Town of Hornellsville
Town Board Meeting
Public Hearing Local Law #1-2013
Time: 7:00 P.M.
May 14, 2013

Present: Supervisor Kenneth Isaman
Board Member Ronald Kennell
Board Member William Giese III
Board Member Graham Marcus

Absent: Board Member James Giglio
Town Clerk Sheryl Isaman

Public Hearing on Local Law #1-2013 – Amending Town of Hornellsville Zoning Ordinance.

Supervisor Isaman went over the changes to the existing Ordinance for the board and public.

Motion made by Kennell and seconded by Giese to close Public Hearing at 7:15 p.m.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

MINUTES

Motion made by Kennell and seconded by Marcus to accept minutes of April 9, 2013.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

PAY BILLS

General #138-172	$ 8,799.38
Highway #60-83	112,962.41
Total Bills	$ 121,761.79

Motion made by Giese and seconded by Marcus to pay bills as audited.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

TOWN CLERK'S REPORT – SHERYL ISAMAN

Town Clerk's Report read by Supervisor Isaman with fees for the month of April in the amount of $898.00.

Motion made by Marcus and seconded by Kennell to accept report as read.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

JUSTICE REPORTS – GRAHAM MARCUS

Justice Reports read by Board Member Marcus with Justice Howard Plank with fees of $6955.00 and Justice Gretchen McManus with fees of $3260.00 for the month of April 1, 2013.

Motion made by Kennell and seconded by Giese to accept report as read.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

ASSESSOR REPORT – DAVID WEEKS

Assessor David Weeks gave Town Board a report regarding the Assessor's progress with Grievance Day coming up and sitting with the roll and also told Town board that the Town of Hornellsville was at 100% Equalization Value and that home sales were very few at the moment.

Motion made by Kennell and seconded by Marcus to accept the report.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

PLANNING BOARD REPORT – MARCIA ROSS, CHAIRMAN

Supervisor Isaman read report of the Planning Board's last meeting with a couple of splits that were passed.

Motion made by Giese and seconded by Kennell to accept report as read.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

BUILDINGS/INSURANCE/FIRE DEPARTMENT REPORT – WILLIAM GIESE III

Told board of the work being done on the Highway Building and how great it was looking with repairs that needed to be done.

Motion made by Kennell and seconded by Marcus to accept report.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

HIGHWAY REPORT – JASON EMO, HIGHWAY SUPERINTENDENT

Highway Report given by Commissioner Ronald Kennell regarding the activities of the Highway Department for the month of April 2013.

Motion made by Marcus and seconded by Giese to accept report as read.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

SUPERVISOR'S REPORT – KEN ISAMAN – FINANCIAL REPORT ATTACHED

Motion to accept report by Kennell and seconded by Giese.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

NEW BUSINESS

Supervisor Isaman told public that the Town Board had filled out the SEQR Full Environmental Assessment form for the Town and because there was no negative effect on the Town, therefore, the Town declares a **Negative Impact** due to these changes.

Motion made by Kennell and seconded by Giese to adopt the Negative Declaration for Local Law #1-2013.

LOCAL LAW #1-2013 – ZONING ORDINANCE

WHEREAS, THE TOWN OF HORNELLSVILLE desires to upgrade its current Zoning Ordinances, which were adopted December 8, 1992, and

WHEREAS, THE TOWN OF HORNELLSVILLE wishes to clarify some procedural policies, Add Definitions, removal of outdated Flood Plain Regulations and add Special Uses to some districts,

THEREFORE, BE IT RESOLVED, THAT THE TOWN OF HORNELLSVILLE, does hereby ADOPT LOCAL LAW #1-2013.

THIS LOCAL LAW#1 OF 2013 WILL TAKE EFFECT UPON FILING WITH THE SECRETARY OF STATE.

Motion made by: Ken Isaman

Seconded by: Ronald Kennell

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried. May 14, 2013

BOARD MOTIONS TO AMEND 2013 BUDGET

1. Increase Estimated Revenues in Highway Outside (DB3501) $2485.00 and increase appropriations in same fund (DB5112.2) $24845.00.
   Motion needed due to increased funding for CHIPS by the NYS legislature.

2. Increase Estimate Revenues in General Fund Justice Grant (A3986) $6500.00 and Increase Appropriations in the same fund Justice Contractual (A1110.4) $6500.00.
   Motion needed to record grant received by Department of State.

3. Increase Unexpended Balance in General Fund $770.00 and Increase Appropriations in the same fund (A1950.4) $770.00.
   Motion needed to pay the County for taxes.

Motion made by Kennell and seconded by Marcus to amend all three budget amendments.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

ADJOURN

Motion made by Marcus and seconded by Kennell to adjourn at 7:50 p.m.

Roll Call: Isaman, Kennell, Giese, Marcus, all ayes. Carried.

Respectfully submitted,

Sheryl Isaman

Sheryl Isaman
Town Clerk
May 15, 2013

P.S. Minutes taken by Supervisor Isaman

MONTHLY STATEMENT OF THE SUPERVISOR TO THE TOWN BOARD

TOWN OF HORNELLSVILLE

PURSUANT TO SECTION 119 OF TOWN LAW, I HEREBY RENDER THE FOLLOWING STATEMENT OF MONIES RECEIVED AND DISBURSED BY ME, AS SUPERVISOR.

					RECEIPTS				
FUNDS		OUTSIDE	LIGHTING	WATER	WATER	WATER	WATER	DA	DB
RECIEVED FROM	GENERAL	TOWN	DISTRICT	# 1	# 2	# 3	# 4	TOWNWIDE	OUTSIDE
BEGINNING BAL.	$61,499.04	$16,039.13	$9,765.13	$92,872.52	$1,122.68	($3,520.07)	$3,820.50	$145,711.00	$266,944.49
Steuben Trust	$6.47								
G. McManus	$4,105.00								
H. Plank	$10,145.00								
Water Consumers					$466.58				
Town Clerk	$311.00	$50.00							
Office of Comp.	$6,500.00								
Tax Coll. Office	$1,599.47								
Tax collector	$4,185.55								
Total Receipts	$26,852.49	$50.00			$466.58				
Total Disbursed	$38,842.12	$1,712.03	$965.52	$71.56	$196.93		$25.00		$27,041.83
ENDING FUND BAL.	$49,509.41	$14,377.10	$8,799.61	$92,800.96	$1,392.33	($3,520.07)	$3,795.50	$145,711.00	$239,902.66

For the month of April 2013

DISBURSEMENTS									
PAID TO	GENERAL	OUTSIDE TOWN	LIGHTING DISTRICT	WATER # 1	WATER # 2	WATER #3	WATER #4	DA TOWNWIDE	DB OUTSIDE
Abstract # 4	19245.53	$226.35	$965.52	$71.56	$17.50		$25.00		$10,344.41
Payroll # 7	$3,544.01								$6,203.60
Social Security	$271.14								$495.75
National fuel	$860.35								
NYSEG	$1.29								
Birch Communicaiton	$247.66								
Payroll # 8	$10,568.82	$1,380.09							$6,341.00
Social Security	$808.63	$105.59							$484.73
Blue Cross	$2,043.69								$2,888.66
Fire District #3	$1,251.00								
Wex Bank									$283.68
Total Disbursements	$28,841.12	$1,712.03	$965.52	$71.56	$196.93		$25.00		$27,041.83

DATED 4/30/2013 TOWN OF HORNELLSVILLE SUPERVISOR

MONTHLY STATEMENT OF THE SUPERVISOR TO THE TOWN BOARD

TOWN OF HORNELLSVILLE

PURSUANT TO SECTION 119 OF TOWN LAW, I HEREBY RENDER THE FOLLOWING STATEMENT OF MONIES RECEIVED AND DISBURSED BY ME, AS SUPERVISOR.

FUNDS RECIEVED FROM	CAPITAL MACHINERY	CAPITAL STREAMBANK	BUILDING RESERVE	CAPITAL ROADS	Sewer #1	FIRE PROTECTION	COMMUNITY DEVELOPMENT	Community Planning
Beginning Balance	$ 56,877.48	$10,000.00	$47,283.96	$49,190.42	$122,247.96	$80,291.00	$63,791.08	
Steuben Trust								
Abstract # 4						$80,291.00		
Total Receipts								
Total Disbursed						$80,291.00		
ENDING FUND BAL.	$56,877.48	$10,000.00	$47,283.96	$49,190.42	$122,247.96	$0.00	$63,791.08	$0.00

For the Month of January 2013

	TOWN OF HORNELLSVILLE						
	HIGHWAY REPORT F		FOR THE	MONTH	april	2013	
	DA		BUDGET	BALANCE		TOTAL	PERCENT
						SPENT	LEFT
	BRIDGE						
DA5120.1	Personal		40000	35510		4490	89%
DA5120.4	Contractual		90000	88304		1696	99%
DA5120.2	Equipment						
BUDGET	TOTAL		154,468	1,543,031		11437	94%
	DB						
	ROADS						
DB5110.1	Personal		46000	40760		5240	89%
DB5110.4	Contractual		98,000	94810		3190	90%
DB5112.2	CAPITAL		91000	91000		0	100%
	MACHINERY						
DB5130.2	Equipment		60,000	58,100		1,900	97%
DB5130.4	Contractual		50,000	24233		25767	49%
	SNOW						
DB5142.1	Personal		91000	26141		64859	29%
DB5142.4	Contractual		83000	58618		24382	71%
TOTAL	BUDGET		775,881	506,297		269,534	66%

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TOWN 0F

HORNELLSVILLE

ZONING ORDINANCE

MARCH 1975
AMENDED DECEMBER 8, 1992
AMENDED MAY 14, 2013

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ARTICLE 100 PURPOSE, LEGAL AND ADMINISTRATIVE

101.0: Short Title

This Ordinance shall be known and may be cited by a short title of **"The Hornellsville Zoning Ordinance".**

102.0: Word Tense and Intention

For the purposes of this Ordinance, all words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise. The word "person" indicates a firm, association, organization, partnership, trust, company or corporation as well as an individual. The word "shall" is mandatory and directory. The word "may" is permissive. The word "used" includes "designed, intended or arranged to be used".

103.0: Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of the law or Ordinance or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or Ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this Ordinance shall control.

104.0: Conflict with Other Laws

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive of those imposing the higher standards shall govern.

It shall be the duty of the Zoning Inspector/Code Enforcement Officer to cause any building, plans or premises to be inspected or examined and to order in writing the remedy of any condition found to exist in violation of this Ordinance, and he shall have the right to enter any building or premises during the daytime in the cause of his duties.

105.0: Validity and Severability

In case any section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other section or provision of this Ordinance, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

106.0: Violations and Penalties

106.1 Fines and Imprisonment. Any person, firm, company, or corporation owning, controlling, or managing any building, structure, or premises wherein or whereon there shall be placed or there exists anything in violation of any of the provisions of this ordinance and any person, firm, company, or corporation who shall assist in the commission of any violation of this ordinance or any conditions imposed by the Planning Board or the Zoning Board of Appeals or who shall build contrary to the plans or

specifications submitted to the Zoning Inspector/Code Enforcement Officer and by him certified as complying with this chapter shall be guilty of an offense and subject to a fine not exceeding three hundred fifty dollars ($350) 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 of not less than three hundred fifty dollars ($350) nor more than seven hundred dollars ($700), 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 of not less than seven hundred dollars ($700) nor more than one thousand dollars ($1,000) or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.

