NUMBER, TITLE AND TEXT OF THE LOCAL LAW SHALL BE FILED. In case of a local law amending a previously enacted local law or ordinance, the text must be that of the law as amended. Do not include in copy parts of old law to be omitted.
5. For the purpose of filing with the Secretary of State, number local laws consecutively, and start with the number one in each calendar year. It is suggested that introductory identifying numbers be used while a proposed local law is being considered.
6. Each copy of a local law filed with the Secretary of State shall have affixed to it a certification by the Clerk of the County legislative body or the City, Town or Village Clerk or other officer designated by the local legislative body. There shall also be attached or annexed thereto a certification executed by the County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney that the local law contains the correct text and that all proper proceedings have been had or taken for its enactment. Certification forms are provided herewith.
7. For filing purposes, local laws shall be mailed or delivered as follows:

An original for the Secretary of State:  
State Records and Law Bureau  
Department of State  
41 State Street  
Albany, NY 12231



## ARTICLE I SCOPE, TITLE, PURPOSE

### **100: SCOPE**

A Local Law regulating and restricting the location, construction, alteration, occupancy and use of structures and the use of land in the Town of Cohocton, and for said purposes dividing the Town into districts.

### **110: TITLE**

This Local Law may be known and cited as, "The Zoning Law of the Town of Cohocton, New York."

### **120: PURPOSE**

Enacted pursuant to the Town Law of the State of New York, Article vii of Chapter 65 of the Consolidated Laws of New York, to protect and promote public health, safety, convenience, economy, aesthetics, and the general welfare, and:

1. To promote and effectuate the orderly, physical development of the Town in accordance with the Comprehensive Plan;
2. To encourage the most appropriate use of land, to conserve and enhance the value of property;
3. To minimize land use conflicts, provide for adequate and suitably located residential, commercial and industrial areas;
4. To provide for open spaces and recreation areas, protect natural resources, agricultural land, scenic areas, watercourses, and flood plains;
5. To aid in the prevention of fires, to regulate population densities, and to provide for efficient, economical provision of community facilities and services;
6. To improve traffic circulation, prevent traffic congestion, eliminate roadside hazards, provide adequate off-street parking and loading facilities;
7. To assure privacy for residents and freedom from nuisances and noxious conditions disturbing to the senses or harmful to health, prevent unsightly, obtrusive and noisome activities, and generally enhance the community.

[Balance of page intentionally left blank]

**ARTICLE II ESTABLISHMENT OF DISTRICTS:**  
**PROVISION FOR OFFICIAL ZONING MAP**

**200: ESTABLISHMENT OF DISTRICTS**

For the purpose of promoting the public health, safety and welfare and otherwise carry out the objectives of these Regulations, the Town of Cohocton is hereby divided into the following zoning districts:

AG-R	Agricultural-Residential
LDR	Low Density Residential
GB	General Business
IC	Interchange Commercial
I	Industrial

**210: ZONING MAP**

Said districts are shown and bounded on the official Zoning Map, which Map together with all explanatory matter thereon, is hereby adopted and declared to be a part of these Regulations. Said Map shall show the effective date of these Regulations and of each subsequent amendment to said Map, and shall be duly certified by the municipal clerk.

**220: INTERPRETATION OF ZONING MAP**

Where uncertainty exists with respect to the boundaries of any zoning district as shown on the official Zoning Map, the following rules shall apply:

1. Where boundaries are indicated as approximately following the center lines of streets or highways, such center lines shall be construed to be such boundaries.
2. Where boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.
3. Where boundaries are so indicated that they are approximately parallel to the center lines of streets or the center lines of right-of-way lines of highways, such boundaries shall be construed as being parallel thereto, and at such distance therefrom, as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on the Zoning Map.
4. Where the boundaries follow a railroad line, such boundary shall be deemed to be located in the middle of the main track of such railroad line.
5. Where the boundaries follow a stream, lake or other body of water, said boundary line shall be deemed to follow such shorelines and, in the event of change in the shoreline, shall be considered as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered herein, the Zoning Board of Appeals shall interpret the boundaries.

## ARTICLE III DISTRICT REGULATIONS

### **300: APPLICATION OF REGULATIONS**

The requirements set by these Regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

1. Non-residential agricultural buildings and structures (used only for agriculture) in the Agricultural-Residential District are specifically exempt from these Regulations, and no zoning permits or zoning certificates shall be required therefore, except:
  - a. when located in the flood plain overlay zone; and
  - b. new construction for housing animals shall not be within eighty-five feet (85) of a center highway line or two hundred feet (200) of a lot line or three hundred feet (300) of an existing dwelling on an adjoining lot.
2. Except as provided above, no structure shall hereafter be erected, and no existing structure shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each district and meeting the requirements set forth in the Zoning Schedule. No open space contiguous to any building shall be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other requirements designated in the Zoning Schedule and these Regulations for the zone in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building shall be deemed to be in violation of these Regulations.
3. No building or other structure shall hereinafter be erected or altered:
  - a. to exceed the height or bulk;
  - b. to accommodate or house a greater number of families;
  - c. to occupy a greater percentage of lot area;
  - d. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than required herein;or in any other manner contrary to the provisions of these Regulations. Any lawful use existing prior to the enactment of these Regulations which does not conform to the requirements herein, may continue as a non-conforming use as provided herein.
4. No part of a yard or other open space required about or in connection with a structure for the purpose of complying with these Regulations, shall be included as part of a yard, open space, similarly required for another building.
5. No yard or lot existing at the time of passage of these Regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet at least the minimum requirements established by these Regulations.

6. No motor home, boat, travel trailer or other equipment shall be parked or stored in any required front yard or between the street, road or highway and the front building line of a principal building, and no type of vehicle or equipment shall be offered for sale in the aforementioned area for more than thirty (30) days.

### **310: DISTRICT REGULATIONS**

#### **1. Agricultural-Residential (AG-R)**

##### **Intent**

To preserve agricultural land, encourage continued agricultural use, preserve open space and natural resources, discourage urban sprawl, reduce land use conflicts and otherwise carry out the objectives of these Regulations and the Comprehensive Plan.

In the construction of seasonal homes on limited use seasonal roads, no municipal services will be provided on such roads from November 1st through April 30th or dates as the Town Superintendent of Highways may set and these roads will not be improved. In this District, no structure shall be erected or altered and no structure or land shall be used except for one or more of the following specified uses:

##### **Permitted Principal Uses**

Customary agricultural uses and structures  
Single and two-family dwellings, seasonal homes  
Churches, parish homes, convents and similar places of worship  
Municipal parks and playgrounds, libraries  
Day nurseries, kindergartens, nursing homes  
Historical museums, monuments, and markers

##### **Accessory Uses**

Private garages  
Customary residential storage structures  
Other customary residential structures such as private swimming pools, fireplaces, trellises, lamp posts, car-ports, and similar uses  
Home occupations  
Similar uses customarily necessary to a permitted principal use

##### **Special Permit Uses**

Essential services, multiple dwellings  
Motor vehicle service stations and garages, car washes  
Excavation operations, junk yards, dismantlers, scrap processors  
Mobile home parks, Planned Unit Development  
Sanitary landfills, oil and gas wells  
Cemeteries, funeral homes  
Membership clubs  
Veterinarian hospitals, kennels, professional offices  
Sawmills, except when part of a farming operation  
Roadside stands, airports  
Taverns  
Commercial antennae/towers, i.e. radio, phone, TV, microwave, cellular services

Large-scale recreational developments: Travel trailer parks; campgrounds; hunting, riding, fishing clubs; trails; country clubs; golf courses; ski lodges; game preserves; gun clubs; race tracks; sport arenas; motor-cross trails; ski trails; and related activities

Manufacturing, research and laboratory facilities

Clinics

Restaurants

Auto sales, storage, servicing

Schools

Hospitals

Bed and breakfast

## 2. **Low-Density Residential (LDR)**

### **Intent**

To permit establishment of low density or suburban residential areas with individual water and sewer facilities; to avoid congestion and urban sprawl and otherwise carry out the objectives of these Regulations.

In this District, no structure shall be erected or altered and no structure or land shall be used except for one or more of the following specified uses:

### **Permitted Principal Uses**

Same as Agricultural-Residential.

### **Accessory Uses**

Same as Agricultural-Residential District.

Similar uses customarily accessory to a permitted principal use.

### **Special Permit Uses**

Membership clubs

Mobile home parks

Hospitals, clinics, schools

Planned Unit Development

Multiple-family dwellings

Essential services

Professional office

Cemetery and funeral home

Roadside stands

Bed and breakfast

## 3. **General Business (GB)**

### **Intent**

To provide for the establishment of convenience goods and services and tourist-oriented businesses. In this District, no structure shall be erected or altered and no structure or land shall be used except for one or more of the following specified uses:

**Permitted Principal Uses**

Single-family dwellings; municipal parks and playgrounds; libraries; general retail including commercial goods; gift shops, and similar uses; banks; service shops and studios; retail outlets for laundry and cleaning; professional offices.

**Accessory Uses**

Parking and loading facilities, signs advertising commodities or services for sale on premises  
Other uses customarily accessory to a permitted use  
Home occupations

**Special Permit Uses**

Two-family dwellings  
Multiple dwellings  
Funeral homes  
Hospitals, clinics, nursing homes  
Essential services  
Membership clubs  
Service stations  
Veterinarian hospitals  
Taverns  
Schools  
Restaurants  
Motels, hotels, bed and breakfast  
Auto sales, storage and servicing

4. **Interchange Commercial (IC)**

**Intent**

To provide for highway oriented business and traveler service facilities at appropriate locations served by major highways: to prevent traffic hazards and congestion and otherwise carry out the purpose of these Regulations.

To this District, no structure shall be erected or altered and no structure or land shall be used except for one or more of the following specified uses:

**Permitted Principal Uses**

Retail store, bank, restaurant, professional offices, taverns  
Service shops and studios  
Retail outlets for laundry and cleaning  
Service stations  
Motels, hotels  
Auto sales, storage, servicing  
Wholesale storage and warehousing in roofed structures  
Miniature golf, dance halls, skating rinks, bowling alleys and similar places of entertainment  
Mini-storage warehouses  
Equipment rental and sale

### **Permitted Accessory Uses**

- Parking and loading facilities
- Signs advertising on-site services or sales
- Other uses customarily accessory to a permitted principal use

### **Special Permit Uses**

- Travel trailer parks
- Truck terminals
- Essential services
- Theaters, except drive-in

## 5. **Industrial (I)**

### **Intent**

To encourage development of manufacturing; processing and warehousing not requiring extensive community facilities, but requiring major highway access and may require open storage and service areas and may generate heavy traffic. To preserve community character, prevent traffic congestion and hazards, and otherwise carry out the objectives of these Regulations.

In this District, no structure shall be erected or altered and no structure or land shall be used except for one or more of the following specified uses:

### **Permitted Principal Uses**

- Agricultural uses
- Essential services
- Junk yards, dismantlers, scrap processors
- Automotive sales, storage and servicing
- Wholesale business or service
- Manufacturing, research and laboratory facilities
- Fabrication, assembly and other handling of material

### **Permitted Accessory Uses**

- Off-street parking
- Garage space for storage of commercial vehicles
- Uses customarily accessory to a permitted use
- Storage for manufacturing or other business

## 6. **Flood Plain Overlay Zone (FP)**

There is hereby established a Flood Plain Overlay Zone, the boundaries of which are delineated on the Zoning Map. Said boundaries correspond to those identified as "areas of 100-year flood" by the Federal Emergency Management Agency and delineated on Flood Insurance Rate Maps (FIRM) dated May 16, 1983 which maps and any revisions thereto are declared to be a part of this Local Law. Special requirements for development within the defined Flood Plain Overlay Zone are set forth in **Flood Damage Prevention, Town of Cohocton Local Law No. 1** of 1987, which requirements are in addition to those applicable to the underlying zoning district as set forth in these Regulations.