106.2 Additional Remedies. In case of any violation or threatened violation of any of the provisions of this ordinance or conditions imposed by the Planning Board, Zoning Inspector/Code Enforcement Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

107.0: Amendments

The Town may from time to time on its own motion, or on petition, or on recommendations from the Planning Board, amend, supplement or repeal any of the regulations, provision or section of this Ordinance after proper and legal requirements have been met. Every such proposed amendment shall be referred to the Planning Board for report thereof before the public hearing hereinafter provided for. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

107.1 By publishing a notice at least ten (10) days prior to such meeting stating the time, place and date thereof in a paper of general circulation in the Town.

107.2 A written notice of any proposed change or amendment affecting property within five hundred feet (500') of the boundaries of any city, village, town or county, shall be given to the clerk of such municipality and to the clerk of the Board of Supervisors at least ten (10) days prior to the date of such hearing.

107.3 In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change or of that immediately adjacent extending one hundred feet (100') therefrom or of that directly opposite thereto, extending one hundred feet (100') from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.

108.0: Administration

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Zoning Inspector/Code Enforcement Officer, who shall have such powers as are conferred upon him by this Ordinance, or the New York State Fire Prevention and Building Code, and as reasonably may be implied. He shall be appointed by the Town Board and shall receive such compensation as the Town Board shall determine.

108.1. Duties of the Zoning Inspector/Code Enforcement Officer: It shall be the duty of the Zoning Inspector/Code Enforcement Officer to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Ordinance.

Where the Zoning Inspector/Code Enforcement Officer, in the course of his duties, determines that any plans, buildings, or premises are in violation of the provisions of this Ordinance, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked by the Town and the violator's rights of appeal; all as provided for by this

Ordinance.

On the serving of notice by the Zoning Inspector/Code Enforcement Officer to the owner of any violation of any of the provisions of this Ordinance, the Certificate of Completion/Occupancy for such building or use shall be held null and void. A new Certificate of Completion/Occupancy shall be required for any further use of such building or premises.

The Zoning Inspector/Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall be a part of the records of his office and shall be available for the use of the Town Board and other officials of the Town. The records to be maintained shall include at least the following:

108.1.1 Application File: An individual permanent file for each application for a permit provided for by this Ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps, and plans; notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Appeals in acting on the application; and, the date the permit applied for was issued or denied by the Zoning Inspector/Code Enforcement Officer.

108.1.2 Monthly Report: The Zoning Inspector/Code Enforcement Officer shall prepare a monthly report for the Town Board. Said report shall cite all actions taken by the Zoning Inspector/Code Enforcement Officer including all referrals made by him; all permits and certificates received and all violations found by him, and the action taken by him consequent thereon. A copy of this monthly report shall also be transmitted by the Zoning Inspector/Code Enforcement Officer to the Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Town Board.

108.2 Certificates and Permits: The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Ordinance. A Zoning Permit or Special Use Permit shall be a prerequisite to the issuance of a Building Permit where such permit is required.

108.2.1 Zoning/Building Permit: The Zoning Inspector/Code Enforcement Officer is hereby empowered to issue a Zoning/Building Permit for any plans regarding the construction or alteration of any building or part of any building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this Ordinance. A separate Zoning Permit will be issued for changes in the use of any land or building or part thereof, where such changes are not in violation of the provisions of this Ordinance.

108.2.2 Special Use Permit: Upon written direction of the Board of Appeals, the Zoning Inspector/Code Enforcement Officer is hereby empowered to issue any Special Use Permit provided for by this Ordinance.

108.2.3 Certificate of Completion/Occupancy: The Zoning Inspector/Code Enforcement Officer is hereby empowered to issue a Certificate of Completion/Occupancy which shall certify that all provisions of this Ordinance have been complied with in respect to the location and use of the building, structure or premises in question.

108.3 Application Procedures:

108.3.1 Procedures for a Zoning Permit: All applications for Zoning Permits shall be made to the Zoning Inspector/Code Enforcement Officer in the detail specified in Section 108.4 of this Ordinance.

108.3.2 Procedures for Special Use Permits: All applications for Special Use Permits shall be made to the Zoning Inspector/Code Enforcement Officer. The Zoning Inspector/Code Enforcement Officer, after determining that an application is in the proper form, shall transmit one (1) copy of the application and all supporting documents to the Secretary of the Board of Appeals for referral to the Board for action thereon. If the application is approved by the Board of Appeals, the Zoning Inspector/Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Board and he shall issue the permit applied for in accordance with the

conditions imposed by the Board of Appeals. If any application is disapproved by the Board of Appeals, the reason for such denial shall be set forth in the Board's resolution and a copy of such resolution shall be transmitted to the Zoning Inspector/Code Enforcement Officer. The Zoning Inspector/Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.

108.3.3 Procedures for a Certificate of Completion/Occupancy: Following the completion of the construction, reconstruction, or alteration of any building, or where a change in the use of a structure is proposed, the applicant shall transmit by certified mail to the Zoning Inspector/Code Enforcement Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven (7) days of the receipt of this letter, the Zoning Inspector/Code Enforcement Officer shall make all necessary inspections of the completed structure and proposed use to determine the conformance with this Ordinance. A Certificate of Completion/Occupancy shall be issued only if the Zoning Inspector/Code Enforcement Officer finds that the construction and proposed use comply with all the requirements and provisions of this Ordinance and/or the State Fire Prevention and Building Code.

108.4 Application Details: Each application for a Zoning Permit or Special Use Permit shall be made with accompanying site plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. As a minimum the application shall include the following information and plans for both "before" and "after" conditions.

108.4.1 The location, use, design and dimensions and height of each use and building.

108.4.2 The location and arrangement of vehicular access-ways, and the location, size and capacity of all areas used for off-street parking, loading and unloading.

108.4.3 The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.

108.4.4 The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.

108.4.5 Provisions for water supply, sewage disposal, and storm drainage.

108.4.6 Such other data and plans as the Zoning Inspector/Code Enforcement Officer, Board of Appeals or the Planning Board may require to properly take action on the application.

109.0: Application Fees

A schedule of fees for all building permits and approval applications as required in this ordinance shall be set by Town Board resolution from time to time. The schedule of fees shall be on file in the Town Offices.

ARTICLE 200 DEFINITIONS

201.0: The following terms are expressed within this Ordinance with special meaning as therein applied and no other. Any word or term not expressly defined in this Section shall have the meaning as defined in a standard dictionary.

ACCESSORY BUILDING: A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

ACCESSORY USE: A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal use or building

AIRPORT/AIRSTRIP: Any locality which is used, or intended to be used, for the landing and takeoff of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

ALLEY: A permanent service way providing a secondary means of access to abutting properties.

ALTERATIONS: As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

BASEMENT: A story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade at the front of the building.

BOARDING or ROOMING HOUSE: A dwelling other than a hotel or lodging house, where five (5) or more persons are housed or lodged for hire with or without meals.

BUILDING: Any permanent structure having a roof by columns, piers, or walls intended for the shelter, housing or enclosure of persons, animals or chattel.

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

BUILDING HEIGHT: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof for flat roofs; to the deckline of a mansard roof and to the average height between the plat and ridge of a gable, hip or gambrel roof.

BUILDING LINE: A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

BUILDING PRINCIPAL: A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

CAMP, COMMERCIAL: A property providing one (1) or more sites for a fee for the parking of occupied travel trailers and/or the erection of tents or other shelters serving as temporary residences, as defined by Part 7 of the New York State Sanitary Code, and all buildings and facilities pertaining thereto.

CAMP, PRIVATE: Property used for the parking of occupied travel trailers and/or the erection of tents or other shelters as temporary residences for the personal use of the owner and/or guests.

CELLAR: A story partly underground and having more than one-half (1/2) of its clear height below the average level of the finished grade at the front of the building.

CERTIFICATE OF COMPLETION/OCCUPANCY: A certificate issued by the Zoning Inspector/Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Ordinance and such adjustments thereto granted by the Board of Appeals.

CLUB, PRIVATE: A non-profit social organization whose premises are restricted to its members and their guests.

CLUSTER DEVELOPMENT: A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

CURB LEVEL: The officially established grade of the curb in front of the mid-point of the lot.

DWELLING: A building designed or used principally as the living quarters for one or more families in one or more dwelling units.

DWELLING UNIT: One or more rooms connected together, consisting of a separate, independent housekeeping establishment, for owner occupancy, rental, or lease, that contains independent cooking, sanitary, and sleeping facilities for one (1) family. This shall include sectional, modular, and manufactured/mobile home units, but shall not include motels, hotels, or lodging establishments for transient occupancy.

DWELLING, ONE-FAMILY: A building containing one (1) dwelling unit only on one lot.

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

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

DWELLING, ROW: A row of attached or semi-detached one-family dwellings or two-family dwellings containing a total of three (3) or more dwelling units, or a building in such a row.

DWELLING, DETACHED: A dwelling having no party wall in common with another building.

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

EXCAVATION – Extraction of an amount equal to or less than 1000 tons or 750 cubic yards of earth material during a period of twelve (12) successive months, (the threshold above which a permit is required pursuant to the New York State Mined Land Reclamation Law [Environmental Conservation Law Article 23, Title 27] as of June 27, 2005), for commercial purposes such as gravel pits, rock quarrying, stripping of topsoil, subsoil removal, and/or removal of such materials for sale, other than what may be required for the erection of buildings.

FAMILY: Any single person or group of persons who live together in a dwelling unit and maintain a common household.

FARM: Any parcel of land which is used for gain in the raising of agricultural products, including crops, livestock, poultry, or dairy products.

FARM BUILDING: Any building used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided 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: An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected for the enclosure of yard areas.

FLAMMABLE LIQUIDS: Liquids having a flash point below two hundred (200) degrees Fahrenheit, closed cup tester. Class I flammable liquids (e.g. gasoline, ether, liquid petroleum gas) are those having a flash point below twenty-five (25) degrees Fahrenheit. Class II flammable liquids are those having a flash point below seventy (70) degrees Fahrenheit but not below twenty-five (25) degrees Fahrenheit.

FLEA MARKET: an occasional or periodic sales activity held in a structure or outdoors where groups of individual sellers offer goods for sale to the public, not to include individual garage sales. Such sales may involve new and/or used items which may include, but are not limited to, household items, antiques, collectibles, rare items, decorations, used books, used magazines, jewelry, clothing, and/or a variety of merchandise and may also include the sale of fruits, vegetables, and other foods. The individual sellers at the flea market need not be the same each time the market is in operation. Individual sellers may or may not pay a rental fee to the operator of the flea market. Entertainment such as musical performances or crafting demonstrations may also take place.

FLOOR AREA TOTAL: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the inside face of exterior walls, or from the center line of walls separating two (2) uses. Said areas shall not include areas below the average level of the adjoining ground, garage space, or accessory building space.

GARAGE, PRIVATE: A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or service for profit is carried on.

GARAGE, PUBLIC: Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

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

HOME PROFESSIONAL OCCUPATION: The office of a member of a recognized profession when conducted on residential property, such occupations shall include but not be limited to those of doctors, lawyers, architects, engineers, artists, ministers and other recognized professional persons.

JUNK YARD: An area of land, with or without buildings, used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scrap or used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL: Any premises used for the commercial breeding, boarding, training, grooming or bathing of dogs, cats, and/or other small domesticated household pets.

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

LOT AREA: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

LOT, CORNER: A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINES: The property lines bounding the lot. In the case of a lot abutting on more than one (1) street, the owner may elect any street lot line the front lot line. The rear line shall be the lot line most distant from the front lot line.

LOT, THROUGH: An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT DEPTH: The horizontal distance between the front lot lines measured at right angles to its depth at the building line.

MANUFACTURED/MOBILE HOME: A one-family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code or a mobile home constructed before 1975 which has been renovated to meet federal standards as approved by the Code Enforcement Officer. Manufactured/mobile home does not include Department of Motor Vehicle registered "recreational vehicles," "travel trailers," or "modular homes."

MANUFACTURED/MOBILE HOME PARK: A contiguous parcel of land, which is planned and improved specifically for such a purpose, on which two (2) or more manufactured/mobile homes (with or without the wheels and axles in place), are located. Such a park consists entirely of manufactured/mobile homes, each located on a site leased or rented to its occupants who either own, rent, or lease the living unit as a permanent residence.

MEAT PROCESSING FACILITY: a facility that slaughters cattle or other meat animals, or accepts cattle or meat animal carcasses slaughtered offsite, and processes the carcasses for sale, sometimes including the packaging of processed meat products. Meat or meat products produced from such a facility may be sold to wholesale markets, or carcasses may be custom processed for the owners of the animals that were slaughtered. The facility may or may not be USDA certified depending on the market for its products.

MINING – Extraction of more than 1000 tons or 750 cubic yards of earth material (whichever is less) during twelve (12) successive months, (the threshold for which a permit is required pursuant to the New York State Mined Land Reclamation Law [Environmental Conservation Law Article 23, Title 27] as of June 27, 2005), for commercial purposes such as gravel pits, rock quarrying, subsoil removal, and/or removal of such materials for sale, other than what may be required for the erection of buildings.

NON-CONFORMING BUILDING: A building which in its design or location upon a lot does not conform to the regulations of this Ordinance for the zone in which it is located.

NON-CONFORMING LOT: A lot of record existing at the date of the passage of this Ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

NON-CONFORMING USE: Any use of any building, structure, or land existing at the time of enactment of this Ordinance which does not conform to the use regulations of the district in which it is situated.

PLANNED UNIT DEVELOPMENT: For the purposes of this Ordinance, a planned unit development is a cluster development consisting of homes plus business uses as described herein.

PLANNING BOARD: The Town of Hornellsville Planning Board.

PLAT: A map, plan or layout of a Town section or subdivision indicating the location and boundaries of individual properties.

PRINCIPAL USE: The main use to which a building or lot is to be used.

RECYCLING CENTER: An enclosed structure for the collection of paper, cardboard, cans, bottles, plastics, or other materials that are then shipped offsite to be manufactured into new products.

RENEWABLE ENERGY FACILITY: A device or assemblage of devices which create, capture and/or store renewable energy. Renewable energy is derived primarily from sources other than fossil fuels or nuclear fission, and may include solar, wind, water, or biomass.

RESTAURANT: Any establishment, however designated, at which food is sold for consumption on the premises of patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, playfield, 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.

RIGHT-OF-WAY: The line determining the street or highway public limit or ownership.

SERVICE STATION: Any building, structure or land used primarily for the dispersing, sale or offering for sale of automobiles and replacement or installation of minor parts and accessories; but not including major repair work such as motor replacement or rebuilding, body and fender repair or painting.

SIGN, ON-PREMISE ADVERTISING: A sign shall be deemed to be any advertising display on which is shown the products sold, the name of the enterprise located on that lot or parcel of land or any other wording which reflects directly upon any on-site business or other usage thereof.

SIGNBOARD, BILLBOARD, OFF-PREMISE ADVERTISING: Any advertising display on which is shown any advertisement for products or businesses other than which are sold or have occupancy on that lot or parcel of land.

SIGN AREA: The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

SITE PLAN:A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

STORY: That portion of a building between the surface of any floor and the surface of the floor next above; also, any portion of a building used for human occupancy between the top-most floor and the roof. For purposes of height measurement, in determining the possible number of stories, a basement shall be counted but a cellar shall not be counted.

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two feet (2') above the floor of such story.

STREET: A public thoroughfare which affords the principal means of access to abutting property.

STREET LINE: That line determining the limit of the highway rights of the public, either existing or contemplated.

STRUCTURE: Anything constructed or erected, which requires permanent location on the ground or attachment to something having such location.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders and exit facilities.

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

TEMPORARY USE: An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Ordinance. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

TIMBER HARVESTING: The removal of timber in any quantities greater than twenty (20) standard cords, 2560 cubic feet, or 15,000 board feet measured by the International 1/4", Doyle, or Scribner Log Rule, on any one ownership of land within any consecutive twelve-month period. Also known as a "logging operation."

TRUE VALUE: That dollar amount derived from the assessed value, shown on the tax card, divided by the State Equalization Rate, as shown in the sample below:

$$\frac{\text{Assessed Value}}{\text{Equalization Rate}} = \text{True Value} \qquad \frac{\$12,200}{61\%} = \$20,000$$

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

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

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

YARD, FRONT: An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.

YARD, OPEN AREA: The open unobstructed portion of a residential corner lot area located between the rear-most portion of the structure and the rear and/or side lot lines.

YARD, REAR: An open space extending the full width of a lot between the rear-most main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

YARD, SIDE: An open space extending from the front yard to the rear yard between any building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of any building.

YARD, SIDE FRONT: That area of a corner lot, other than the front yard, facing the intersecting street.

ZONING BOARD: The officially established Board of Appeals of the Town of Hornellsville.

ZONING PERMIT: A permit issued by the Zoning Inspector/Code Enforcement Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this Ordinance for the zone in which it is located or is to be located.

¶ARTICLE 300 PROVISIONS AND MODIFICATIONS

301.0 General Provisions

301.1 Preservation of Natural Features

No structure shall be built within fifty feet (50') of the bed of a stream carrying water on an average of six (6) months of the year, or on land subject to periodic overflow.

Existing natural features such as trees, brooks, drainage channels and views shall be retained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required.

301.1.1 Regulations Applicable to All Zones:

A. No lot shall have erected upon it more than one (1) principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered to provide a yard or open space for any other building.

B. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Ordinance for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building and, if located in a side yard area, shall conform to side yard requirements of this Ordinance.

C. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Town's requirements.

D. No structure may be re-erected and no plant foliage may be permitted or maintained between heights of one and one-half feet (1-1/2') and ten feet (10') above ground level in the triangle formed by intersecting streets and a line joining points on such street lines twenty-five feet (25') distant from their point of intersection.

E. Where a building has frontage on a street which is proposed for right-of-way widening, the required front yard depth shall be measured from such proposed right-of-way line.

F. All yards, open space, off-street parking, and required landscaping must be contained within the zone in which the use is permitted.

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

H. The limitations on signs as set forth for the various zones by this Ordinance shall not apply to any sign or directional device erected by the Federal, State, County, or local government or agency thereof.

I. Storage of Flammable Liquid or Gas: No storage of any flammable liquid or gas in quantities exceeding three hundred seventy five (375) gallons shall be allowed except with the prior approval of the Fire Chief and in conformance with the recommendations of the National Board of Fire Underwriters.

J. The permitted accessory uses in any district shall not include any use first specified in a less restricted district. In the interpretation of this provision, an "I" District shall be considered the least restricted and an "R-1A" District is the most restricted.

K. Customary local utility distribution or collection lines for water, gas, telephone or electric

service shall be permitted use in all districts and shall not require a Special Use Permit. Public utility uses such as dial equipment centers and electrical substations and transmission lines may be permitted in any zone district with a Special Use Permit.

301.2 Residential Provisions

In any "R" District the permitted uses shall not include:

301.2.1 Storage of flammable liquids known as Class I or Class II in quantities exceeding three hundred seventy five (375) gallons.

301.2.2 Any home occupations for which a business or trade license is required, not including licensed brokers or professional persons.

301.2.3 Any use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibration, unreasonable use of lights or night time operation.

301.2.4 No accessory structure shall be located within ten feet (10') of a principal building or other accessory building.

301.2.5 No front yard shall be used for the open storage of boats, camping trailers, utility trailers, motorized camping vans or similar vehicles.

301.2.6 Not more than one (1) commercial vehicle shall be parked out-of-doors overnight in conjunction with a residential property in a residential zone. No vehicles for commercial display purposes shall be stored in any "R" District at any time.

302.2.7 No accessory building shall be erected in any yard except that accessory buildings may occupy in the aggregate not more than twenty five percent (25%) of a rear yard or open yard area.

301.3 Business - Industrial Residential

301.3.1 The limitations on sign area as set forth by this Ordinance for business and industrial zones shall not apply to parking lot markers, directional signs, entrance and exit signs and other such signs which are erected on the premises provided that such signs do not exceed two (2) square feet in area on any one (1) side and do not contain any advertising of the use of the premises.

303.3.2 "B" District, Manufacture or Repair: The number of persons engaged in the manufacture of articles or the fabrication or repair of goods or articles shall not exceed two (2) in any establishment in a "B" District. The individual and total horsepower of machinery used for such purposes in any such establishment shall not exceed five (5) horsepower and ten (10) horsepower, respectively. Manufacture shall be limited to that incidental to retail sale on the premises, and repair shall be limited to custom repair service.

301.3.3 Enclosure Required: Certain uses specified in the List of Permitted Uses as being subject to one or more provisions of this Section are hereby restricted, as follows:

A. The principal use shall be conducted only within a completely enclosed building.

B. Such building shall have no opening other than stationary windows, or self-closing fire exit doors required by law, within fifty feet (50') of the nearest property line of a lot in any "R-1A" or "R-1B" District.

301.3.4 Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this Ordinance.

301.3.5 No business use shall occupy any part of the lot within fifty feet (50') of any "R" District except under the Planned Unit Development which shall conform to the requirements of the Schedule.

301.3.6 No industrial manufacturing use shall occupy any part of any lot within one hundred feet (100') of the property lines.

302.0 Special Provisions

302.1 Front Yard Transition: Where the frontage on one (1) side of a street is zoned partly "R-1A" or "R-1B" and partly "B" or "I", the front yard depth in the "B" or "I" District in such block frontage shall be equal to the required front yard depth of the "R-1A" or "R-1B" District for a distance of fifty feet (50') into the "B" or "I" District.

302.2 Side and Rear Yard Transition: Where a lot in a "B" or "I" District abuts on a lot in an "R-1A" or "R-1B" District, there shall be provided along such abutting lines a yard equal in width or depth to that required in said "R-1A" or "R-1B" District.

302.3 Corner Lot Transition: On every corner in any "R" District there shall be provided a side front yard equal in depth to the required front yard depth in that district. On such corner lots where double setbacks are required, the rear yard distance may be waived so long as at least two (2) side yard distances and an open yard area in other than a front yard are provided as stipulated in the Schedule.

302.4 Row Dwellings: A row dwelling shall be located on a lot or on a number of adjoining lots running through from street to street or abutting for the full length of the rear lot line an alley or other permanent public way at least twenty feet (20') wide. Such secondary public access shall not be required in case the combined structure does not exceed two hundred feet (200') in length or the distance between permanent openings at least eight feet (8') wide and eight feet (8') high connecting front and rear yards at ground level does not exceed two hundred feet (200'), and the land is located in any district permitting this use.

303.0: Modifications

303.1 Height Modifications: Height exceptions - the height limitations of this Ordinance shall not apply to belfries, bulkheads, chimneys, church spires, cupolas, domes, skylights, ventilators, water tanks and other necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are required to serve and shall not occupy in the aggregate more than twenty-five percent (25%) of the roof area of the main building.