320: ZONING SCHEDULE

LOT AREA, YARDS, BUILDING HEIGHT & LOT COVERAGE REQUIREMENTS  
TOWN OF COHOCTON, NEW YORK

DISTRICT	MINIMUM LOT		MINIMUM YARDS			MAX. HGT. STORIES FEET	MAX. LOT COVERAGE
	AREA	WIDTH	FRONT	REAR	SIDE		
AG-R							
Agri-Residential							
Single Dwellings	40,000 Sq. '	200'	50'	25'	25'	35'	10%
2-fam. Dwellings	40,000 Sq. '	200'	50'	25'	25'	35'	10%
Multi-dwellings	40,000 Sq. '	200'	50'	25'**	25'**	3 stories	40%
All other							
Permitted Uses	40,000 Sq. '	200'	50'	25'	25'	35'	10%

LDR							
Low Density Residential							
Single Dwellings	20,000 Sq. '	100'	50'	15'	15'	35'	30%
2-fam. Dwellings	30,000 Sq. '	100'	50'	15'	15'	35'	30%
Multi-dwellings	*30,000 Sq. '	100'	50'	15'**	15'**	3 stories	40%
All other							
Permitted Uses	20,000 Sq. '	100'	25'	15'	15'	25'	30%

IC							
Interchange Commercial							
Permitted Use	20,000 Sq. '	100'	100'	15'	30'	35'	35%

GB							
General Business							
Dwellings	10,000 Sq. '	100'		15'	15'	35'	50%
All Other							
Permitted Uses	10,000 Sq. '	100'		15'	15'	35'	50%

Industrial							
All Permitted							
Uses	5 acres	400'	50'	20'	50'	50'	50%

2700 Sq. Ft./Unit = 16 Units Per Acre.

\* Multiple dwellings must have a lot area of not less than 4,000 sq. ft. for each dwelling unit therein.

\*\* Multiple dwellings must have an additional 5' of side and rear yards for each story over two.

(1) Side or rear yards when abutting a street shall be the same as the required front yard.

(2) All setbacks are measured from property lines.



## ARTICLE IV SUPPLEMENTAL REGULATIONS

The provisions of these Regulations shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

### 400: PROHIBITED USES

1. Any use of any structure or premises in such a manner that the health, safety or welfare of the community may be endangered.
2. In any District, the following standards for activities shall apply:
  - a. No offensive or objectionable vibration, noise, odor or glare shall be noticeable at or beyond the property line.
  - b. No activity shall create a physical hazard by reason of fire, explosion, radiation or other such cause, to persons or property in the same or adjacent District.
  - c. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin, or endangers health in any way.
  - d. The emission of smoke, fly ash or dust which can cause damage to the health of persons, animals, plant life or other forms of property shall be prohibited.

### 401: PRESERVATION OF NATURAL FEATURES

1. In siting urban uses and structures, grading, filling and tree cutting shall be minimized, due consideration shall be given to preservation of natural features such as streams, marshes, scenic vistas, attention shall be given to revegetation of cuts, fill and borrow areas and vegetative plantings to separate uses as buffers and borders where appropriate. Environmental and aesthetic impact shall be required considerations.
  - a. **Streams:** No habitable building shall be built within fifty (50) feet of the bed of a stream carrying water an average of six (6) months of the year.

### 402: VISIBILITY AT INTERSECTIONS

1. Nothing shall be erected, placed, planted or grown in such a manner as to materially impede vision between a height of more than two-and-one-half feet (2.5') and less than ten feet (10') above the centerline grades of the intersecting streets, roads and highways. This shall apply to the triangular area bounded by the right-of-way and a line joining points along said right-of-way twenty-five feet (25') from the point of the intersection.

### 403: ACCESSORY STRUCTURES

1. No accessory structure shall be erected in any required front or side yard, and no separate accessory building shall be erected within five feet (5') of any other accessory building, and not closer than ten feet (10') of a lot line or principal building.

**404: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT**

1. In any District, more than one structure housing a permitted principal use may be erected on a single lot, provided that yards and other requirements of these Regulations shall be met for each structure as though it were on an individual lot.

**405: CORNER LOTS, YARDS**

1. On every corner lot in a Residential District, there shall be provided on the side street, a side yard equal in depth to the required front yard depth.

**406: THROUGH LOTS, YARDS**

1. Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

**407: ARCHITECTURAL PROJECTIONS**

1. Open structures such as porches, patios, balconies, car-ports and similar architectural features shall be considered parts of the building to which they are attached and shall not project into required minimum front, side or rear yards.

**408: MINIMUM HABITABLE FLOOR AREA**

1. The minimum habitable floor area for a dwelling unit shall be four hundred (400) square feet for each dwelling unit; such area shall include only the living room, dining room, kitchen and bedroom exclusive of bathrooms, closets, utility rooms, attics, hallways, stairways, basements and unheated areas.

**409: EXCEPTION TO HEIGHT REGULATIONS**

1. The height limitations contained herein do not apply to spires, belfries, cupolas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. For communication towers and antennae, see **Section 424** of these Regulations.

**410: PARKING AND STORAGE OF UNLICENSED OR INOPERABLE VEHICLES AND EQUIPMENT**

1. Parking of more than one unlicensed or inoperable or dismantled or partially dismantled vehicle or equipment is not allowed.
2. Vehicles or equipment may be stored in an enclosed building.

3. Vehicles or equipment may be stored in a properly licensed junk yard as defined in Section 136 of the General Municipal Law and shall be governed by Section 136 of the General Municipal Law.

#### **411: FENCES, WALLS AND HEDGES**

1. In any Residential District, fences, walls and hedges are permitted only as follows:
  - a. In any required front yard, no fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision across such yard between a height of more than two and one-half feet (2-1/2') and less than eight feet (8'), nor in any manner that materially shuts out air, light, or sun between such heights.
  - b. In side or rear yards, fences, walls or hedges which materially obscure vision or shut out light, sun or air, may not be over six feet (6') in height.
  - c. These Regulations shall not apply to retaining walls.
  - d. The face side of any fence erected in any district shall face the nearest abutting property and all posts or supports shall be on the inside of said fence unless said posts or supports are an integral part of said fence.
  - e. A single strand of wire shall not be erected, placed or maintained so as to be dangerous to life or limb of any persons because of its height.
  - f. Fences and walls may not be constructed closer than two feet (2') from a property line.
  - g. Hedges may not be planted closer than two feet (2') from a property line at the expected outside growth of the hedge.
  - h. Fences, walls and hedges existing at the date of enactment of these Regulations shall be considered to be in full compliance with these regulations. Any new or replacement fence, wall or hedge must comply with the current Regulations.

#### **412: OFF-STREET PARKING AND LOADING**

1. **General Requirement:** No building or structure shall be erected, enlarged or its use changed unless permanently maintained off-street parking and loading spaces, with adequate, safe, functional, vehicular access have been provided in accordance with the provisions of this law and NYCRR 9 B accessibilities for the physically handicapped.

**Enlargements:** Whenever a building or structure existing at the effective date of these Regulations is changed or enlarged more than 50% in floor area, number of employees, number of housing units, seating capacity, or otherwise, parking shall be provided in compliance with the full requirements for the entire building.

For changes or enlargements of less than 50%, additional parking shall be required on the basis of the enlargement only.

3. **Dimensions:** Parking spaces shall have the following minimum rectangular dimensions, exclusive of aisles and other circulation areas.

90 DEGREE PARKING	9 X 19 FEET	25' AISLES
60 DEGREE PARKING	10 X 19 FEET	20' AISLES
45 DEGREE PARKING	12 X 19 FEET	15' AISLES
PARALLEL PARKING	9 X 23 FEET	

4. **Location of Parking Spaces:**

- a. Parking for all residential uses shall be located on a buildable portion of the same lot as the use which they are intended to serve. Spaces other than driveways shall not encroach on any required yards.
- b. For commercial or industrial uses, such spaces shall be provided on the same lot, or not more than seven hundred feet (700') from the principal use.

No open or enclosed parking area shall encroach on any required front yard or required open area. Adequate access drives shall be provided from an adjoining public street.

5. **Combined Uses:** Combined use of one parking lot by two or more uses is permitted provided the lot is adequate for the total requirements for the several uses, unless staggered hours permit modification of total requirements, and provided further, that a written agreement covering such joint use shall be filed with and approved by the Zoning Board of Appeals, provided further, that the lot or spaces so used shall be owned or leased by one or more of the joint users.

6. **Loading Space Requirements and Dimensions:** Off-street loading space shall be provided and maintained on the same lot for every establishment requiring more than one truck delivery per day:

- a. **Dimensions:** A loading space shall have a minimum dimension of twelve feet (12') in width and seventy-five feet (75') in length, exclusive of driveways, aisles and other circulation areas. Height clearance shall not be less than fifteen feet (15').
- b. **Location Restrictions:** Loading areas shall not encroach on any required front or side yard, accessway or off-street parking area, except that in commercial districts, existing off-street parking areas may be used for loading spaces for not more than three (3) hours per day.
- c. **Setback:** Loading areas, circulation and service lanes shall be separated from the paving edge of any public thoroughfare and from adjoining property lines by a planting

strip at least twenty feet (20') in width.

7. **Surfacing and Drainage:** The required parking and loading spaces shall be improved with acceptable wearing surface providing dust-free surface. Proper drainage shall be provided. The property owner shall maintain parking and loading areas in good condition free of holes, dust, trash, and debris.
8. **Landscaping:**
  - a. At least eight percent (8%) of the area of a lot used for off-street parking shall be landscaped with acceptable trees, shrubs, and lawn.
  - b. All loading berths, parallel circulation and service lanes and parking areas of three (3) or more spaces shall be effectively screened on all sides which adjoin or face any property used for residential purposes. Screening shall consist of a decorative wall or fence of acceptable design or evergreen plant materials (to visually soften said wall or fence) or combination thereof. Walls, fences or planting material shall be not less than four feet (4') in height at the time of construction/planting. Plant materials shall be maintained in a healthy, growing condition. Either type of screening should not obscure visibility at intersections.
  - c. Planning Board Approval: All landscaping and screening plans shall be subject to review and approval by the Planning Board prior to installation.
9. **Required Parking Spaces:** Parking spaces shall be provided in accordance with the following schedule and NYCRR 9 B parking for the physically handicapped.:

#### **OFF-STREET PARKING SCHEDULE**

##### **TYPE OF USE**

##### **SPACES REQUIRED**

##### **Residential:**

- |                                   |   |
|-----------------------------------|---|
| 1. Family dwellings of any type   | Two for each dwelling unit, garage space may be counted toward requirement. |
| 2. Apartment hotels, apartments   | One and one-half (1-1/2) for each unit.                                     |
| 3. Lodging houses, rooming houses | One for each sleeping room or one for each permanent occupant.              |

##### **Commercial:**

- |   |   |
|---|---|
| 1. Gasoline stations,<br>automobile service stations<br>which also provide repair | One for each fuel pump and two for each service bay.                  |
| 2. Hotels, motels   | One per each living or sleeping unit plus one for each two employees. |

- |   |  |
|---|--|
| 3. Funeral parlors, mortuaries & similar type uses                | One for each 100 sq. ft. of floor area in reposing rooms, parlors, or service rooms. |
| 4. Retail stores, banks, professional offices, other than medical | One for each 250 sq. ft. of floor area.  |
| 5. Doctor and dental offices                                      | One for each 100 sq. ft. of floor area plus one for each practitioner.               |
| 6. Restaurants, taverns, night clubs                              | One for each 2.5 seats plus one for each two employees.                              |

**TYPE OF USE**

**SPACES REQUIRED**

- |   |  |
|---|--|
| 7. All other types of business or commercial uses | Five and one-half (5-1/2) spaces per each 1,000 sq. ft. of gross floor space.    |
| 8. Drive-in banks                                 | Three spaces for each service window plus one space for each full-time employee. |

**Recreational or Entertainment:**

- |  |   |
|--|---|
| 1. Bowling Alleys  | Five (5) for each alley plus one additional space for each 100 sq. ft. of the area used for restaurant, cocktail lounge or similar use. |
| 2. Outdoor swimming pools  | One for each five (5) persons' capacity.  |
| 3. Auditoriums, sport arenas, theaters, membership clubs, and similar uses | One for each three (3) seats or seating capacity.   |
| 4. Golf courses  | Four (4) for each tee.  |
| 5. Skating rinks   | One for each 250 sq. ft. of skating area.   |

**Institutional:**

- |  |   |
|--|---|
| 1. Churches and places of religious assembly                                 | One for each 5 persons' capacity.                     |
| 2. Hospitals, sanitariums, nursing homes, children's homes, and similar uses | One for each 3 beds plus one for each employee.       |
| 3. Medical and dental clinics  | Ten spaces plus six for each additional practitioner. |

4. Libraries, museums, and art galleries One for each 400 sq. ft. of floor area.

**Industrial:**

1. All types of manufacturing, storage and wholesale One for every 2 employees on the largest shift for which the building is designed, plus one for each motor vehicle used in the business.