303.2 Height and Open Spaces: In any district any principal building may be erected to a height in excess of that specified for the district provided such front, side and rear yard is increased one foot (1') for each one foot (1') of such additional height.

303.3 Yard Modifications

303.3.1 Projections into required yards, with (D) provision below:

A. Balconies and bay windows limited in total length to one-half (1/2) the length of the building wall, and one-story unenclosed porches, may project into any yard.

B. Chimneys, ornamental features, pilasters, and roofs may extend not more than thirty inches (30") into any required yard.

C. Fire escapes may extend not more than four feet (4') into any required side yard and not more than six feet (6') into any required rear yard.

D. Limitation on projections: notwithstanding any other provision of this section, no projection shall extend into any required yard more than one-quarter (1/4) of the required width or depth of such yard or within ten feet (10') of any accessory building.

303.3.2 Front Yards: In such cases in residential zones where the frontage of the same side of the street within five hundred feet (500') is fifty percent (50%) or more developed, then the required front yard for a new structure may be modified to the average for such existing development. Otherwise, the requirements of the Schedule shall apply.

303.3.3 Side Yards: In the case of lots which comply with the provisions for modification of Section 303.3 combined total side yard requirements, as specified in the Schedule shall be reduced by six inches (6") for each foot by which a lot is less than the minimum lot width requirement specified in the Schedule for the zone in which located. In any case, the side yard width shall be reduced to no less than fifty percent (50%) of the requirement of the Schedule.

303.3.4 When Side Yards May be Varied: Where the side wall of a building is not parallel with the side lot line, the average width of side yard may be interpreted as the side yard width, provided that at no point is the actual side yard width less than five feet (5').

303.4 Modification of Lot Requirements

Any parcel of land with an area or width less than that prescribed for a lot in the zone in which such lot is located, which parcel was under one (1) ownership at the date of the adoption of this Ordinance, and the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the zone, provided that no structure be constructed closer than ten feet (10') to the closest lot line, and further provided that all other regulations prescribed for the zone by this Ordinance are complied with.

304.0: Landscaping Required

Landscaping plans to be submitted in addition to plot plans, and to apply to the following Districts:

704 Shopping Center District
705 General Business District
706 Limited Industrial District
707 General Industrial District

ARTICLE 400 NON-CONFORMANCE

401.0: Continuance

Except as otherwise provided in this Ordinance, the lawful use of land or buildings existing at the date of the adoption of this Ordinance may be continued although such use or building does not conform to the regulations specified by this Ordinance for the zone in which such land or building is located, provided however:

- that no non-conforming lot shall be further reduced in size;
- that no non-conforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance;
- that no non-conforming use may be expanded.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, or whenever the text of this Ordinance shall be changed with respect to the uses permitted in a district, the foregoing provisions shall also apply to any non-conforming uses existing therein.

402.0: Discontinuance

In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Ordinance. Such discontinuance of the active and continuous operation of such non-conforming use, or a part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such non-conforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment or other evidences of such non-conforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to re-establish or continue such non-conforming use shall thereupon terminate.

403.0: Amortization

Notwithstanding any other provisions of this Ordinance, any automobile wrecking yard or other junk yard and any billboard, advertising structure or non-conforming sign in existence in any "R" District at the date of enactment of this Ordinance shall at the expiration of three (3) years from such date become a prohibited and unlawful use and shall be discontinued. Provided, however, that lawfully existing signs accessory to a non-conforming business or industrial building shall not be subject to this subdivision.

404.0: Non-Conforming Buildings

404.1 Unsafe Structures: Any structure or portion thereof declared unsafe by a proper authority, but not ordered to be demolished, may be restored to a safe condition.

404.2 Any building which is non-conforming due to insufficient yard distances or lot area shall not be considered a non-conforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this Ordinance.

405.0: Non-Conforming Uses

405.1 A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building which existed prior to the enactment of this Ordinance shall not be deemed the extension of such non-conforming use.

405.2_Once changed to a conforming use no building or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to a use of the same classification upon approval of the Board of Appeals, or to a use of more restricted classification and, when so changed to a more restricted classification, such use shall thereafter not be changed to a less restricted classification.

ARTICLE 500 ZONING BOARD OF APPEALS

501.0: Establishment; Composition; Terms; Staff.

501.1 Establishment. Pursuant to Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five (5) members, shall designate its Chairperson, and shall also provide for compensation to be paid to said members and provide for such other expenses as may be necessary and proper. In the absence of the chairperson the Zoning Board of Appeals may designate a member to serve as acting chairperson.

501.2 Town Board members ineligible. A member of the Zoning Board of Appeal shall not at the same time be a member of the Town Board.

501.3 Removal of members. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

501.4 Term of appointment. Of the members of the Zoning Board of Appeals first appointed, one (1) shall hold office for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years and one (1) for the term of five (5) years from and after his/her appointment. The appointment of the Chairman shall be for a term of one (1) year. 2. Their successors shall be appointed for terms of five (5) years from and after the expiration of the terms of their predecessors in office.

501.5 Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the duration of the un-expired term.

501.6 Alternate Members. In the event that conflicts of interest or other causes result in the absence, disqualification, or recusal of any regularly appointed member of the Zoning Board of Appeals, the Town Board shall appoint an ad hoc member or members in such number as shall be sufficient to constitute a full board of five members for the purpose of hearing and determining a specific appeal or application pending before the Zoning Board of Appeals from which the regularly appointed members have been absent, disqualified, or recused. The term of any such ad hoc appointment shall expire concurrently with the making of a final determination by the Zoning Board of Appeals with respect to the appeal or application for which the ad hoc appointment was made. Once designated to serve on a particular matter pending before the Zoning Board of Appeals, the ad hoc member or members shall have the same powers and duties as regular members of the Zoning Board of Appeals until the matter is concluded.

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

502.0: Rules of Procedure.

The Zoning Board of Appeals shall have the power to make, adopt and promulgate such written rules of

procedure, bylaws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Zoning Law. Such rules, bylaws, and forms shall not be in conflict with nor have the effect of waiving any provisions of this Zoning Law or any other zoning law or ordinance of the Town of Hornellsville

502.1 Meetings; Minutes.

502.1.1 Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman or, in his absence, the acting Chairman may administer oaths and compel the attendance of witnesses. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in article seven of the New York State Public Officer's Law.

A. Minutes of Meetings. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating this fact, and shall also keep records of its examinations and other official actions.

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

C. Assistance to Zoning Board of Appeals. The board shall have the authority to call upon any department, agency or employee of the town or upon the Town Planning Board for assistance as necessary and as authorized by the Town Board. The department, agency, employee or Planning Board may be reimbursed for any expenses incurred as a result of this assistance.

D. Hearing appeals. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer/Zoning Inspector or to grant a use variance or an area variance. An appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.

E. Special and Temporary Use Permits: The Zoning Board of Appeals shall have the power to hear and decide upon application for such permit as specified in this Ordinance. The concurring vote of a majority of all members of the Zoning Board of Appeals shall be necessary to grant a Special or Temporary Use Permit.

502.1.2 Submission of Report. When requested by the Zoning Board of Appeals, the Planning Board shall submit to the Zoning Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of the advisory opinion prior to the date of the public hearing. The failure of the Planning Board to submit a report shall be interpreted as a favorable opinion for the appeal or application.

502.1.3 Notice of Hearing. Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with the Town Law as follows:

A. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town of Hornellsville at least five (5) days prior to the date of such hearing.

B. By giving written notice of hearing to any appellant or applicant and any other notice to property owners in an affected area as may be required by the Zoning Board of Appeals and to the Planning Board at least five (5) days prior to such hearing.

C. Notice to County planning agency. At least ten (10) days before the hearing, the Zoning Board of Appeals shall mail notices thereof to the parties; to the county planning agency, as required by § 239-m of the general municipal law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of § 239-m of the general municipal law.

D. For any use variance or special use permit which is within 500 feet of the municipal line, notice shall be given, by mail or electronic transmission, to the clerk of the adjacent municipality at least ten (10) days prior to the public hearing, as required by General Municipal Law § 239-nn.

503.0 Appeals.

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer/Zoning Inspector under this Zoning Ordinance in accordance with the procedure set forth herewith:

503.1 Time of Appeal. Notice of appeal shall be filed with the Code Enforcement Officer/Zoning Inspector and the Secretary to the Zoning Board of Appeals, in writing, on a form required by such Board, within sixty (60) days after the filing in the Hornellsville Town Hall of any order, requirement, decision, interpretation, or determination of the Code Enforcement Officer/Zoning Inspector, specifying the grounds thereof and the relief sought.

503.2 Transmittal by Code Enforcement Officer/Zoning Inspector. Upon filing of a notice of appeal and payment of a filing fee, as set by Town Board resolution, by the appellant or applicant, the Code Enforcement Officer/Zoning Inspector shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken which include as appropriate a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

503.3 Hearing on Appeals. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he/she shall appear in person, or by agent or attorney. The Zoning Board of Appeals shall decide on the appeal within sixty (60) days after the hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.

503.4 Stay Upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer/Zoning Inspector certifies to the Zoning Board of Appeals, after notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In this case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record upon application, on notice to the Code Enforcement Officer/Zoning Inspector and on due cause shown.

503.5 Action by the Zoning Board of Appeals. Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision,

interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer/Zoning Inspector, and to that end shall have all the power of the Code Enforcement Officer/Zoning Inspector.

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

503.7 Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under article eight of the environmental conservation law (NYCRR Title 6 Part 617) and its implementing regulations as codified in the title six, part six hundred seventeen of the New York codes, rules and regulations.

503.8 Compliance with General Municipal Law §239-m. The Zoning Board of Appeals shall comply with the provisions of General Municipal Law §239-m.

503.9 Filing of Decision and Notice. The decision of the Zoning Board of Appeals on the appeal shall be filed with the Town Clerk and the Code Enforcement Officer/Zoning Inspector within five (5) business days after the day the decision is rendered, and a copy thereof presented to the applicant.

504.0 Variances.

Where an applicant can demonstrate that carrying out the strict letter of this Zoning Ordinance causes unnecessary hardship to the applicant, a variance may be granted if it outweighs any possible detriment to the health, safety and welfare of the neighborhood or community by such grant. The Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify through a variance, the application of any of the regulations or provisions of the Zoning Ordinance. The Zoning Board of Appeals, in granting variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Zoning Board of Appeals, on appeal from the decision of the Code Enforcement Officer, shall have the power to grant two (2) types of variances; use variances and area variances as defined herein.

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

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

504.1.2 whether the benefit sought by the applicant can be achieved by some method, feasible for the

applicant to pursue, other than an area variance;

504.1.3 whether the requested variance is substantial;

504.1.4 whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

504.1.5 whether the alleged difficulty was self-created, which shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The granting of an area variance can only result in a restriction or modification, which permits the applicant to use his land for one (1) of the uses permitted in the district.

504.2 Use Variance. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

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

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

504.2.3 the requested use variance, if granted, will not alter the essential character of the neighborhood; or

504.2.4 that the alleged hardship is not self-created.

504.3 Use Variance Referral to the Planning Board. Every use variance shall be referred to the Planning Board by the Code Enforcement Officer/Zoning Inspector, prior to any action by the Zoning Board of Appeals, for an advisory opinion as to the appropriateness of said variance. The Planning Board's recommendation shall make reference to the effect of the variance on the intent of the Zoning Ordinance and its relation to the Comprehensive Plan. If the Planning Board fails to present a recommendation to the Zoning Board of Appeals within forty-five (45) days of the date of a referral, the Zoning Board of Appeals may act without such recommendation. The Zoning Board of Appeals shall not act contrary to the Planning Board's recommendation, except by adoption of a resolution, which fully states the reasons for such action.

504.4 Imposition of Conditions. Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of property. These conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact that the variance may have on the neighborhood or community.

504.5 Expiration of a Variance. Any variance, which is not exercised within one (1) year from the date of issuance, is thereby declared to be expired without further hearing by the Zoning Board of Appeals.

505.0 Special Use Permits

505.1 Special Uses. Those uses which by their nature, intensity, size, and/or type of operation are inherently problematic, will need mitigation measures, and, depending on their specific location and surroundings, require a special use permit from the Zoning Board of Appeals in order to allow the proposed use in its proposed location. The function and objective of the special use permit process is to ensure that the proposed use is compatible with surrounding areas and properties. Thus, the proposed use is deemed not to be allowed until the special use permit is issued by the Zoning Board of Appeals.

505.2 Applicability. Uses requiring Special Use Permits are listed for each District in Article VII District Regulations of this Ordinance. Accessory uses or structures used in connection with a Special Use Permit use shall be subject to the same Special Use Permit approval requirements as the principal structure or use. Any change in use, expansion of the use, or change in the intensity of the use shall require a new Special Use Permit

505.3 Authority. The power and authority to issue, with or without conditions, or deny the issuance of special use permits as required by this ordinance is vested in the Zoning Board of Appeals pursuant to § 274-b of the Town Law and this Ordinance. Prior to issuance of a Zoning Permit for the construction, operation, expansion, or change of any use specified in Article VII District Regulations, an application for a special use permit together with supporting documentation shall be submitted to the Board of Appeals for its review and approval. The Board of Appeals, in its review of any such application, shall be guided by the criteria set forth in this Ordinance.

505.4 Conditions. The Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed use requiring a special use permit. Upon the Board of Appeals' issuance of a special use permit, any such conditions must be met in connection with the issuance of zoning permits and certificate of occupancy by the Code Enforcement Officer.

505.5 Waiver of Requirements. The Board of Appeals is authorized to waive any requirements of this Article in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare, impose an undue hardship due to factors such as existing conditions, site topography, or site configurations, or are inappropriate to a particular site plan or proposed land use requiring a special use permit.

505.6 Procedures

505.6.1 Concept Plan Submittal and Pre-Application Conference: Submittal of a concept plan or attendance at a pre-application meeting is optional. However, it is recommended that before filing an application for special use permit approval, the applicant should attend a Pre-Application Conference to discuss the nature of the proposal and to determine the information that will need to be submitted and the issues that may be involved. The purpose of this meeting is to encourage the applicant to consult early and informally with the Board of Appeals in order to save time and money and to make the most of opportunities for desirable development.

505.6.2 Application. Application for a special use permit shall be filed with the Code Enforcement Officer in a form prescribed by the procedures of the Board of Appeals, with no fewer than eleven (11) copies and at least fifteen (15) days prior to a scheduled Board of Appeals meeting. The Code Enforcement Officer shall refer all special use permit applications to the Board of Appeals for its review and approval. For the purposes of this Section, the submission date shall

be taken as the date of the first Board of Appeals meeting following the submission to the Code Enforcement Officer.

505.6.3 Application Requirements. Because the impact of Special Use Permit uses varies greatly, the information required to be submitted for a Special Use Permit may vary depending upon the scale, intensity, nature of the proposed use, and its proposed location. An applicant for a Special Use Permit shall submit at least the following together with whatever other information the Board of Appeals deems appropriate.

A. A Town of Hornellsville Special Use Permit application form.

B. A plot plan drawn to scale with accurate dimensions. The Board of Appeals may require additional information to be included on the plan if the Board deems such information as necessary in order to make an informed decision.

C. A narrative describing the proposed use and operation. The operation details shall include the nature of the operation, hours of operation, occupancy levels, emitted noise levels, anticipated pedestrian and vehicular traffic rates, water consumption, sewage usage, and other information necessary to determine if the proposed special use meets the requirements of this Ordinance.

D. A copy of the deed to the property, and if the applicant is not the owner of the property, a letter of authorization from the owner for the applicant to make application to the Board of Appeals on his/her behalf.

E. A list of the names and addresses of all property owners abutting the subject property within five hundred (500) feet or as otherwise deemed appropriate by the Board of Appeals.

F. A SEQRA Environmental Assessment Form (EAF).

G. An agricultural data statement, when required. Application for Special Use Permit approval that would occur on property within a NYS Agricultural District containing a farm operation, or on property with boundaries within five hundred (500) feet of a farm operation located in such an Agricultural District, shall include an agricultural data statement as defined by NYS Agriculture and Markets.

H. The application fee as established by the Town Board.

505.6.4 First Meeting. At the first meeting at which an application is first presented as an agenda item, the Board of Appeals shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Board of Appeals shall notify the Applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Board of Appeals action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Board of Appeals that the application is complete. Where an application requires an area variance, the special use permit application will run concurrently with the area variance application.

505.6.5 Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under article eight of the environmental conservation law (NYCRR Title 6 Part 617) and its implementing regulations as codified in the title six, part six hundred seventeen of the New York codes, rules and regulations.

505.6.6 Compliance with General Municipal Law §239-m. The Zoning Board of Appeals shall comply with the provisions of General Municipal Law §239-m.

505.6.7 Compliance with General Municipal Law § 239-nn. For any special use permit which is within 500 feet of the municipal line, notice shall be given, by mail or electronic transmission, to the clerk of the adjacent municipality at least ten (10) days prior to the public hearing, as required by General Municipal Law § 239-nn.

505.6.8 Agricultural Data Statement. The Board of Appeals shall evaluate and consider the Agricultural Data Statement, when required, in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district. If an Agricultural Data Statement has been submitted, the Secretary of the Board of Appeals shall, upon receipt of the application, mail written notice of the Special Use Permit application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

505.6.9 Notice and Hearing.

A. The Board of Appeals shall hold a public hearing on all complete Special Use Permit applications within 62 days from the determination of the Board of Appeals that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Board of Appeals.

B. Ten days before said hearing, the Board of Appeals shall mail notice to the applicant, to the County planning agency when required by General Municipal Law § 239-m,and to any neighboring municipality when required by General Municipal Law § 239-nn. Such notice to the County Planning agency shall be accompanied by a full statement of such proposed action, as defined in subdivision One of §239-m of the General Municipal Law. The hearing shall be advertised at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Town.

505.6.10 Action.

A. The Board of Appeals shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the date that the hearing is closed. Any decision by the Board of Appeals shall contain written findings explaining the rationale for the decision.

B. In granting a Special Use Permit, the Board of Appeals may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town. These conditions may include increasing dimensional or area requirements, specifying location, character, and number of vehicle access points, requiring landscaping, planting, and screening, requiring clustering of structures and uses in order to minimize the burden on public services and

facilities and protect open space, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

505.6.11 Findings Required. In granting or denying Special Use Permits, the Board of Appeals shall take into consideration the type, scale, and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law, and the policies and goals of the Town of Hornellsville Comprehensive Plan. The Board of Appeals shall set forth its findings in writing as part of its decision-making process.

505.6.12 Notification of Decision on a Special Use Permit.

A. Decision format. The Board of Appeals' action shall be in the form of a written statement to the applicant and shall state whether the Special Use Permit is approved, approved with conditions, or disapproved. The Board of Appeals statement will contain the reasons for such findings. A copy of the appropriate Board of Appeals minutes shall be a sufficient statement.

B. Filing the decision. The decision of the Board of Appeals shall be filed in the Town offices within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

505.7 General Criteria for All Special Uses. In considering and acting on Special Uses, the Board of Appeals shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Board of Appeals shall not grant a Special Use Permit unless the Board of Appeals determines and finds, except where the criteria is not applicable:

505.7.1 Compatibility. That the proposed use is of a character, type, scale, and intensity that, when mitigated, is not incompatible with the surrounding neighborhood, land uses, and general area of where the use is proposed to be located, that the use incorporates a site design which is consistent with the character of and is harmonious with the Town, promotes the purposes, goals, and intent of the Town of Hornellsville Comprehensive Plan, and safegaurds the health, safety, and welfare of the Town and its residents.

505.7.2 Neighboring Properties. That the proposed use, operation, and/or structures do not significantly and adversely affect neighboring properties with respect to such things as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters.

505.7.3 Vehicular Access. That proposed access points are adequate in width, grade, alignment, and visibility; are not excessive in number; are located at appropriate distances from intersections or places of public assembly; that the proposed use will not generate more volume or type of traffic than existing road infrastructure can adequately and safely accommodate; and that they satisfy other similar safety and traffic flow considerations, including conditions for school buses, cyclists, and pedestrians.

505.7.4 Circulation and Parking. That adequate off-road parking and loading spaces are provided to minimize, or, where required, to eliminate the need for parking of vehicles on public highways by any persons connected with or visiting the site of the use; that the interior circulation system is adequate to provide safe accessibility to all required parking spaces; and that adequate separation of pedestrian and vehicular movements is provided.

505.7.5 Aesthetic Resources of Local and Statewide Significance. All adverse impacts on visual and aesthetic resources of local and statewide significance and on community character are avoided or minimized to the maximum extent practicable consistent with social, economic, and other essential considerations.

505.7.6 Landscaping and Screening. That all parking, storage, loading, and service areas can be and are reasonably screened at all seasons of the year from the view of nearby residential areas and public spaces and that the general landscaping of the site is in character with the surrounding areas. Such screening shall be maintained as a condition of the Special Use Permit.

505.7.7 Natural Features. That the proposed use, together with its sanitary and water service facilities, parking facilities, and other facilities necessary for the operation of the use, are compatible with geologic, hydrologic, topographic, and soil conditions of the site and of adjacent areas; that the proposed use, operation, and structures do not significantly impact existing natural and scenic features; and that such features are preserved to the maximum extent possible.

505.7.8 That once the proposed use ceases to operate for any reason, that the parcel of land on which it is located will be able to be restored and is restored so that said land may be suitable for development and use for one or more of the uses allowed in the zoning district where the property is located other than the use proposed.

505.8 Amendments. The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Section. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a Special Use Permit amendment.

505.9 Expiration, Change of Use, Revocation, and Enforcement.

505.9.1. A Special Use Permit approval shall expire within one year from the date of issuance if the Special Use Permit is not exercised within said one-year period, if the use or uses cease for more than 12 consecutive months for any reason, or if the applicant fails to obtain any other governmental permits that may be necessary for the use or its continuing operation or fails to comply with the conditions of the Special Use Permit within 12 months of its issuance.

505.9.2 A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit (as determined by the Code Enforcement Officer in issuing a Zoning Certificate) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Use Permit shall require the granting of a new Special Use Permit or or an amendment to same.

505.9.3 A Special Use Permit may be revoked by the Board of Appeals if the property owner or operator

violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.

505.9.4 Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Ordinance, and shall be subject to enforcement action as provided herein.

506.0 Court Review.

Any person aggrieved by a 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 78 of the civil practice law and rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by such board in the Town Offices. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions, which may be presented for determination.