**Interpretations:**

1. Parking requirements for uses not specifically listed herein shall be determined by the Zoning Board of Appeals upon recommendation of the Planning Board.
2. Fractional parking space requirements shall be increased by the next whole number.

**413: HIGHWAY ACCESS**

1. Every building hereafter erected or moved shall be on a lot with frontage on a public street or highway and be so located as to provide safe, convenient access for servicing, fire protection and off-highway parking. Curb-cuts and driveways will be carefully located and kept to a minimum in all cases. Parallel access roads or internal development roads will be required where appropriate to achieve this purpose.
2. Vehicular access to and from streets and highways shall consist of well defined, separate or common entrances and shall comply with the applicable regulations of the New York State Department of Transportation or the Steuben County Highway Department, or the Town of Cohocton Superintendent of Highways, whichever applies, and the following provisions, whichever is more restrictive.
3. Access drives shall not open upon any public right-of-way:
- a. Within five hundred feet (500') of the ramp nose, at interchanges of limited access highway.
  - b. Within fifty feet (50') of the nearest right-of-way line of any intersecting public street or highway.
    - c. Where the sight distance in either direction along the public thoroughfare would be less than five hundred feet (500') when the posted speed limit exceeds thirty-five (35) miles per hour; however, when the posted speed limit is thirty-five (35) miles per hour or less, the sight distance requirement may be reduced to two hundred fifty feet (250').
4. Drives opening on State highways shall be subject to New York State Department of Transportation regulations.
5. Drives opening on County highways shall be subject to the regulations of the Steuben County Highway Department.

6. All drives opening on Town of Cohocton highways shall be classified Residential or Commercial and shall conform to the following specifications except where they may be in conflict with other municipal regulations, in which case the latter will govern:

**Residential:**

- a. If driveway pipe is needed and located within highway right of way, it shall be a minimum of eighteen inches (18") in diameter and a minimum of thirty feet (30') in length such as will allow access for emergency and service vehicles. Smooth heavy wall steel pipe is to be used.
- b. Driveway drainage pipe existing at the date of enactment of these Regulations will be considered to be in compliance. All replacements must adhere to current regulations.
- c. Driveway pipe shall be so placed as to maintain the drainage gradient of the road ditch.
- d. Driveway angle of entry to the highway shall not be less than sixty (60) degrees.
- e. Height of laid stone or end section shall not exceed driveway elevations.
- f. Drives shall be a minimum of ten feet (10') from property lines.
- g. Driveway grades between the highway and the setback line shall not exceed twelve percent (12%).
- h. Drives shall not be less than a five foot (5') transition radius at the curb line, or the equivalent of a flared entrance.
- i. Normally, one drive per residence - one additional drive may be granted if sufficient frontage exists.

**Commercial:**

The following provisions shall not apply to access drives serving single or two-family dwellings, but shall apply in the case of all other uses:

- a. Separate entrance and exit drives shall have a minimum width of twelve feet (12') and maximum width of twenty-four feet (24') measured at right angles to the driveway centerline; shall be separated by at least a ten foot (10') traffic island; and shall not intersect the public right-of-way at an acute angle of less than sixty (60) degrees.
- b. Combined exit-entrance drives and common drives serving more than one establishment shall have a minimum width of twenty-four feet (24') and a maximum width of thirty feet (30') measured at right angles to the driveway centerline and shall intersect the public right-of-way at an angle of not less than sixty (60) degrees.



- c. All commercial drives shall be marked with Entrance and Exit Signs.

In cases where the size of an existing lot of record at the effective date of these Regulations is such that the strict application of these requirements would prohibit highway access to the property, a plan for access which shall provide the greatest traffic safety possible under the circumstances shall be submitted to and approved by the Planning Board prior to the issuance of a permit.

#### **414: PRIVATE SWIMMING POOLS**

1. No private swimming pools, excluding farm ponds, shall be allowed in any district except in compliance with the following requirements:
  - a. The pool shall be intended for use primarily by the occupants of the property on which said pool is located.
  - b. The pool shall not be closer than ten feet (10') to a lot line.
  - c. If the pool is equipped with any electrical device, pump, filter, lights, etc., the electrical service shall be equipped with a ground fault interrupter.
  - d. Any pool existing at the date of enactment of these Regulations will be considered to be in compliance. Any new pool or replacement of an existing pool must adhere to the current regulations.

#### **Inground**

- e. The pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access by children and animals. Said fence shall not be less than six feet (6') in height and maintained with a self-closing and self-latching gate of equal height of the fences.

#### **Above Ground**

- f. Above ground pools shall have a gate or other device to prevent uncontrolled access by children and animals. Such device shall be self-closing. When equipped with a ladder access, the ladder shall be removed from pool when not attended or in use.

#### **415: ESSENTIAL SERVICES**

1. Such facilities shall not be located on a residential street unless no other site is available and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
2. The location, design and operation of such facility shall be such as to not adversely affect the character of the surrounding residential area.
3. Fences, barriers and landscaping shall be provided as required by the Planning Board.

4. Noise from such installation shall not be of such nature or volume as to be objectionable to adjoining residences.

**416: HOME OCCUPATIONS**

1. A home occupation shall be defined as a use, of a service character, that is carried on wholly within a dwelling unit; and
2. Is carried on only by a member of the family residing in the dwelling unit; and
3. Is clearly incidental and secondary to the residential use of the dwelling unit; and
4. Which conforms to the following additional conditions:
  - a. No such occupation shall involve sales of goods or merchandise on the premises except as incidental to services provided.
  - b. One exterior sign, not exceeding two sq. ft. in area is permitted. There shall be no other exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  - c. No equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises, or causes fluctuations on line voltage off the premises.
  - d. No traffic shall be generated by such home occupations in substantially greater volume than normal in the neighborhood and any need for parking generated by such occupation shall be provided off street other than in the required front yard.
  - e. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

**417: SERVICE STATIONS, AUTOMOTIVE**

In any district where permitted, a service station shall be subject to the following requirements:

1. Structures and areas for use by motor vehicles, except access drives, shall not encroach upon any required yard area.
2. No fuel pump shall be located closer than thirty-five feet (35') from any side lot line and no fuel shall be stored within thirty-five feet (35') of any lot line or right-of-way.
3. No access drives shall be within five hundred feet (500') of a school, public library, theater, fire station or place of public assembly.

4. All service stations must comply with the requirements of the New York State Fire Prevention and Building Code.
5. Accessory goods for sale may be displayed on the pump island and the building island only.
6. Where each service station abuts a residential zone, they shall be screened by buffers of densely planted evergreens, solid fencing or a combination of both not less than four feet (4') high. Failure to maintain such screen in good condition shall constitute a violation of these Regulations.

#### **418: EXCAVATION OPERATIONS**

1. Excavation operations, including the excavation of fill, sand, and gravel and processing or other operations for the preparation of sand and gravel where permitted as a special permit use, are subject to the following regulations in addition to other requirements of these Regulations and any State or Federal Regulations:
  - a. The Town Board shall require the posting of a bond or equivalent security sufficient to cover the rehabilitation of the area.
  - b. All structures and excavations shall be located or shall occur not less than thirty feet (30') from any street right-of-way or property line.
  - c. Fencing or similar effective barriers six feet (6') in height may be required where excavations are to exceed four feet (4') in depth.
  - d. All buildings, structures and machinery used in such operations shall be removed within six (6) months following termination of operations.
  - e. All equipment used for the excavation and processing shall be equipped, maintained and operated in such a manner as to eliminate as far as practical, noise, vibrations, and dust to prevent annoying and injurious conditions on adjoining properties.
  - f. No operations shall be permitted except Monday through Saturday, between the hours of 7:00 a.m. and 9:00 p.m. on either Eastern Standard or Eastern Daylight Time, whichever is in effect, except for reasonable and necessary repairs to equipment.
  - g. All excavated area must be rehabilitated in accordance with standards herein specified within one (1) year after termination of operations.
    - 1) Side slopes of excavated areas shall not be steeper than one foot (1') vertical distance for each one and one-half feet (1-1/2') of horizontal distance.
    - 2) All excavations made to below water producing depth shall be graded to be completely drained.

- 3) . Excavated areas after grading and sloping, shall be seeded or planted with trees, shrubs, grasses or legumes in a manner to assure revegetation of the area.
  - 4) Grading and backfilling shall be done in such a manner so as to be in substantial conformity with the topography of adjoining lands.
  - 5) Any such excavations shall comply with the New York State Mined Land Reclamation Law, when applicable.
- h. This section shall not be construed to prevent the excavation or moving of earth on premises when such is solely for farming purposes.

#### **419: WATER SUPPLY AND SEWAGE DISPOSAL**

1. **Water Supply:** Water supply facilities shall be provided in accordance with the standards set forth in the publication, "Rural Water Supply," as published by the New York State Department of Health, or as amended.
2. **Sewage Disposal:** Any new structure containing bathroom facilities shall be equipped with a system or facility for the separate disposal of water-borne sewage or trade wastes in accordance with standards for such facilities as recommended by the New York State Department of Health, published as, "Waste Water Treatment Standards," or as amended. Where said standards are not applicable due to inadequate percolation rates, topography problems, rock formation or other circumstances, a sewage treatment system shall be designed according to standards set forth in the Public Health Service publication, "Manual of Septic Tank Practices," or other generally accepted amended standards. Said system to be approved by the New York State Department of Health or by a registered professional engineer licensed by the State of New York.

#### **420: SIGNS AND BILLBOARDS**

1. **Sign:** Any letter, pictorial representation, symbol, flag, emblem, illuminated or animated device displayed in any manner whatsoever, which directs attention of persons off the premises on which the sign is displayed to any object, subject, place, person, activity, product, service, institution, organization, or business.
2. **Surface Area** (of a sign): The surface area of any sign is the entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems, or other figures, together with any materials or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Structural members bearing no sign copy shall not be included. Only one side of a freestanding or projecting double-faced sign shall be included in calculating surface area, providing that the two display surfaces are joined at an angle no greater than sixty (60) degrees. All sides of a multi-faced sign visible from any one street shall be included in the calculation of surface area.

3. **Exception:** For the purpose of these Regulations, the term "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or as required by law, ordinance, or governmental regulation.
4. **Prohibited Devices:** In any district, the following sign devices are expressly prohibited:
  - a. No sign shall be permitted which is an imitation of or in any way resembles official traffic devices, or which uses the words "stop," "danger," "slow" predominantly or in any manner which implies the need of stopping or the existence of danger to motorists.
  - b. Any sign which obstructs from view of the motorists any official traffic control device or which reduces the clear view of oncoming vehicles to a distance of less than five hundred feet (500').
  - c. Any sign which produces glare in extent or direction which may affect highway safety.
  - d. Any sign containing flashing, pulsating, intermittent, rotating or moving lights, or simulation thereof.
  - e. Any sign containing or consisting of banners, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices.
  - f. Signs affixed to or painted upon rocks, trees, utility poles or other such structures not intended for such use.
5. **Signs Permitted in All Districts:** The following signs shall be permitted in any district without a permit:
  - a. Signs advertising the sale, lease or rental of the premises upon which the sign is located; said sign shall not exceed nine (9) square feet in area.
  - b. Professional name plates and rooming house signs not exceeding two (2) square feet in area.
  - c. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, clubs or societies, which signs or bulletin boards do not exceed twelve (12) square feet in area and are located on the premises of such institution.
  - d. Directional signs for parking.
6. **Commercial Signs Requiring Permits:** The following signs are permitted in any district but require a zoning permit as required herein:

Any sign advertising a commercial enterprise, including real estate developments or subdivisions, which sign shall not exceed twelve (12) sq. ft. in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises on which the sign is located, provided that not more than two (2) signs shall be allowed for each such business or commercial activity.