506.1 Costs. Costs shall not be allowed against the Board of Appeals unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

506.2 Preference. All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

ARTICLE 600 DISTRICTS

601.0: Establishment

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Hornellsville, the Town is hereby divided into the following types of Districts:

Designation	Description
AG	Agricultural
R-lA, R-1B	Single-Family Residential
R-3	Multi-Family Residential
B-1	Shopping Center
B-2	General Business
I-1	Limited Industrial
1-2	General Industrial

602.0: Zoning Map

Said districts are bounded as shown on a map entitled "Zoning Map of the Town of Hornellsville", adopted and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance.

603.0: Interpretation of District Boundaries

603.1 Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.

603.2 Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

603.3 Where district boundaries are so indicated that they are approximately parallel to the center line or street line of streets, or the center line or right-of-way line of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

603.4 Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

603.5 Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Hornellsville unless otherwise indicated.

603.6 Any residentially developed area adjacent to the City of Hornell or to any of the Villages within the Town, shall be zoned "R-1A" or "R-1B" Residential Districts, to the outer limit of such development.

604.0: Except as Herein Provided

604.1 No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

604.2 No building shall hereafter be erected or altered to

604.2.1 exceed the height;

604.2.2 accommodate or house a greater number of families;

604.2.3 occupy a greater percentage of lot area; or,

604.2.4 have narrower or smaller rear yards, front yards, side yards

than is specified herein for the district in which such building is located.

604.3 No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

ARTICLE 700 DISTRICT REGULATIONS

701.0:AG - Agricultural District

701.1 Permitted Principal Uses:

Single-family residences: as farm dwelling as a part of such farms

Non-farm dwellings so long as not more than four (4) new lots are created under the regulations of a minor subdivision

Agriculture and general farming; including any customary agricultural structures or buildings, nurseries and greenhouses; providing the land area of such use is at least ten (10) acres and the use thereof is intended for an agriculturally profitable use

Single-family manufactured/mobile homes

Places of worship, convents, cemeteries, and other such facilities of recognized religious groups

Municipal parks, playgrounds and related buildings

Home occupations, schools

701.2 Permitted Accessory Uses:

Private automobile garages

Customary residential storage structures

Private swimming pools

Customary farm buildings

701.3 Uses Permitted with a Special Use Permit:

Airport

Flea Market

Junk yard

Kennel

Meat Processing facility

Renewable Energy Facility

Recycling center

Public utilities

Subdivisions in excess of four (4) lots

Recreation areas

Excavations, mining

Manufactured/mobile home parks

701.4 Provisions and Requirements: Any applicable provision or requirement of Article III, VII and IX or as otherwise set forth and provided for in this Ordinance.

702.0: R-1A and R-1B, Single-Family Residence Districts

702.1 Permitted Principal Uses:

Single-family residences

Places of worship, convents, cemeteries and other such facilities or recognized religious groups

Municipal or private parks, playgrounds and related buildings

Home occupations

Schools

702.2 Permitted Accessory Uses:

Private automobile garages

Customary residential storage structures

Private swimming pools.

702.3 Uses Permitted with a Special Use Permit:

Public utilities

Public or semi-public recreation areas

Keeping of animals other than house pets

702.4 Provisions and Requirements: Any applicable provision or requirement of Article III, VIII, and IX or as otherwise set forth and provided for in this Ordinance.

702.5 Prohibited Uses: Manufactured/Mobile homes.

703.0: R-3, Multi-Family Residence District

703.1 Permitted Principal Uses:

Any use first permitted in the R-1, Single-Family Residence District

Two-family residences; multi-family residences

Boarding or rooming houses

Nursery schools and day care centers

Hospitals, providing such use is located on a tract of land containing at least fifty (50) acres and no building or use is within one hundred feet (100') of any property line

Private clubs, lodges and meeting places office buildings

Funeral homes and mortuaries

703.2 Permitted Accessory Uses:

Any permitted accessory use first permitted in the R-1, Single-Family Residence District.

703.3 Uses Permitted with a Special Use Permit:

Public utilities

Recreation areas

Manufactured/mobile home parks

703.4 Provisions and Requirements: Any applicable provision or requirement of Articles III, VIII and IX, or as otherwise set forth and provided for in this Ordinance.

704.0: B-1, Shopping Center District

704.1 Requirements: The following special provisions shall be complied with when the owner of a tract of land, containing not less than two (2) acres wishes to have said land rezoned or developed as a B-1, Shopping Center District.

704.1.1 The owner shall submit to the Planning Board for its review a preliminary plan for the use and development of such tract of land for a shopping center.

704.1.2 The Planning Board shall investigate and ascertain whether the location, size, access, and other general characteristics of the proposed plan comply with the following conditions:

A. The plan shall provide for a shopping center consisting of one or more groups of establishments together with adequate and properly arranged access points and parking facilities which will be safe to use and will have no adverse effects upon the adjoining or surrounding development.

B. When the development plan is found to comply with the requirements set forth in this Section and other applicable provisions of this Ordinance, the Planning Board shall submit said plan with its report and recommendation to the Town Board for their consideration if such development requires rezoning. If such development does not require rezoning, the Planning Board shall have final authority to approve, deny or change this development plan.

704.2 Development: The proposed shopping center shall conform to the following restrictions:

704.2.1 No building or structure shall be located less than fifty feet (50') from any lot in an R District, nor less than ten feet (10') from any district other than the B-1 District, nor less than twenty-five feet (25') from any street right-of-way. The shopping center shall be permanently screened, except for necessary sight clearances at entrances and exits, from all adjoining properties located in any R District by a solid wall or compact evergreen hedge not less than four feet (4') or over seven feet (7') in height. The shopping center shall also be permanently screened from all properties in any R District located across the street and within ninety feet (90') from any such shopping center by a solid wall or compact evergreen hedge not less than three feet (3') in height. The walls or hedges shall be properly and permanently landscaped and maintained.

704.2.2 All ground areas occupied by all the buildings shall not exceed twenty-five percent (25%) of the total area of the lot or tract.

704.2.3 Notwithstanding any other requirements of this Ordinance, there shall be provided one (1) off-street loading or unloading space for each twenty thousand (20,000) square feet or fraction thereof of aggregate floor space of all buildings in the shopping center. At least one-third (1/3) of the space required shall be sufficient in areas and vertical clearance to accommodate trucks of the tractor trailer type.

704.3 Provisions and Requirements: Any applicable provision or requirement of Article III, VII and IX or as otherwise set forth and provided for in this Ordinance.

704.4 Permitted Principal Uses: (Retail business only)

Retail businesses

Restaurants

Hotels and Motels

Business and Professional Offices

Cinemas, night clubs, bowling alleys, skating rinks, game arcades

Similar uses to the above as interpreted by the Board of Appeals

704.4.1 Temporary structures, excluding tents or canvas enclosures, shall be permitted for a period not exceeding thirty (30) days on a permit issued by the Zoning Inspector/Code Enforcement Officer or his authorized representative. At the end of the thirty (30) day period such structure shall either be removed or reinstalled as a conforming use.

704.5 Uses Permitted with a Special Use Permit:
Motor vehicle service stations

704.6 Prohibited Uses:

Billboards

Outdoor sales or displays

Residential uses; accessory structures

704.7 Provisions and Requirements: Any applicable provision or requirement of Articles III, VIII and IX, or as otherwise set forth and provided for in this Ordinance.

705.0: B-2, General Business District

705.1 Permitted Principal Uses: Any use first permitted in the B-1, Shopping Center District.

Wholesale and retail uses

Funeral home or mortuary

Churches or other places of worship

Clubs and lodges

Wholesale distributors

Automobile sales, new and used

Automobile mechanical repair, body repair and painting

Drive-in eating and drinking establishments

Antique shops

Service stations with automobile and trailer rentals

Veterinary, providing all areas used to house or run animals are at least one hundred feet (100') from any property line and that no offensive odors or noise shall be permitted

Printing, publishing and lithographing shop

Sign painting providing no sheet metal work is accomplished

Outdoor sales and displays

Warehousing, indoor only

Laundry and dry cleaning plants

Bakery, retail only

705.2 Prohibited Uses:

Billboards

Residential uses; accessory buildings

705.3 Uses Permitted with a Special Use Permit:

Public utilities

Recreation areas

Auto sales; auto repair; car wash

Flea market

Kennel

705.4 **Provisions** and Requirements: Any applicable provision or requirements of Article III, VIII and IX or as otherwise set forth and provided for in this Ordinance.

706.0: I-1, Limited Industrial District

The purpose of this District is to provide a use of industrially zoned land of a very limited nature whereby manufacturing and assembly production is permitted which has no vibration, smoke, dust, off-premise safety hazard or similar characteristics which are discernible to the human senses. Very low noise levels and traffic generation shall be permitted so long as they are not obnoxious or neighboring lands. These uses are such as, but not limited to, the following:

706.1 Permitted Principal Uses:

Any permitted principal use permitted in the B-2, General Business District.

706.2 Uses Permitted with a Special Use Permit:

Manufacturing, compounding, processing, packaging, treatment or assembly of the following materials or products when conducted within an enclosed building.

706.2.1 Products from previously prepared materials such as cellophane, canvas, cloth, feathers, fiber, fiberglass, leather, paper, plastics, textiles or wood (excluding lumber mills).

706.2.2 Laboratories, research, experimental and testing.

706.2.3 Offices of business, manufacturing or professional enterprise.

706.3 Provisions and Requirements: Any applicable provisions or requirements of Articles III, VIII and IX or as otherwise set forth and provided for in this Ordinance.

707.0: I-2, General Industrial District

The purpose of this District is to provide a use of industrially zoned land wherein manufacturing and assembly processing can be accomplished to the benefit of both the industry and the Town. The uses set forth below form a guide in the types of usage permitted in this District.

707.1 Permitted Principal Uses:

Any permitted principal use in the I-1, Limited Industrial District.

707.2 Uses Permitted with a Special Use Permit: Any use set forth as a Special Permit Use in the I-1 District and the following uses:

Machine shops

Sheet metal fabrication

Contractor's equipment storage and yards

Agricultural feed mill

Coal and fuel yard

Lumber and millwork

Food processing

Meat processing facility

Heating and air conditioning manufacture

Trucking and transfer terminals

General assembly

Chemical compound blending and packaging

Electronic appliances, instruments and devices

Stone and monument products

Nut, screw and bolt manufacture

Junk yard

Renewable energy facility

Recycling center

707.3 Provisions and Requirements: Any applicable provision or requirements of Articles III, VIII and IX or as otherwise set forth and provided for in this Ordinance.