7. **Industrial Districts:** Those signs permitted in all districts and signs whose subject matter relates exclusively to the premises on which it is located, provided further, that:

No sign or billboard shall be larger than three hundred (300) sq. ft. and shall not project more than thirty feet (30') above the average ground level at the base of the sign.

8. **General Regulations:** Provisions of this section shall apply to all signs in all districts established by these Regulations:

- a. **Number of Signs:** Each building shall have one sign oriented to each street on which the premises have frontage, identifying the building as a whole or its predominant use.
- b. **Projecting Signs:** No sign shall overhang the right-of-way of a public highway. No sign except on a canopy providing shelter, shall overhang more than one-third (1/3) of the sidewalk.
- c. **Illumination:** Signs shall be illuminated only by a steady, stationary, shielded light source directed solely at the sign internal to it, without causing glare for motorists, pedestrians or neighboring premises.
- d. **Roof Signs:** No sign shall be placed on the roof of any building, nor extend more than four feet (4') above the building, except that this shall not apply to painting a sign on the roof of a building.
- e. Free standing or pedestal signs may not be more than twenty feet (20') in height.

9. **Temporary Signs:** The following are allowed without a permit:

- a. **Construction Sign:** One unlighted sign up to twenty (20) sq. ft. identifying persons or firms involved in construction on the site of the sign. Also, one illuminated sign up to forty (40) sq. ft. identifying the owner and activity for which the building is intended shall be allowed for a period of one year.
- b. **Event Sign:** One unlighted sign up to thirty-two (32) sq. ft. announcing a campaign, drive or event which must be removed within ten (10) days after close of the event drive or campaign they advertise.

#### **421: RESIDENTIAL CLUSTER DEVELOPMENT**

In accordance with **Article 16, Section 281** of the Town Law, the Planning Board is authorized to permit the following modifications in the case of Residential Cluster Development in any Residential District.

The purpose of such modifications shall be to allow and encourage flexibility of design and development in a manner to promote the most appropriate use of land; to facilitate economical provision of streets and utilities and to preserve open space.

**Conditions:**

1. This procedure shall be applicable only to lands zoned for residential purposes for which the owner shall file a written application.
2. **Density:** The permitted number of dwellings shall in no case exceed the number of units which could be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements specified in the density schedule of these Regulations.
3. **Dwelling Types:** The dwelling types permitted may be detached, semi-detached, attached and multi-story structures.
4. **Open Space:** In the event that this procedure results in lands available for open space or recreation uses, such lands shall either be deeded to the municipality or held in corporate ownership by the owners of the lots within the development and the deeds of all property within the development shall carry a clause giving the lot owners an interest in such open space uses only. Agreements shall be made to provide for the continuing maintenance of such open space and recreation areas.
5. **Site Plan Review:** The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces, landscaping, parking areas, streets and other physical features as shown or otherwise described in the accompanying statement, shall be subject to review and public hearing by the Planning Board.

**422: TRAVEL TRAILER PARKS**

In any district where travel trailer parks are permitted, the following minimum regulations shall apply:

1. **Location - Access:** Locations shall be as provided in these Regulations. Each such use shall have sufficient highway frontage to permit proper access design and shall have a minimum park size of two (2) acres.
2. **Length of Stay:** The length of occupancy shall be limited to ninety (90) days and shall be limited to short-term housing devices.
3. **Setback:** No structure or device containing sleeping quarters shall be located within fifty (50) feet of the right-of-way of any public street or highway.
4. **Off-Street Parking, Loading:** No parking, loading, or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk or thoroughfare.
5. **Spacing:** Spaces shall be dimensioned and arranged so that no portion of any unit shall be within fifteen feet (15') of any portion of any other unit or building.
6. **Utilities:** Utilities shall be provided in accordance with applicable State regulations.

7. **Internal Streets:**

- a. Internal streets of privately-owned parks shall be privately owned and maintained and shall be designed for safe and convenient access to all space and facilities.
- b. Surfacing and maintenance shall provide sound all-weather driving surface, free from mud, excessive dust and standing water.
- c. All traffic into and out of the park shall be through marked exits and entrances. No material impediment to visibility shall be created which obstructs the view of drivers on public highways or streets.

8. **State Sanitary Code Requirements:** In addition to the requirements herein, every travel trailer park shall be established and operated under permit as required by the New York State Sanitary Code and shall be in full compliance with all applicable provisions of said Code.

**423: STANDARDS FOR LARGE-SCALE RECREATIONAL DEVELOPMENT**

Applications for such uses shall conform to the following:

1. Such development shall contain at least fifty (50) acres.
2. The applicant shall provide a plan drawn to scale of 1" = 400' signed by a licensed engineer, which plan shall contain the following:
  - a. Topographic data, contours and slopes and finished grades at same intervals.
  - b. Layout of all structures and uses, to scale, including proposed lighting, sewage and water systems, drainage, streets, roads, parking, easements, etc.
3. All activities of such recreational use shall be contained on the site. Intensive activity areas and structures shall be located no closer than three hundred feet (300') from adjoining property lines, or such additional distance as may be necessary to avoid adversely affecting adjoining property.
4. If such development will include the sale or rental of residential units, all applicable regulations of the Town of Cohocton shall be met.
5. All streets, roads, drainage, etc., shall conform to applicable specifications of the Town of Cohocton.

**424: COMMUNICATION TOWERS**

1. Units may not be located in LDR areas or within five hundred feet (500') of an LDR area.
2. All towers must use shared locations or placed as required by Planning Board, when feasible.



3. All towers must be fenced and safety lighted.
4. Height restrictions:
  - a. Private antennae: no more than thirty feet (30') above highest roof peak of said structure.
  - b. Commercial antennae/communication towers: height as per FAA regulations and limits.
5. All on-site equipment shall maintain emission output according to FCC regulations.
6. All towers shall be removed when no longer used.

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## ARTICLE V MOBILE HOME AND MOTOR HOME PARK REGULATIONS

### 500: MOBILE HOMES

**General Requirements:** All mobile homes in the Town of Cohocton shall conform to the following:

1. **Code Requirements:** All new mobile home units installed shall meet the requirements of **Subchapter D, Article 3,** of the **New York State Uniform Fire Prevention and Building Code**. All used mobile home units manufactured or constructed prior to January 1, 1984 installed shall substantially meet the requirements of **Subchapter D, Article 3,** of the **New York State Uniform Fire Prevention and Building Code**.
2. **Mobile Home Placement, Supports and Tiedowns:** Each mobile home shall be provided with supports and tiedowns and anchoring devices installed in compliance with the following, unless the entire system shall be designed by a registered professional engineer.
  - a. **Stand:** The mobile home shall be placed upon a stand consisting of concrete piers or slab, or permanent foundation, and adequate for the maximum load anticipated during all seasons.

The stand shall have a longitudinal gradient of 0% to 0.5% and adequate crown or cross gradient for surface drainage.

The mobile home stand shall include provision for all utility connections at appropriate locations.

The mobile home stand shall include provision for supports and ground anchors prior to, or at the time a mobile home is set in place.
  - b. **Supports and Tiedowns:** Supports shall be provided not more than twelve feet (12') on centers, beginning from the front of the mobile home stand. End supports shall be no more than three feet (3') from the ends of the mobile home.

Tiedowns and anchors as installed shall be capable of resisting an allowable working load equal to or exceeding three thousand five hundred (3,500) pounds and shall be capable of withstanding a fifty percent (50%) overload without fail.
  - c. **Tiedown Hardware and System:** Tiedown hardware shall be resistant to weathering at least equivalent to that provided by a coating of zinc on steel strapping of not less than 0.30 ounces per square foot of surface coated.

Tiedowns shall be placed as follows:

Not more than twenty-four feet (24') on centers beginning from the front line of the mobile home stand. End anchors shall not be more than six feet (6') from the ends of the mobile home frame.

3. **Skirting:** Each mobile home shall be skirted around the bottom portion with uniform durable material properly ventilated, within sixty (60) days, weather permitting, from placement of the unit.

### **510: MOBILE HOME PARK REGULATIONS**

1. **Location:** Where any boundary of a mobile home park directly abuts property which is improved with a permanent residential building located within twenty-five feet (25') of such boundary, or directly abuts unimproved property which may be under existing laws and regulations be used for permanent residential construction, a screen fencing or planting to the extent needed to provide adequate visual screening shall be provided along such boundary line within a reasonable time.
2. **Mobile Home Park Plan:** A mobile home park shall be developed in accordance with a Mobile Home Park Plan, which shall conform to the following requirements:
  - a. The proposed site shall be located so that the condition of the soil, ground water level, drainage, rock formations and topography shall not create hazards to the property, or to the health and safety of the occupants. The site shall not be subject to unpredictable and/or sudden flooding.
  - b. Each mobile home park shall provide mobile home spaces and each shall be clearly defined and delineated. Each mobile home park shall have a minimum area of two (2) acres, including mobile home spaces, streets, service buildings and recreation areas.

Each mobile home lot shall have a minimum area of not less than five thousand (5,000) sq. ft. and a minimum width of fifty feet (50').

- c. **Mobile Home Stands:**
  - 1) The location of each mobile home stand shall be at such elevation, distance and angle in relation to the access street that placement and removal of the mobile home is practical. The stand shall comply with provisions of **Section 500.2**.
  - 2) The mobile home stand shall consist of an appropriate material, properly graded, placed and compacted, so as to be durable and adequate for the support of the maximum load anticipated during all seasons.
  - 3) The mobile home stand shall be provided with supports, anchors and tiedowns in compliance with **Sections 500.2.b** and **500.2.c**.

d.

- 1) Mobile homes shall be so located on mobile home spaces that there shall be at least a twenty-five foot (25') clearance between mobile homes; provided however, that with respect to mobile homes parked end to end, the end to end clearance may not be less than twenty-five feet (25').
- 2) No mobile home shall be located closer than twenty-five feet (25') to any building within the mobile home park or to any property line of the park.
- 3) No mobile home shall be located closer to any property line abutting upon a public street or highway, than fifty feet (50') or seventy-five feet (75') from center of the highway.
- 4) No mobile home shall be located closer to any mobile home park street than twenty-five feet (25').

e. Walkways: Walkways not less than thirty inches (30") wide shall be provided from the mobile home space to the off-street parking space and from mobile home streets to service buildings.

f. Parking Spaces:

- 1) Number: Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least two cars for each mobile home space plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Parking spaces shall be hard-surfaced with ground or crushed stone to the minimum depth of eight inches (8"); paving may be provided.
- 2) Location: Required parking spaces shall be for convenient access to mobile home stands. Two-car spaces shall be located on each lot and the remainder in adjacent parking bays.
- 3) Size: Minimum size of parking spaces shall be nine feet (9') by twenty feet (20') or one hundred eighty (180) sq. ft.

g. Patio Pad: All mobile home spaces shall be provided with a patio pad constructed from concrete and shall be a minimum size of eight feet (8') by twenty feet (20'), and four inches (4") in depth. Patio pads shall be located so as to provide safe and easy access to and from the mobile home.

h. Awnings: Awnings may be provided of any size, provided that they are not placed closer than three feet (3') to an adjacent mobile home space.

other accessory building or structure in excess of ten feet (10') by ten feet (10'), shall be permitted on any mobile home space.

j. Streets:

- 1) Streets shall be provided on the site where necessary to furnish principal trafficways for convenient access to the mobile home stands and other important facilities on the property. Streets shall be privately owned.
  - 2) All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. Street surfaces shall be maintained free of holes and other hazards.
  - 3) Street surface drainage and overland surface drainage adjacent to streets shall be conveyed by shallow ditches to storm water drain systems, dry wells, or natural drainage systems.
  - 4) Access Streets: The entrance streets connecting the mobile home park streets with a public road shall have a minimum street width of twenty-four feet (24'), or a total of thirty-six feet (36'), including right-of-way.
  - 5) Internal Streets: The width of all rights-of-way must be a minimum of thirty-six feet (36'), twenty-four feet (24') of which must be roadway.
  - 6) Cul-de-sac shall be provided in lieu of closed end streets and shall have a turn-around with an outside roadway diameter of at least one hundred feet (100').
3. **Water Supply:** An adequate supply of water shall be provided for mobile homes, service buildings and other accessory buildings as required by this Law. Where public water is available, connection shall be used exclusively, unless local authorities deem otherwise. If a public water system is not available, the development of a private water supply system shall be approved by the health authority or other authorities having jurisdiction thereof.
4. **Sewage:** An adequate and approved sewage system shall be provided in all mobile home parks for the conveying, disposing and treatment of sewage from mobile homes, service buildings and other accessory facilities.
5. **Garbage and Refuse:** Each mobile home space shall be provided with at least two (2) twenty-gallon metal or plastic garbage cans with tight fitting covers. The cans shall be kept in sanitary condition at all times. It shall be the responsibility of the Court owner to insure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.

6. **Fuel Supply and Storage:**

- a. Liquefied petroleum gas storage containers having a capacity exceeding one hundred twenty-five (125) gallons shall be located not less than twenty-five feet (25') from the nearest mobile home, structure, building and lot line.
- b. Supports or standards for fuel storage tanks are to be of a non-combustible material.
- c. All fuel oil tanks shall be placed at the rear of the mobile home and not located less than five feet (5') from any exit.

7. **Electrical Service:**

- a. Every mobile home park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electrical power companies' specifications and regulations. All wiring fixtures must have the New York Board of Fire Underwriters' approval, or other authority designated by municipality.
- b. Each mobile home space shall be supplied with not less than a 100-amp service.
- c. Adequate lights shall be provided to illuminate streets, driveways and walkways, for the safe movement of vehicles and pedestrians at night.
- d. All electrical distribution lines shall be placed underground.

8. **Telephone:** When telephone service is provided to mobile home spaces, the distribution system shall be placed underground.

9. **Service Buildings:**

- a. Service buildings, if provided, housing sanitation facilities shall be permanent structures complying with all applicable ordinances, laws and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- b. The service building shall be well lighted at all times of the day and night; shall be well ventilated with screened openings; shall be constructed of such moisture-proof material which may be painted woodwork, and shall permit repeated cleaning and washing; and shall be maintained at a temperature of at least sixty-eight (68) degrees Fahrenheit during the period from October 1st to May 1st. The floors of service buildings shall be of water impervious material.

10. **Recreation Areas and Open Space:** Not less than eight percent (8%) of the total mobile home park area shall be devoted to recreational facilities, generally provided in a central location, or in larger courts, decentralized. Recreation areas shall include space for community buildings and community use facilities such as guest parking, adult recreation and child play areas and swimming pools.

11. **Fire Protection and Control:**

- a. 'Every' mobile home park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number, so located within the park as to satisfy applicable regulations of the fire district within which the mobile home park is located.
- b. No open fires shall be permitted at any place within the mobile home park with the exception of outdoor grills used for the preparation of food.

12. **Management and Duties of Operator:**

- a. All park operators shall keep a register of the year, make, serial number and size of all mobile homes in the park; said register to be maintained in the office of the park owner. The names and addresses of the mobile home owners shall also be on file.
- b. The person or persons to whom a special use permit has been issued shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in sanitary condition at all times.

13. **Exceptions - Gradual Improvements - Existing Parks:** Mobile home parks existing prior to the effective date of this regulation shall not be exempt from any new provision herein. However, gradual improvement of existing parks to a higher degree of conformity with these standards shall be permitted. The maximum period of time allowed for complete conformity shall not exceed seven (7) years. Once a park has been brought closer to compliance it shall not be permitted to revert to its previous condition.

Factors to be considered in determining the period of time in which to achieve conformity for each particular improvement shall include but not be limited to: the economic feasibility, nature and significance and extent of the existing deviation from this standard, general depreciation, factors of materials, design of existing layout, and other similar factors.

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## ARTICLE VI NON-CONFORMING USES

### **600: NON-CONFORMING USES, LOTS, STRUCTURES**

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these Regulations and which would be prohibited or restricted under the terms of these Regulations may be continued subject to the following provisions.

1. **Intent:** It is the intent of these Regulations to permit non-conforming uses to continue until they are removed, but not to encourage their survival.
2. **Enlargement:** No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these Regulations.
3. **Unsafe Structures:** Any structure or portion thereof declared unsafe by a proper authority shall be restored to a safe condition or removed.
4. **Alterations:** A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty percent (50%) of the full value of said structure, unless the structure shall be changed to a conforming use.
5. **Restoration:** No non-conforming structure damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its full value shall be repaired or rebuilt except in conformity with the requirements of these Regulations.
6. **Discontinuance:** Whenever a non-conforming use has been discontinued for a period of one (1) year, use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these Regulations.
7. **Changes:** Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
8. **Displacement:** No non-conforming use shall be extended to displace a conforming use.
9. **Moving:** Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

### **610: EXISTING UNDERSIZED LOTS OF RECORD**

1. Any recorded lot held in single and separate ownership prior to the adoption of these Regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these Regulations and no variance therefore shall be required, provided that:



- a. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district;
  - b. The minimum yard requirements set by these Regulations are met.
2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
  3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

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## ARTICLE VII ADMINISTRATION

### 700: PERSONNEL

**Zoning Officer:** The duty of administering and enforcing these Regulations is hereby conferred upon the Zoning Officer, who shall have such powers as are conferred upon him by these Regulations and as may reasonably be implied. He shall be appointed by the Town Board and shall receive such compensation as said Board shall determine.

**Duties of Zoning Officer:** For the purpose of these Regulations, the Zoning Officer shall have the following duties:

1. To issue zoning permits in compliance with the provisions of these Regulations;
2. Upon finding that any provision of these Regulations is being violated, he shall notify in writing the person responsible for such violation and the action necessary to correct said violation;
3. Order discontinuance of illegal uses of land, buildings, or structures;
4. Order removal of illegal buildings or structures, or illegal additions or structural alterations;
5. Order discontinuance of any illegal work being done;
6. Take any other action authorized by these Regulations to assure compliance with or prevent violations of these Regulations;
7. Submit a written monthly report to the Town Board describing and enumerating actions taken and permits issued under these Regulations.

### 710: PERMITS REQUIRED

1. **Zoning Permit:** No building or structure shall be erected, moved, added to or enlarged; nor shall any use of buildings or land be established or changed without a zoning permit therefore issued by the Zoning Officer in compliance with these Regulations, unless the Zoning Officer receives a written order from the Zoning Board of Appeals deciding an appeal on a variance.
  - a. **Expiration of Permits:** If the work of which a zoning permit is issued has not begun within ninety (90) days from date of issuance, said permit shall expire. If the work for which a zoning permit has been issued has not been substantially completed within two (2) years of the date of the permit, said permit shall expire.
  - b. The permit may be extended by the Zoning Officer for a period not exceeding one year.

**.715: APPLICATION PROCEDURE**

1. Applications for zoning permits shall be submitted to the Zoning Officer by the landowner or authorized agent on forms provided by him. Such permits shall be issued only in conformance with all the provisions of these Regulations. Each application shall set forth the purpose for which the structure is intended and shall be accompanied by a plot plan, site plan, scale drawings and/or sketches and descriptions of the lot, and building(s), dimensions of required yards, and other information as may lawfully be required by the Zoning Officer.

**720: SITE DEVELOPMENT PLANS**

1. In accordance with **Section 274-a(1.a.)** of the **Town Law**, the Planning Board is hereby granted the authority to review, approve, disapprove or approve with modification, site development plans. A site development plan shall be required for the following:
  - a. Any use or development in all zoning districts, including special uses, except for individually developed single-family dwelling units.
  - b. When a change is proposed in a previously approved site development plan.
  - c. When an existing residential use is proposed for conversion to a commercial, industrial or higher density residential use.
2. **Application for Site Plan Approval:** An application for Site Plan Approval shall be made in writing to the Zoning Officer and shall be accompanied by information drawn from the following checklist:
  - a. An area map showing the parcel under consideration for site review and all properties, subdivisions, streets and easements within two hundred feet (200') of the boundaries thereof;
  - b. A map of site topography at no more than five feet (5') contour intervals. If general site grades have susceptibility to erosion, flooding or ponding contour intervals of not more than two feet (2') of elevation should also be provided;
  - c. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
  - d. North arrow, scale and date;
  - e. Boundaries of the property plotted to scale;
  - f. Existing watercourses;
  - g. Location, proposed use and height of all buildings;

- h. Grading and drainage plan, showing existing and proposed contours;
- i. Location, design and construction materials of all parking and truck loading area, showing access and egress;
- j. Provision for pedestrian access;
- k. Location of outdoor storage, if any;
- l. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- m. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- n. Description of the method of securing public water and location, design and construction materials of such facilities, (if applicable);
- o. Location of fire and other emergency zone, including the location of fire hydrants (if applicable);
- p. Location, design and construction materials of all energy distribution facilities, including electric, gas;
- q. Location, size and design and construction materials of all proposed signs;
- r. Location and proposed development of all buffer areas including existing vegetative cover;
- s. Location and design of outdoor lighting facilities;
- t. Designation of the amount of building area proposed for retail sales or similar commercial activity;
- u. General landscaping plan and planting schedule; and,
- v. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any State or County permits required for the project's execution.
- w. Erosion Control Plan showing temporary measures to be used during temporary construction as well as permanent measures. See Town of Cohocton Storm Water & Erosion Control Plan.
- x. SEQRA Environmental Assessment Form, short or long form as required.

3. **Planning Board Review of Site Plan:** The Planning Board's review of a site plan shall include as appropriate, but is not limited to, the following:
- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road width, pavement surfaces, dividers and traffic control;
  - b. Adequacy and arrangement of pedestrian traffic access and circulation, walkways, structures, control of intersections, with vehicular traffic and overall pedestrian convenience;
  - c. Location, arrangement, appearance and sufficiency of off-street parking and loading;
  - d. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;
  - e. Adequacy of stormwater and drainage facilities;
  - f. Adequacy of water supply and sewage disposal facilities;
  - g. Adequacy, type, size and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between applicant's and adjoining lands, including the maximum retention of existing vegetation;
  - h. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
  - i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features;
  - j. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants; and,
  - k. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
4. **Consultant Review:** The Planning Board may consult with the Zoning Officer, Fire Commissioners, County Planning Board, other local and County officials and its designated private consultants, in addition to representatives of Federal and State agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.
5. **Referral to County Planning Board:** When the Application is for a development within five hundred feet (500') from any boundary of the Town, or from any County or State road or highway, or from any County or State park or other recreation area, the Planning Board shall promptly send to the Steuben County Planning Board a copy of

the complete Application for review. Within thirty (30) days, the County planning board shall report its approval, disapproval, or approval subject to stated conditions. Failure to report within such period shall be deemed to be approval. If the County planning board disapproves, or recommends modification of the proposal, the Planning Board shall not act to the contrary except by vote of a majority plus one of all the members thereof adopting a Resolution fully setting forth the reasons therefor.

6. **Planning Board Action on Site Plan:** The Planning Board shall render a decision within sixty-two (62) days after the submission of a complete Site Plan, or public hearing if such is required. If no decision is made within sixty-two (62) days, the Site Plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the Site Plan is approved, disapproved or approved with modifications.

If the Site Plan is disapproved, the Planning Board's statements will contain the reasons for such findings.

In case of disapproval, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after it has been revised or redesigned. Failure of applicant to make any required modification will result in the disapproval of Site Plan application.

7. **Reimbursable Costs:** Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a Site Plan shall be charged to the applicant.
8. **Inspection of Improvements:** The Zoning Officer shall be responsible for the overall inspection of site improvement, including coordination with other officials and agencies, as appropriate.
8. **Integration of Procedures:** Whenever the particular circumstances of a proposed development requires compliance with either the requirements of the Subdivision Regulations, S.E.Q.R., or other requirements, 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 regulations.