708.0 This Section is replaced by Local Law No. 1 of 1999: Flood Damage Protection.

ARTICLE VIII
ZONING SCHEDULE
TOWN OF HORNELLSVILLE

Dist.	Uses	LOT SIZE: Area	LOT SIZE: Width	YARDS, PRINCIPAL BLDG.: Front & Side Front	YARDS, PRINCIPAL BLDG.: Each Side	YARDS, PRINCIPAL BLDG.: Rear	YARDS, PRINCIPAL BLDG.: Open Yard Area	YARDS ACCESSORY BUILDINGS: Side	YARDS ACCESSORY BUILDINGS: Rear	MAXIMUM BUILDING HEIGHT: Principal	MAXIMUM BUILDING HEIGHT: Accessory	MAX. LOT COVERAGE: Principal of Lot	MAX. LOT COVERAGE: Accessory of Rear Yard	Floor Area Dwelling Units
AG	Farms	10 ACRES	---	40	---	---	---	---	---	---	---	---	---	---
	Single-family & Mobile Homes	3/4 ACRE	200	40	20	40	8,000	10	20	35	12	20%	10%	
R-1A	Single-family & Mobile Homes	3/4 ACRE	200	40	20	40	8,000	10	20	35	12	20%	10%	
	Single-family, Cluster & PUD	1/2 ACRE	150	40	20	40	8,000	10	20	35	12	20%	10%	
	Religious & Semi-Public	5 ACRES	300	50	30	50	n/a	15	30	35	35	30%	0	
	Schools, Public & Private	10 ACRES	250	50	30	50	n/a	15	30	35	35	30%	0	
R-1B	Single-family & Mobile Homes	1/2 ACRE	150	30	20	40	6,000	10	20	35	12	20%	10%	
	Single-family, Cluster & PUD	20,000	150	30	10	30	4,500	5	10	35	12	20%	10%	
R-3	Single-family & Mobile Homes	15,000	100	30	20	40	4,000	10	20	35	12	20%	0	
	Single-family, Cluster & PUD	15,000	100	25	10	30	3,000	5	10	35	12	30%	25%	
	Two-Family Dwellings	1 ACRE	125	30	25	40	6,000	10	20	35	12	25%	0	
	Multi Family Dwellings	4,000/UNIT	100	25	15	30	750/U	15	15	35	12	20%	0	
	Non-Residential Uses	1 ACRE	200	30	25	50	n/a	15	15	35	12	30%	10%	
B-1	Shopping Centers	2 ACRES	SEE SECTION 704.0 FOR BUILDING AND STATE REQUIREMENTS									25%	n/a	
B-2	General Business Uses	NONE	200	40	20	20	n/a	n/a	n/a	35	n/a	50%	n/a	
	PUD Business	NONE	100	25	15	30	n/a	n/a	n/a	35	n/a	50%	n/a	

NOTE: GENERAL BUSINESS BUILDINGS SHALL NOT BE ERECTED WITHIN 50' OF ANY R-DISTRICT

I-1	Manufacturing & Assembly	NONE	100	40	N/P	Within 50' of Property Line		35	n/p	20%	0	n/a		
	Non-Production	NONE	75	40	N/P	Within 50' of Property Line		35	n/p	20%	0	n/a		
	Business	NONE	75	40	N/P	Within 50' of Property Line		35	n/p	25%	0	n/a		
I-2	Manufacturing & Assembly	NONE	150	40	N/P	Within 100' of Property Line		35	n/p	20%	0	n/a		
	Non-Production	NONE	100	40	N/P	Within 100' of Property Line		35	n/p	20%	0	n/a		
	Business	NONE	75	40	N/P	Within 50' of Property Line		35	n/p	25%	0	n/a		

NOTE: NO INDUSTRIAL BUILDING SHALL BE ERECTED WITHIN 100' OF ANY R-DISTRICT

¶ARTICLE 900 SPECIAL CLASSIFICATIONS

901.0 Prohibited Uses in the Town of Hornellsville

Manufacture of explosives

Manufacture of poisonous gases

All types of illumination which are not shaded or concealed so that the light will not interfere with the vision of motor vehicle operators or shine directly on residential property in any R District. Illumination which flashes, moves or simulates movement.

Any temporary building or structure in any R District except those structures incidental to permanent construction projects. Any temporary building so used must be removed within thirty (30) days after the construction project is completed. Small portable utility sheds may be permitted.

No fence, tree or foliage shall be maintained on a corner lot that will materially obstruct the view of a driver of a vehicle approaching the street intersection.

Access to or from any B or I District through any private land of any R District.

Access to or from any R-3 District through any private land of any R-lA and R-1B District.

No barbwire fencing shall be permitted within six feet (6') of grade level except in an AG District.

Any use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered.

Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products.

Installation of any mobile home manufactured prior to 1976.

Residential structures without permanent foundations or without permanent connection to utilities.

All billboards, signboards, advertising signs or devices not expressly related to the business conducted on the premises or otherwise specifically permitted by this Ordinance.

Privately operated dumps for the disposal of garbage, trash, junk, refuse and similar materials.

902.0: Fencing Requirements

902.1 Any fence erected in the town shall adhere to the following:

902.1.1 Before a fence shall be erected, a building permit must be obtained from the Zoning Inspector/Code Enforcement Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all streets, lot property lines and yards.

902.1.2 A wall or fence not over four feet (4') high may be erected within the limits of any front yard, side front yard. In any other yard a wall or fence not over seven feet (7') high may be erected. Provided, however that a fence, wall or similar structure unduly shutting out light or air, or which may cause a nuisance, a fire hazard or a dangerous condition, is prohibited.

902.2 Exceptions:

902.2.1 These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

902.2.2 These restrictions shall not be applied so as to restrict the erection, alteration or reconstruction of fences used in connection with farms except insofar as such fences might affect the public safety.

903.0: Swimming Pool Requirements

903.1 No private swimming pool shall be allowed in any R District except as an accessory use, and unless it complies with the following conditions and requirements:

903.1.1 The pool is intended and used primarily for the enjoymentof the occupants of the principal use of the property in which it is located.

903.1.2 It may not be located closer than ten feet (10') to any lot line of the property on which it is located in any front or side front yard.

903.1.3 The swimming pool, when enclosed within a structure and such structure is attached to the principal building, shall be a part of such principal structure and must therefore comply with the requirements of a principal structure.

903.1.4 The swimming pool, either open or enclosed and not attached to the principal structure, shall be considered an accessory structure and as such shall comply with the requirements of an accessory structure. All facilities and fencing serving the swimming pool shall be a part thereof.

903.1.5 All swimming pools shall be enclosed either within a building or within a fenced enclosure at least six feet (6') high, but not over ten feet (10') high. Such fence shall be equipped and maintained with self-closing, latching gates of equal height to the fence.

904.0: Service Station Requirements

Motor vehicle service stations may be permitted in the B-1 and B-2 Districts of the Town, provided that the following standards are observed:

904.1 In addition to the information required in the special permit application and enumerated in Section 505.6 of this Ordinance, the site plan submitted shall also show the number and location of fuel tanks to be installed, the dimensions, and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.

904.2 The lot and yard specifications shall be as stipulated in the Schedule. All garage and filling station pumps, lubricating or other automobile service devices shall be located at least twenty feet (20') from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least twenty feet (20') distance from any street or lot line.

904.3 The entire area of the site traveled by motor vehicles shall be hard surfaced.

904.4 Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on this site. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.

904.5 No vehicle shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those used by the employees in the indirect or direct operation of the establishment of those of customers having work done.

904.6 Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or anti-freeze and similar products may be displayed on the respective island if provided

for in a suitable stand or rack.

904.7 No motor vehicle service station or public garage shall be located within five hundred feet (500') of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.

904.8 Where such service stations abut a residential zone, they shall be screened by a buffer area no less than ten feet (10') in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Board of Appeals, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six feet (6') above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Zoning Inspector/Code Enforcement Officer may direct the property owner to replace said shrubbery.

904.9 All fuel pumps shall be attendant operated.

905.0: Mining and Excavations

905.1 Excavation operations may be permitted by Special Permit in the AG,Agricultural District, of the Town provided that the following conditions and standards are observed:

905.1.1 The minimum lot area for any such use shall be ten (10) acres; all buildings and excavation operations shall be located or shall occur not less than fifty feet (50') from any street or property lines. The Board of Appeals may require fencing or some similarly effective barrier six feet (6') in height where excavations are to exceed a depth of four feet (4').

905.1.2 All buildings and structures used in such operations shall be dismantled and removed within twelve (12) months following the termination of the operations; shall be made at the expense of the operator; and shall be a condition of approval of the Special Use Permit.

905.1.3 All buildings, structures, and plants used for the processing of excavated materials shall be maintained so as to assure that such buildings, structures, and plants shall not become dangerously dilapidated.

905.1.4 All equipment used for the excavation of sand and gravel and processing thereof shall be constructed, maintained and operated in such a manner as to eliminate as far as is practicable, noises and vibrations and dust conditions which are injurious or substantially annoying to all persons living in the vicinity.

905.1.5 All land which has been excavated must be rehabilitated in accordance with standards set hereinafter within one (1) year after the termination of operations; at the expense of the operator and shall be a condition of the approval of the Special Use Permit; and, the owner or user thereof executes and delivers to the Town such surety either by means of bonds, insurance, or written agreement as determined necessary by the Zoning Board of Appeals to rehabilitate said property.

905.1.6 Rehabilitation Standards

A. Excavations made below a water-producing depth shall be properly sloped to the water line, with banks sodded or surfaced with soil of an equal quality to adjacent land area topsoil; such topsoil required under this Section shall be planted with trees, shrubs, legumes, or grasses upon the parts of such area where revegetation is possible.

B. Excavations not made to a water-producing depth must be graded or back-filled with non-noxious, non-flammable, non-combustible, non-decomposable, solid material and in a topographic character which will result in substantial general conformity to adjacent lands; such grading or back filling shall be designed to minimize erosion and shall be surfaced with a soil equal in quality to that of adjacent land area and planted with trees, shrubs, legumes, or grasses upon the parts of such areas where revegetation is possible.

905.2 Mining operations may be permitted by Special Permit in the AG, Agricultural District. When the Town of Hornellsville receives the Lead Agency letter from NYSDEC acknowledging that a mining permit application has been received, the Town shall send a letter to the applicant advising him/her of the Town permit requirements and requesting immediate appearance at the Board of Appeals meeting for a concept plan/pre-application meeting. This will allow the applicant to make changes as necessary to meet the Town standards. The Town shall also send relevant comments from the Board of Appeals meeting to NYSDEC as input to the NYSDEC permit process.

905.2.1 Submittal Requirements. Before a Special Use Permit is issued the applicant shall submit to the Board of Appeals a plot plan(s) showing the following information:

A. The entrance to and exit from the mining operation on Town roads.

B. The proposed routing of mineral transport vehicles on Town roads.

C. All setbacks, barriers, etc. which may be required as conditions of the NYSDEC mining permit.

D. Reclamation requirements which may be required as conditions of the NYSDEC mining permit.

905.2.2 Standards

A. The property on which the mining is proposed must have road frontage on a State or County highway, or Town Road; or private road access onto a State or County highway or Town Road; for purposes of ingress and egress. If such ingress or egress is on a Town Road, the applicant shall enter into a Road Use Agreement with the Town of Hornellsville, or supply a bond in an amount determined by the Town Board, for the repair and maintenance of the Town Road.

B. .If the applicant will use any Town Roads to route mineral transport vehicles, the applicant shall enter into a Road Use Agreement with the Town of Hornellsville, or supply a bond in an amount determined by the Town Board, for the repair and maintenance of the Town Road.

C. The Board of Appeals may establish haul routes for mineral transport vehicles in order to avoid residential areas and other sensitive land uses such as schools, places of worship, or parks.

D. The Board of Appeals shall make any conditions required by the NYSDEC mining permit conditions of the Special Use Permit.

E. The Board of Appeals shall make any reclamation requirements established by the NYSDEC conditions of the Special Use Permit.

906.0: Cluster Residential Developments

Cluster residential developments of single-family dwellings may be permitted with a Special Use Permit in any R District of the Town provided that the following conditions and requirements are observed:

906.1 The project shall encompass a minimum land area of ten (10) acres.

906.2 The lot area difference between the minimum lot size shown on the Schedule and the minimum lot size permitted in a Cluster Development shall be set aside as open space as provided for hereinafter.