### **730: SPECIAL USE PERMIT**

1. **Purpose:** Special Permit Uses designated in **Section 310** are hereby declared to be generally appropriate for development in the districts in which they are allowed. Nevertheless, their location, design, and site preparation require particular attention in order to prevent or minimize undesirable affects on nearby properties or on the general welfare of the Town. For that reason such uses shall be allowed only pursuant to a Special Use Permit, as hereinafter provided.
2. **Application:** No site preparation shall be initiated nor development undertaken for any purpose allowable by a Special Use Permit, as designated in **Section 310** except in accordance with a Special Use Permit duly issued by the Planning Board.

3. No Special Use Permit shall be issued for any property where there exists a violation of these Regulations, except that one may be issued for the purpose of correcting such violation.
4. **Pre-application:** The applicant shall, first, obtain an "Application for a Special Use Permit" from the Zoning Officer, and may at that time seek advice on his proposal.
5. **Submittal:** The completed Application shall be given to the Zoning Officer together with the required supplemental information and the required fee. The Zoning Officer shall determine when the information supplied constitutes a complete and reviewable Special Use Permit Application, and shall promptly send the complete Application to the Chairperson of the Planning Board. The Application shall be deemed submitted to the Board at its next regularly scheduled meeting, or, at the Chairperson's discretion, at a special meeting called for that purpose.
6. **Referral to County Planning Board:** When the Application is for a development within five hundred feet (500') from any boundary of the Town, or from any County or State road or highway, or from any County or State park or other recreation area, the Planning Board shall promptly send to the Steuben County Planning Board a copy of the complete Application for review. Within thirty (30) days, the County planning board shall report its approval, disapproval, or approval subject to stated conditions. Failure to report within such period shall be deemed to be approval. If the County planning board disapproves, or recommends modification of the proposal, the Planning Board shall not act to the contrary except by vote of a majority plus one of all the members thereof adopting a Resolution fully setting forth the reasons therefor.
- 7.a. Planning Board shall review the Application and may examine the site of the proposal. It shall determine whether the development as proposed meets all applicable requirements of **Subsection 720.3.**
- b. **Public Hearing:** The Planning Board shall conduct a public hearing on the proposed Special Use Permit. The date of the public hearing shall be within sixty-two (62) days of the receipt of the application by the Board, and shall be advertised in a newspaper or general circulation in the Town, at least ten (10) days before the public hearing.
8. **Standards:**
  - a. To guide its decision in the matter, the Planning Board shall prepare written findings stating how the proposed development would or would not meet the performance standards listed in the following paragraphs, as well as applicable standards and requirements set forth in other sections of this Law. In authorizing a Special Use Permit, the Board may require reasonable and necessary modifications of and attach conditions to the proposed development.
  - b. **General Standards:** A development allowable by Special Use Permit shall be located and designed to be generally compatible with other properties in the vicinity, in terms of overall appearance and external evidence of normal operation; appropriate screens or buffer areas may be used to help meet this standard.

c. Specific Standards: A development allowable by Special Use Permit shall meet each of the following standards that is applicable to that proposal:

- 1) The development shall be located where normal operation will not cause an unreasonable increase of traffic on public roads in the vicinity.
- 2) Vehicular entrances and exits, drives, and off-road parking and loading areas shall be designed for safe traffic movement, under normal use, and for unimpeded access by emergency vehicles.
- 3) Pedestrian ways shall be clearly separate from vehicular traffic, with crossing points clearly marked or otherwise controlled for safety; if intended to serve the general public, the development shall include at least one access way designed to accommodate physically handicapped persons.
- 4) The development shall be designed to avoid unnecessary grading, and to preserve large trees and other attractive existing site features to the extent practicable.
- 5) The development shall be designed so that storm water will not be harmfully channeled onto adjacent properties, and there will be no soil erosion onto adjacent properties.
- 6) Facilities and areas for solid waste handling, parking, and other service functions shall be located and designed to protect other properties and passersby from unsightly conditions, dust and trash, fumes and odors, glare, and noise.
- 7) Signs shall be visually compatible with their surroundings.
- 8) Buildings and other structures shall be located and designed to cause no unreasonable impairment of other properties' access to sunlight, air, and view.

9. Decision:

a. Within sixty-two (62) days after the public hearing, the Planning Board shall issue its decision, and shall promptly send one copy each to the applicant, the Zoning Officer, and the Town Clerk. Such period may be extended by agreement between the Board and applicant. The record, including the complete Application, shall be filed promptly in the Board's records.

b. In its decision, the Board may:

- 1) decline to issue a Special Use Permit for the development, stating the reasons therefor; or,
- 2) issue a Special Use Permit for the development with modifications or other conditions set by Board, stating the reasons therefor; or,



3) issue a Special Use Permit for the development as proposed in the Application.

10. **Issuance of the Special Use Permit:**

- a. **Site Preparation:** The Special Use Permit shall be issued promptly by the Zoning Officer according to the decision of the Planning Board. It shall incorporate by reference the complete Application, together with any modifications set by the Board. After receiving it, the applicant may begin site preparation. All such work shall be consistent with the Permit. During the course of the work, the Zoning Officer shall inspect the site to ensure compliance with the Permit.
- b. **Lapse:** When site preparation has not been begun within ninety (90) days, or has not been completed within two (2) years, of the date of the Special Permit, the Special Permit shall lapse. However, the Planning Board may approve a request for reasonable extension, when the applicant shows that circumstances supporting the original Permit have not changed.

**735: OBTAINING A CERTIFICATE OF COMPLIANCE**

1. **Application Procedure:**

- a. **Certificate Required:** A Certificate of Compliance shall be obtained from the Zoning Officer by an applicant before beginning any use pursuant to a Zoning Permit, Special Use Permit, or Variance. The Certificate shall state that all site preparation has been properly completed, and the use is allowable, in accordance with these Regulations.
- b. **Application:** An "Application for a Certificate of Compliance" is part of any Application form for a Zoning Permit or Special Use Permit. A copy shall be filled out by the applicant after completing all site preparation, and then sent to the Zoning Officer.
- c. **Inspection:** The Zoning Officer shall promptly inspect the premises, and compare the same with the plans, specifications, conditions and other requirements set forth in the relevant permit.

**740: BOARD OF APPEALS**

1. **Creation, Appointment and Organization:** A Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board who shall also designate a Chairperson. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one shall hold office for the term of one (1) year, one for the term of two (2) years, one for the term of three (3) years, one for the term of four (4) years, and one for the term of

five (5) years, from and after expiration of terms of their predecessors in office. If a vacancy shall occur other than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.

2. **Powers and Duties:** The Board of Appeals shall have all the powers and duties prescribed by the Town Law of the State of New York, and by these Regulations which are more particularly specified as follows:
  - a. **Administration Review:** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of these Regulations. The Board shall hear and decide appeals where it is alleged that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of these Regulations.
  - b. **Interpretation:** Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of these Regulations, including determination of the exact location of any district boundary of there is uncertainty with respect thereto.
  - c. **Variance:** May authorize upon appeals in specific cases, such variance from the terms of these Regulations as will not be contrary to the public interest as provided for in **Section 755** herein.
3. **Staff:** The Board of Appeals may employ such staff assistance as may be necessary and prescribe their duties, provided that at no time shall expenses be incurred beyond the amount of the appropriation made by the Town Board for such use and then available for the purpose.
4. **Procedure - By-Laws - Forms:** The Board of Appeals shall have the power to make and adopt such written rules of procedure, by-laws and forms as they may deem necessary for the proper execution of their duties and to secure the intent of these Regulations.

Such rules, by-laws and forms shall not be in conflict with, nor have the effect of waiving, any provision of these Regulations or any other regulations of the Town of Cohocton.

5. **Meetings:** All meetings of the Board of Appeals shall be open to the public and shall be held at the call of the Chairman and at other times as the Board may determine. The concurring vote of a majority of all members of the Board shall be necessary to decide any matter on which the Board is required to rule.

6. **Records:** The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact.
7. **Board of Appeals Office:** The Office of the Town Clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by **Section 267** of the Town Law of the State of New York.

#### **745: PROCEDURES**

1. The Board of Appeals shall act in strict accordance with the procedure specified by law and by these Regulations. All appeals and applications for variance made to the Board shall be in writing, on forms prescribed by the Board and available from the Zoning Officer. Every appeal shall refer to the specific provision of these Regulations involved, every variance request shall set forth the details of the variance sought.
2. **Board of Appeals Hearings:** The Board shall fix a reasonable time for the hearing of appeals and requests for variance and shall give due notice of the time set for the hearing to the applicant. Such notice shall be by the publication of a notice in the official newspaper of the Town and shall briefly describe the nature of the appeal and the time and the place of the hearing.
  - a. **Public Hearing:** A notice shall be given at least ten (10) days in advance of public hearing. The owner of the property for which the appeal is made or a variance is sought or his agent shall be notified by certified mail. Owners of all properties within one hundred feet (100') of the subject property shall also be notified by certified mail, or by personal contact with written proof, by the applicant, on a form provided by the Zoning Officer, signed no less than seven (7) days prior to public hearing.
  - b. **Referrals Required:** At least ten (10) days prior to the date of any hearing by the Board of Appeals, notice shall be given to the Regional State Park Commissioner having jurisdiction over any State park or parkway within five hundred (500) feet of any property affected by such appeal and to the Steuben County Planning Board for any action affecting property within five hundred (500) feet of the boundary of any city, village or town, or from the boundary of any County or State park or other recreation area or from the right-of-way of any County or State highway, or from the right-of-way of any stream or drainage channel owned by the County or for which the County established channel lines, or from the boundary of any County or State-owned land on which a public building or institution is situated. Within thirty (30) days, the County Planning Board shall report its approval, disapproval, or approval subject to stated conditions. Failure to report within such period shall be deemed to be approval.

- c. The Public Hearing Shall Be Held: Any party may appear in person, or by agent or attorney.
- d. Stay of Proceedings: An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Officer certified that by reason of facts a stay would, in his opinion, cause imminent peril to life or property in which case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on an application, on notice of the Zoning Officer, and on due cause shown.

**750: DECISION: APPEAL OF ADMINISTRATIVE DETERMINATION**

- 1. Within sixty-two (62) days after the close of the public hearing, the Board shall issue its decision. It shall affirm the Zoning Officer's determination unless it shall find the error alleged, or other ground for reversal or modification. In that case the Board may make such order, requirement, decision or determination as it shall find to be correct, so that the spirit of these Regulations shall be observed, public safety and welfare secured, and substantial justice done.
- 2. Copies of the decision shall be sent promptly to the appellant, the Zoning Officer, and the Town Clerk. The appellant and the Zoning Officer shall then continue with the matter at hand, subject to the terms of the Board's decision and Article 78 procedures.

**755: STANDARDS FOR VARIANCE**

No variance in the strict application of these Regulations shall be granted by the Board of Appeals unless and until it finds that the following facts and conditions exist:

1. **Use Variance:**

- a. If the appellant seeks a variance in order to establish or maintain a use not allowed in the district, the Board shall grant the relief sought only if it finds substantial factual evidence in the record that the appellant would otherwise be subject to unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the Zoning Law for the particular district where the property is located:
  - 1) The applicant cannot realize a reasonable return, provided that 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, will not alter the essential character of the neighborhood;
  - 4) That the alleged hardship has not been self-created;

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

2. **Area Variance:**

- a. If the appellant seeks a variance from the allowable minimum lot area, or lot width, or depth of required yards, and/or maximum allowable building height in the district, the Board 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 or district; 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.
- b. The Board of Appeals, in the granting of area variances, shall grant the minimum variance in 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.

3. **Imposition of Conditions:** The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**760: DECISION: REQUEST FOR VARIANCE**

1. **Time:** Within sixty-two (62) days following the close of the hearing, the Board shall issue its decision. Copies shall be sent promptly to the appellant, Zoning Officer, and Town Clerk.
2. **Vote:** The concurring vote of a majority of the members of the Board shall be necessary to grant a variance, except that the concurring vote of a majority plus one of the members shall be required for a decision contrary to a negative or conditional approval recommendation of the County Planning Board.
3. **Order:** If relief is granted, it shall be in the form of an Order of Variance directed to the Zoning Officer, fully describing the variance granted. The Order shall become effective promptly, shall be observed strictly, and shall be enforceable in the same manner as any provision of these Regulations. The Board may attach any reasonable conditions deemed necessary to safeguard nearby properties, and protect the public health, safety, and general welfare.
4. **Lapse:** Any variance authorized by the Board of Appeals that is not exercised within one (1) year from the date of issuance shall expire automatically without a further hearing by the Board.

**765: ENFORCEMENT**

1. **Policy:** It is hereby declared to be in the interest of the public health, safety, and general welfare, that all reasonable efforts shall be made to prevent or to correct as promptly as possible any condition that violates these Regulations, in preference over action to seek punishment of the person responsible for the violation.
2. **Administrative Actions:**
  - a. **Complaint:** Whenever a violation of these Regulations is alleged, any resident of the Town may file a written complaint. Such complaint, stating fully the basis thereof, shall be filed with the Zoning Officer, who shall record properly all such complaints, immediately investigate, and take action thereon as provided herein.
  - b. **Notice of Violation:** Whenever the Zoning Officer finds a violation, he shall promptly send a written Notice to the person responsible therefor, stating the nature of the violation and any appropriate corrective steps. The Zoning Officer also may give such Notice verbally. The Notice shall advise the recipient that each week the violation continues shall constitute a separate additional violation of these Regulations, and may be punishable accordingly.
  - c. **Permit Violation:** Whenever the Zoning Officer finds a violation of a duly issued Zoning Permit or Special Use Permit, before a Certificate of Compliance has been issued, his Notice shall advise that such Certificate shall not be issued until the violation has been corrected; and, that to begin use of the premises without a Certificate of Compliance is a violation of these Regulations.

- d. Order to Cease: Whenever a violation is maintained, after due Notice, beyond what the Zoning Officer considers under the circumstances to be a reasonable period, he shall send an Order by certified mail to the owner of record of the premises. Such Order shall direct the immediate discontinuance of all construction, occupance, or use of buildings, other structures, and land in violation of these Regulations, and if appropriate the removal of any illegal building or other structure, illegal additional thereto, or illegal alteration thereof. Such Order shall advise that failure to comply may result in the Town's bringing civil and/or criminal action or proceedings. Copies of such Order shall be filed by the Zoning Officer with the Town Clerk and Town Attorney.
- e. Appeal: Any person aggrieved by such a Notice or Order of the Zoning Officer may appeal for Administrative Review of the matter, as provided by **Section 745.1**, which shall take preference over any other matter before the Board of Appeals. During the course of the appeal, until the Board of Appeals issues its decision, the passage of each week shall not be deemed to mark a separate violation of these Regulations.

### 3. Remedial Actions:

- a. Action by Town: Whenever any building or other structure is erected, constructed, reconstructed, altered, converted or maintained, or any building or other structure or land is used or occupied, in violation of these Regulations, the proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such violation. Such action shall be taken promptly whenever the Town Board finds that continued violation is likely to place in imminent peril the public health, safety, or general welfare. The Town Board, by resolution, may authorize the Zoning Officer to institute such action or proceedings.
- b. Action by Taxpayers: Such action or proceedings, if not initiated by the proper Town authorities within ten (10) days after written request by a resident taxpayer to so proceed, may be initiated by any three taxpayers of the Town, resident in the district wherein such violation exists and severally or jointly aggrieved thereby, in the same manner as such Town authorities are authorized to do.
- c. Monetary Penalty: The Town or complainants may seek monetary penalties, which shall not exceed the fines provided for in **Subsection 765.4**, below.

### 4. Criminal Proceedings:

- a. Procedure: Whenever a violation of these Regulations is continued in a willful manner following service of an Order to cease, the Zoning Officer shall serve an appearance ticket on the responsible party, file an Information with the Town Justice, and notify the Town Supervisor thereof.
- b. Jurisdiction: A violation of these Regulations is hereby declared to be an offense, triable by the Town Justice or other magistrate without a jury.

- c. Separate Offenses: Each week's continued violation, prior to the Zoning Officer's filing of the Information with the Town Justice and following the Notice of violation, shall constitute a separate additional offense.
  
- d. Penalty: A violation of these Regulations is punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both.

**770: COURT REVIEW**

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under **Article Seventy-eight of the Civil Practice Law and Rules**. Such proceeding shall be instituted within thirty (30) days after the filing of such a decision in the office of the Town Clerk.

**775: FEES**

No action shall be taken on any application or appeal pursuant to the provisions of this Local Law until all applicable fees shall have been paid. All required fees shall be paid by the applicant at the office of the Town Clerk upon the filing of an application.

The Town Board is authorized to establish a schedule of fees to be paid upon an application, which schedule of fees is incorporated herein as if fully stated. Such schedule of fees and any amendments thereto shall be filed in the office of the Town Clerk.

The Town Board may amend such schedule of fees from time to time by resolution.

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## ARTICLE VIII    AMENDMENTS

### **800: PROCEDURE**

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

### **810: ADVISORY REPORT BY PLANNING BOARD**

Every proposed amendment unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board disapproves the proposed amendment or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution by a vote of a majority plus one, fully setting forth the reasons for such contrary action.

### **815: PUBLIC NOTICE AND HEARING**

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

1. By publishing a notice of the proposed amendment and the time and place of the public hearing in the official newspaper of the Town, not less than ten (10) days prior to the date of public hearing.
2. **County Referral:** By giving written notice of hearing to any required municipal, County or State agency in the manner prescribed in **Article 12-B, Section 239** of the **General Municipal Law**. If such County Planning agency disapproves the proposal or recommends modification thereof, the municipal agency having jurisdiction shall not act contrary to such disapproval or recommendation except by a majority plus one vote of all the members and upon the adoption of a resolution fully setting forth the reasons for such contrary action.

### **820: PROTEST BY OWNERS**

If a protest against a proposed amendment is presented to the Town Board duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto, such amendment shall not be passed except by the favorable vote of a majority plus one of the members of the Town Board.

### **825: PUBLICATION AND POSTING**

Every amendment to these Regulations, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board and a copy thereof exclusive of any map incorporated therein, shall be published once in the official newspaper of the

Town and a copy of such amendment together with a copy of any map incorporated therein, shall be posted on a sign board maintained by the Town Clerk pursuant to the Town Law. Affidavits of the publication and posting thereon shall be filed with the Town Clerk.

**830: PERIODIC REVIEW**

When these Regulations shall have been in effect for one (1) year and each successive five (5) years thereafter, a review committee consisting of the Zoning Board of Appeals, the Planning Board and the Zoning Officer shall review these Regulations in their entirety and submit a report to the Town Board and in accordance with **Section 815.2**, recommending needed amendments of these Regulations.

If said report calls for amendments to these Regulations, the Town Board shall immediately proceed to enact said amendments unless action to the contrary shall be authorized by a proper resolution supported by a vote of a majority plus one of the Town Board.

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## ARTICLE IX INTERPRETATION AND APPLICATION

### **900: INTERPRETATION**

In this interpretation and application, the provision of these Regulations shall be held to be minimum regulations adopted for the promotion of the public health, safety and the general welfare.

Whenever the requirements of these Regulations are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

### **905: SEPARABILITY**

Should any section or provision of these Regulations be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulation as a whole or any part thereof, other than the part so decided to be unconstitutional or invalid.

### **910: EFFECTIVE DATE**

These Regulations shall be in effect upon its passage, posting and publication as provided by law.

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## ARTICLE X    DEFINITIONS

### 1000: TERMINOLOGY

For the purposes of these Regulations, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Words used in the present tense include the future tense.

The singular includes the plural.

The word "shall" is mandatory.

The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.

The word "lot" includes the words plot or parcel.

### 1010: DEFINITIONS

**ACCESSORY USE OR STRUCTURE:** A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure.

**AGRICULTURE:** The use of land for agricultural purposes including tilling of the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry, and sales, and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals.

**ALTERATION, STRUCTURAL:** Any change in the supporting members of the structure.

**BED AND BREAKFAST:** Owner-occupied one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten (10) transient lodgers, containing at least three (3) but not more than five (5) bedrooms for such lodgers.

**BUILDING:** Any structure which is permanently affixed to the land, has one or more stories and a roof, and is intended for the shelter, housing or enclosures of persons, animals or chattel.

**BUILDING HEIGHT:** The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks and similar projections.

**CAMPGROUND:** A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable, temporary dwellings.

**CLUB, MEMBERSHIP:** An organization catering exclusively to members and their guests, including structures and premises for recreational or athletic purposes, which are not conducted primarily for gain, not including any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**CLUSTER DEVELOPMENT:** A development of residential lots each containing less than the minimum lot required for the zone within which such development occurs but maintaining the density limitations imposed by said minimum lot area through the provision of open space as part of the subdivision plan.

**COMMERCIAL VEHICLE:** A vehicle of more than one-ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying a permanent affixed sign exceeding one square foot in area or lettering of a commercial nature.

**DWELLING:** Any building or portion thereof designed or used exclusively as a residence or sleeping place of one (1) or more persons, including a mobile home.

**SINGLE-FAMILY:** A detached residential dwelling designed for and occupied by one family only.

**TWO-FAMILY:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**MULTIPLE-FAMILY:** A residential building designed for or occupied by three (3) or more families with the number of families in residence not exceeding the number of dwelling units provided.

**MOBILE HOME:** A single-family dwelling unit built on a chassis, having a body width exceeding eight (8) feet and a body length exceeding thirty-two (32) feet and containing complete bathroom and kitchen facilities, suitable for long-term occupancy when connected to utilities.

**SEASONAL HOME:** A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including beach cottages, hunting cabins, vacation cottages, summer cottages, and vacation lodges.

**DWELLING UNIT:** One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms, or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

**EXCAVATION:** The taking of topsoil, earth or natural deposits of solid material found in or on the earth from the premises or the moving of said materials from one part of the premises to another in

quantities exceeding twenty-five (25) cubic yards, except when incidental to the construction of a building.

**ESSENTIAL SERVICES:** Erection, construction, alteration, operation or maintenance by municipal agencies or public utility of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

**FAMILY:** One or more persons related by birth, marriage or other domestic bond, living as a single non-profit housekeeping unit.

**FARM:** Any parcel containing ten (10) acres or more of land which is used for gain in the raising of agricultural crops or producing agricultural products with the minimum annual gain being ten thousand dollars (\$10,000.00).

**FARM BUILDING:** Any building used for the housing of equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products, and providing that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this article. The term "farm building" shall not include "farm dwelling".

**FENCE:** Any construction of wood, metal wire mesh, masonry, or other material erected for the purpose of assuring privacy or protection enclosing wholly or partially a lot or part of a lot.

**GARAGE (PARKING):** A principal or accessory structure other than a private garage used for parking or temporary storage of passenger automobiles, and in which no service is provided for remuneration.

**GARAGE, (PRIVATE):** An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted therein nor space therein for more than one car is leased to a non-resident of the premises.

**GARAGE, (PUBLIC):** Any garage other than a private garage, available to the public, operated for gain, and which is used for sales, storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

**HOME OCCUPATION:** An occupation conducted in a dwelling unit subject to **Section 416** of these Regulations.

**JUNK YARD:** A lot, land or structure or part thereof used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof as defined in **General Municipal Law Section 136**. Two (2) or more disabled, unlicensed or inoperable vehicles allowed to remain unhoused on a premises more than thirty (30) days will constitute a junk yard.

**KENNEL:** Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed, groomed, bred, boarded, trained or sold.

**LANDFILL, SANITARY:** A designated area where solid waste may be placed for disposal under the direction and supervision of a designated person, which area is located and operated in compliance with the requirements of the State.

**LIVING AREA:** The enclosed floor space including kitchen and bath facilities, available in a dwelling unit.

**LOADING SPACE, OFF-STREET:** Space logically and conveniently located for bulk pickups and deliveries scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-highway parking spaces are filled.

**LOT:** For the purposes of these Regulations, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an approved public highway and may consist of:

- a) A single lot of record;
- b) A portion of a lot of record;
- c) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- d) A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these Regulations.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these Regulations.

**LOT OF RECORD:** A lot which is a part of a subdivision recorded in the office of the Steuben County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT WIDTH:** The distance between the two side lot lines measured at the required setback line.

**MOBILE HOME:** See "DWELLING".

**MOBILE HOME PARK:** Plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodations.

**MOTEL:** A building or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters with direct outside access and related office and with or without

restaurant cocktail bar facilities, designed primarily for travelers and provided with accessory off-street parking facilities. The term "**MOTEL**" includes buildings, designed as tourist courts, motor lodges, auto courts and other similar appellations, but shall not be construed to include parking areas for **HOUSE TRAILERS** or **MOBILE HOMES**, or to include **DWELLING UNITS**, except for that of the owner or manager.

**MUNICIPAL PARKS:** Parks and playgrounds established and operated by the Town.

**NON-CONFORMING STRUCTURE OR USE:** A building, structure or use of land existing at the time of enactment of these Regulations and which does not conform to the regulations of the zoning district in which it is located.

**NURSING HOME:** A building other than a hospital where persons are lodged, furnished with meals and nursing care for hire.

**PARKING GARAGES OR LOTS (PUBLIC):** Structures in which automobiles may be parked in consideration of the payment of a fee.

**PERFORMANCE STANDARDS:** The standards which are to be used for technical examination or testing of alleged nuisances.

**PLACE OF PUBLIC ASSEMBLY:** A place of public assembly includes a building or a portion of a building used for gathering together fifty (50) or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes.

**PLANNED UNIT DEVELOPMENT:** An area of land, in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards than would normally apply under these Regulations, the approval of which involves requirements in addition to those of the standard subdivision, such as building design and landscaping.

**PROFESSIONAL OFFICES:** The use of offices and related spaces for such professional services as are provided by medical practitioners, attorneys, architects, engineers and similar professions.

**PRODUCE MARKET:** A market for the sale of farm products at retail.

**QUASI-PUBLIC USE:** Churches, Sunday Schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic nature.

**RECREATION EQUIPMENT, MAJOR:** Shall include travel trailers, campers, pickup coaches, motorized homes, boats, boat trailers and snowmobiles.

**RESTAURANT:** Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. This includes restaurants with drive-in facilities. However, a snack bar or refreshment stand at a public or quasi-public or community swimming pool, playground or park operated by the agency or group or an approved vendor



operating the recreational facilities and for the convenience of the patrons of the facility, shall not be deemed to be a restaurant.

**ROADSIDE STAND:** A wholly or partly enclosed shed for the sale of products produced on the land where sold, which stand shall be located so as to permit customers to drive completely off the highway while dealing.

**SERVICE STATION:** Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where in addition, the following services may be rendered and sales made and no other:

- a) Sale and servicing of spark plugs, batteries, distributors and distributor parts;
- b) Tire servicing and repair, but no recapping or regrooving;
- c) Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- d) Radiator cleaning and flushing;
- e) Washing and polishing and sale of automotive washing and polishing materials;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, water pumps and lines;
- h) Minor servicing and repair of carburetors;
- i) Emergency wiring repairs;
- j) *Minor motor adjustments not involving removal of the head or crankcase or racing the motor;*
- k) Adjusting and repairing the brakes;
- l) *Sales of cold drinks, packaged foods, tobacco and similar convenience goods for filling station customers as accessory and incidental to principal operations;*
- m) Provision of road maps and other informational material to customers, provision of restroom facilities; and,
- n) State inspections.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work

involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

**SHORT-TERM DEVICE:** Tents, camping vehicles, trailers, cabins or other shelter devices, intended or used for occupancy by people as temporary shelter or living quarters.

**VETERINARY HOSPITAL:** A structure where small pets are medically treated, including escape-proof pens which may be located outside the structure, provided that no nuisance is created thereby.

**SPECIAL PERMIT USES:** Those particular uses which are specifically permitted in a given district only when specific criteria enumerated herein is applied in such a manner so as to carry out the intent of these Regulations.

**STREET LINE:** The right-of-way of a street.

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, storage tanks, billboards and poster panels.

**STRUCTURE, AGRICULTURAL:** Customarily non-residential farm structures including barns, silos, storage sheds, corn cribs, grain bins, milkhouses, animal pens and similar structures when used in connection with agricultural activities.

**SWIMMING POOL:** An artificial pool of water having a depth at any point of more than eighteen (18) inches and a surface area of greater than one hundred (100) square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment. Farm ponds are not considered swimming pools for the purposes of these Regulations.

**TOWN BOARD:** The governing body of the Town of Cohocton.

**TRAVEL TRAILER:** See "RECREATIONAL EQUIPMENT, MAJOR".

**VARIANCE:** A modification of the regulation of this Local Law, pursuant to the provisions in **Section 655**.

**YARD:** A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**YARD, FRONT:** A space extending between side lot lines across the front of a lot adjoining a public highway measured from the centerline of the highway.

**YARD, SIDE:** A yard extending from the rear line of the required front yard to the rear line or in the absence of any clearly defined rear lot line to the point on the lot farthest from the

intersection of the lot line involved with the highway. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots, yards remaining after full and half-depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot lines.

**YARD, REAR:** A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

**YARD, SPECIAL:** A yard behind any required yard adjacent to a highway, required to perform the same function as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "**SIDE YARD**" nor the term "**REAR YARD**" clearly applies. In such cases, the Zoning Officer shall require a yard with the minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

**ZONING COMPLIANCE CERTIFICATE:** A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with these Regulations.

**ZONING DISTRICT:** A geographic subdivision of and with the Town of Cohocton as delineated on the Official Zoning Map for which the requirements of these Regulations governing the uses, densities, yards, etc., are uniform therein.

**ZONING OFFICER:** The official designated to administer and enforce these Regulations.

**ZONING PERMIT:** A document issued by a Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with these Regulations.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of ~~19~~ 2002 of the ~~(County)(City)(Town)(Village)~~ of Cohocton was duly passed by the Cohocton Town Board on April 24 ~~19~~ 2002, and was (approved)(not approved)(repassed after disapproval) by the Cohocton Town Supervisor and was deemed duly adopted on April 24 ~~19~~ 2002, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph----2-----, above.

*Sandra Riley*

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body  
Sandra Riley, Cohocton Town Clerk

(Seal)

Date: April 24, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF Steuben

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Patrick F. McAllister*  
\_\_\_\_\_  
Signature

Cohocton Town Attorney  
\_\_\_\_\_  
Title

~~County~~  
~~City~~ of Cohocton  
Town  
~~Village~~

Date: April 24, 2002

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Cohocton
- Town
- Village

FILED  
STATE RECORDS

MAR 02 2010

Local Law No. 1 of the year 20 10 DEPARTMENT OF STATE

A local law amending Local Law No. 1 of 2002  
*(Insert Title)*

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Be it enacted by the Cohocton Town Board of the  
*(Name of Legislative Body)*

- County
- City of Cohocton as follows:
- Town
- Village

A. Section 1010 of Local Law Number 1 of 2002 shall be amended to include the following definition: "BULK STORAGE TANK – A storage tank in which liquids, gases or solids are stored or blended for the purpose of distribution by tank vessel, tank car, tank vehicle, portable tank or portable container. Any storage tank which serves more than one premises or from which any portion of its contents is utilized on a parcel other than where the tank is situated shall be classified as a bulk storage tank.

B. Section 310 of Local Law Number 1 of 2002 shall be amended to include under Special Permit Uses, the following: "bulk storage tanks with a capacity of 30,000 gallons or less used for commercial purposes in conjunction with an existing active use for agricultural farming activities."

### C. Requirements

1. No bulk storage tank used to hold propane shall be permitted without a Special Use Permit having first been issued in full compliance with Local Law Number 1 of 2002.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

2. No bulk storage tank used to hold propane shall be permitted within three hundred (300) feet of a dwelling.

3. No bulk storage tank used to hold propane shall be permitted within fifty (50) feet of any Town or County road.

4. No bulk storage tank used to hold propane shall be permitted within fifty (50) feet of any building that is not a dwelling.

5. No bulk storage tank used to hold propane shall be permitted without a valve locking safety device and/or a six (6) feet high chain link lockable fence surrounding all valves and piping.

6. Any permitted bulk storage tank used to hold propane shall have a safety shutoff system, which safety system shall be in compliance with the special use permit requirements.

7. Any bulk storage tank used to hold propane shall meet all New York State standards, and any amendments thereto. Such standards shall be reviewed annually by the Town of Cohocton Code Enforcement Officer and such standards, or amendments thereto, shall be complied with by the owner of the property upon which such tank is located.

8. Any and all bulk storage tanks must comply with the zoning law of the Town of Cohocton and with all applicable, local, state, and federal laws, rules or regulations regarding bulk storage tanks, propane storage, gas storage or any other fuel storage.

9. No bulk storage tank permitted by Special Use Permit hereunder shall be filled or utilized for any purpose without a Certificate of Compliance or Operating Permit by the Town of Cohocton Code Enforcement Officer first having been issued in full conformity with this Local Law, Local Law Number 1 of 2002, and all requirements of the Special Use Permit. All such bulk storage tanks shall require a Certificate of Compliance or Operating Permit every three (3) years following inspection by the Town of Cohocton Code Enforcement Officer.

D. Any person or persons, firm or corporation violating any of the provisions of this local law or neglecting to comply with any order issued pursuant to any section thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to fine of not more than five hundred dollars (\$500.00) for each offense. Each day that said violation is permitted to exist beyond the period fixed in the order so issued shall be a separate offense. In default of payment, said offender shall be imprisoned not to exceed thirty (30) days for each offense.

E. This Local Law shall take effect upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 10 of the ~~(County)(City)(Town)(Village)~~ of Cohocton was duly passed by the Cohocton Town Board on February 8, 20 10, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

Sandra J. Riley  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body **Sandra Riley**

Date: 2-22-2010

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister  
Signature **Patrick F. McAllister**  
Attorney  
Title

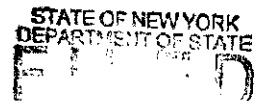
~~XXXXXX~~  
~~XXXX~~ of Cohocton  
Town  
~~XXXXXX~~

Date: 2-22-2010

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.



- County
- City of Cohocton
- Town
- Village

MAY 07 2007

Local Law No. 1 of the year 20<sup>07</sup>

A local law providing that no exemption under Real Property Tax Law  
(Insert Title)  
Section 487 be applicable within our jurisdiction with  
respect to any solar or wind energy system or farm waste  
energy system.

Be it enacted by the Town Board of the  
(Name of Legislative Body)

- County
- City of Cohocton as follows:
- Town
- Village

## SECTION 1: LEGISLATIVE INTENT

It is the intent of this Local Law to provide no exemption from taxation as authorized in Real Property Tax Law §487.

## SECTION 2: EXEMPTION FROM TAXATION

No exemption from taxation shall be applicable with respect to any solar or wind energy system or farm waste energy system.

## SECTION 3: EFFECTIVE DATE

This Local Law shall take effect immediately upon passage.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**SECTION 4:**

Certified copies of this resolution shall be forwarded to the New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, NY 12210-2714; New York State Energy Research and Development Authority, 17 Columbia Circle, Albany, NY 12203-6399; Steuben County Industrial Development Agency, P.O. Box 3939, Bath, NY 14810; Donna Hatch, Director Real Property Tax Service Agency.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 07 of the ~~(County)(City)(Town)(Village)~~ of Cohocton was duly passed by the Town Board on 4/23 20 07, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

*Sandra J. Riley*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body Sandra Riley

(Seal)

Date: April 24, 2007

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Patrick F. McAllister*

Signature Patrick F. McAllister  
Town Attorney

Title

~~County~~

~~City~~

of

Cohocton

Town

~~Village~~

Date: April 24, 2007