906.3 The developer shall show all unsubdivided lands as permanent open space. In no case shall such lands be less than twenty five percent (25%) of the total project area. All such lands shall be suitable, in the opinion of the Planning Board, for the intended use. such lands shall be offered for dedication to the Board of Trustees of the Town.

906.4 The developer shall have received informal conditional approval of the Planning Board of the design and arrangement of streets, lots, open areas, and other elements of the project prior to filing the Special Use Permit application.

906.5 The requirements of this Ordinance, insofar as density, minimum lot area, minimum lot width, minimum side and rear yard areas, and maximum lot coverage are as specified in this Schedule of this Ordinance. All other requirements of this Ordinance shall be adhered to.

907.0: Planned Unit Development

Planned Unit Development consisting of Cluster Residential Developments and business uses as defined below may be permitted in the R Districts of the Town provided that the following conditions are observed:

907.1 Only convenience businesses such as a grocery store or self-service laundry will be permitted. In no case will there be more than two (2) businesses for every two hundred fifty (250) homes in a Planned Unit Development.

907.2 Businesses will be housed in buildings structurally and architecturally similar to the residences in the immediate vicinity.

907.3 The Cluster Residential Development portion of the Planned Unit Development shall contain a minimum of two hundred fifty (250) homes.

907.4 The developer shall have received informal conditional approval of the Town Planning Board of the design and arrangement of streets, lots, open areas, and all other elements of the project prior to filing the Special Use Permit application.

907.5 The requirements of this Ordinance insofar as density, minimum lot area, minimum lot width, minimum side and rear yard areas, and maximum lot coverage are as specified in the Schedule of this Ordinance. All other requirements of this Ordinance shall be adhered to.

908.0: Manufactured/Mobile Homes and Manufactured/Mobile Home Parks

908.1 General Requirements: All manufactured/mobile homes in the Town of Hornellsville shall be used for single-family residential purposes only, and shall conform to the following:

908.1.1 Code Requirements: All new manufactured/mobile home units installed shall meet the requirements of Chapter D, Article 3 of the New York State Uniform Fire Prevention and Building Code.

908.1.2 Manufactured/Mobile Home Placement, Supports and Tiedowns: Each manufactured/mobile home shall be provided with supports and tiedowns as anchoring devices installed according to the

manufactured/mobile home manufacturer's instructions. Units not provided with such instructions shall be installed in compliance with the following, unless the entire system shall be designed by a registered professional engineer.

A. Stand - The manufactured/mobile home shall be placed upon a stand consisting of appropriate material properly placed, graded and compacted so as to be durable 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 manufactured/mobile home stand shall include provision for all utility connections at appropriate locations.

The manufactured/mobile home stand shall include provision for supports and ground anchors prior to, or at the time a manufactured/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 manufactured/mobile home stand. End supports shall be no more than three feet (3') from the ends of the manufactured/mobile home.

Tiedowns and anchors as installed shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a fifty percent (50%) overload without failure.

C. Tiedown Hardware and System - Tiedown hardware shall be resistant to weatherings at least equivalent to that provided by a coating of zinc on steel strapping of not less than 0.3 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 manufactured/mobile home stand. End anchors shall not be more than six feet (6') from the ends of the manufactured/mobile home frame.

908.1.3 Skirting: Each manufactured/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.

908.2 Manufactured/Mobile Home Parks: Manufactured/mobile home parks shall be permitted as a Special Use Permit in any R-3, Multi-Family Residence, or AG, Agricultural District, as regulated hereinafter:

908.2.1 Location - Where any boundary of a manufactured/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 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.

908.2.1 Manufactured/Mobile Home Park Plan - A manufactured/mobile home park shall be developed in accordance with a Manufactured/Mobile Home Park Plan, which shall conform to the following requirements:

A. The proposed site shall be located so that the conditions 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 manufactured/mobile home park shall have a minimum area of two (2) acres, including manufactured/mobile home spaces, streets, service buildings and recreation areas, and provide clearly defined and delineated manufactured/mobile home spaces.

C. Each manufactured/mobile home shall have a minimum area of not less than five thousand (5,000) square feet and a minimum width of fifty feet (50') for double-wide units, thirty-five feet (35') for single-width units; provided, however, that manufactured/mobile home spaces lawfully existing at the time of adoption of this Ordinance which do not comply with any of the foregoing minimum area and width requirements, may continue to operate and shall be excused from such compliance.

D. All manufactured/mobile home parks shall provide adequate public sewer and water facilities as approved by the State, County and Town health officials.

E. Each manufactured/mobile home site or plot shall be provided with two (2) parking spaces at least ten feet (10') by twenty feet (20').

908.2.2 Manufactured/Mobile Home Location Requirements:

A. No manufactured/mobile home or accessory service building shall be located within fifty feet (50') of any public street.

B. No manufactured/mobile home or accessory service building shall be located within fifteen feet (15') of any internal driveway.

C. No manufactured/mobile home shall be located within five feet (5') of any side site or plot lines.

D. No manufactured/mobile home shall be located within fifteen feet (15') of any rear site or plot lines.

E. Each manufactured/mobile home or attachment thereto shall be maintained with a minimum distance of ten feet (10') between any other manufactured/mobile home or attachment thereto.

F. No manufactured/mobile home or attachment thereto shall be permitted within forty feet (40') of any service building.

G. No manufactured/mobile home shall be located within fortyfeet (40') of any other zoning district.

909.0: Parking and Loading Space Requirements

909.1 Requirements by Usage: In all districts, every industrial, business, institutional, recreational, residential or other use shall provide at the time any building or structure is erected, enlarged or increased in capacity, off-street parking and loading spaces for motor vehicles in accordance with the requirements of this and other applicable sections of the Zoning Ordinance.

909.2 Requirements of Off-Street Parking Spaces: The size of off-street parking spaces shall be ten feet (10') wide by twenty feet (20') long for all side by side parking or eight feet (8') wide by twenty-three feet (23') long for all parallel parking. Off-street parking facilities shall be located as hereinafter specified; where distance is specified, such distance shall be measured from the nearest point of the parking facility to the nearest point of the building or use such facility is required to serve. Off-street parking spaces shall be allowed in required yards except where specifically prohibited by this Code.

909.2.1 Multi-unit dwellings, not more than two hundred feet (200') from the building they are required to serve.

909.2.2 For uses located in the B-1 District; and, for hospitals, sanitariums, convalescent, nursing and rest homes; homes for the aged, retirement homes, private clubs, lodges, and offices; not more than one hundred feet (100') from the building they are required to serve.

909.2.3 For uses other than those specified above, not more than three hundred feet (300') from the building they are intended to serve.

In stadiums, churches and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty inches (20") of such seating facilities shall be counted as one seat.

Whenever there is a change in use, or an increase in floor area or other unit of measurement, and such change and such increase creates a need for an increase of more than ten percent (10%) in the number of required off-street parking spaces, as determined by the requirements in this Section.; additional off-street parking spaces shall be provided in accordance with this Section for that addition or change in use.

909.2.4 The number of off-street parking facilities required shall be as set forth in the following:

Auditorium	1 for each 5 seats
Automobile or Machine sales and service	1 for each 300 square feet of floor area
Banks, business and professional offices	1 for each 200 square feet of floor area
Bowling alleys	5 for each alley plus the necessary space as set forth in this section for affiliated uses such as bars, restaurants, or other commercial uses
Churches	1 for each 5 seats in places of worship
Dance halls and assembly without fixed seats; exhibition halls, except church assembly rooms in conjunction with auditorium	1 for each 100 square feet of floor area used for assembly or dancing
Dwellings	2 for each family or dwelling unit
Funeral Homes, mortuaries	6 for each reposing room or parlor
Hospitals	1 for each 3 beds
Rooming houses; lodging houses	1 for each 2 bedrooms
Libraries, museums, galleries	1 for each 600 feet of floor space
Manufacturing plants, research or testing laboratories, bottling plants	1 for each 300 square feet of floor area
Medical and Dental clinics or offices	1 for each 200 square feet of floor area
Motels and hotels	1 for each living or sleeping unit
Restaurants, cafes, and nightclubs	1 for each 50 feet of customer floor area
Retail Stores, shops, etc.	1 for each 200 square feet of floor area
Sanitariums, convalescent homes for the aged, children's homes	1 for each 3 beds
Theaters, assembly halls, other than schools	1 for each 5 seats
Wholesale establishments or warehouses	1 for each 3,000 square feet of floor area

In the case of a use not specifically mentioned above, the requirements for off-street parking facilities to which said use is similar shall be as set forth by the Zoning Inspector/Code Enforcement Officer.

909.3 Loading spaces shall be provided and maintained on the same premises with every building, structure, or part thereof, erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles, of material or merchandise.

Such space shall be adequate for standing, loading, and unloading services, in order to avoid undue interference with use of public transportation.

Loading and unloading space shall not be occupied or considered as any part of the required off-street parking.

All business districts shall include a ten foot by twenty five foot (10' x 25') loading space with a fourteen foot (14') height clearance, for every twenty thousand (20,000) square feet or fraction thereof of building floor or land use for the above mentioned purposes.

909.4 Off-Street Parking Facilities Shall Adhere to the Following:

909.4.1 Off-street parking space shall be provided as further specified in this Ordinance, and shall be furnished with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which it is situated, and shall not be encroached upon or reduced in any manner. All parking areas, passageways, and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the Zoning Inspector/Code Enforcement Officer.

909.4.2 For the purpose of this Ordinance a parking space shall be an area ten feet (10') wide, and twenty feet (20') long, exclusive of passageways and driveways appurtenant thereto and providing access thereto.

909.4.3 None of the off-street parking facilities as required in this Ordinance shall be required for any existing building or use, unless said building or use shall be enlarged.

909.4.4 The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one (1) or more of the collective users.

909.4.5 All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.

909.4.6 Access drives or walkways to any B or I District through any R District shall not be permitted as this would constitute an illegal use of residentially zoned land.

909.4.7 Off-street parking areas located in commercial zones and which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the Zoning Inspector/Code Enforcement Officer and located not greater than sixty feet (60') on center.

910.0 Signs and Outdoor Advertising

910.1 General Provisions:

910.1.1 No signs shall be permitted in any district except customary professional and accessory-use signs as provided herein.

910.1.2 No signs shall have flood-lighting or other exterior illumination until an application shall be made to the Board of Appeals and a special permit granted therefrom by said Board of Appeals, except that no illumination sign shall be of the flashing intermittent or interrupted type.

910.1.3 In all cases where special permits or site plan approval is required, signs may be erected as permitted in such special permit or site plan approval.

910.2 R-1A and R-1B, Single-Family Residence Districts

Signs in accordance with the following:

910.2.1 One (1) name plate sign situated within the property line and not exceeding four (4) square feet in area on either of two (2) sides. Professional offices and home occupation uses may be identified with a second sign not to exceed four (4) square feet.

910.2.2 One (1) sign, which may be illuminated identifying a church, public building, or other permitted

use which is situated on the property to which it relates not less than twenty-five feet (25') from a street line and not more than ten (10) square feet in area on either of two (2) sides.

910.3 R-3 Residence Districts

Signs in accordance with the following:

910.3.1 One (1) sign not to exceed four feet (4') in height, set back twenty-five feet (25') from front street line, one (1) square foot of sign area per one foot (1') o setback, maximum forty (40) square feet, supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

910.3.2 When (1) sign attached directly to the building wall and which does not extend more than eighteen inches (18") therefore nor more than three feet (3') above the roof line, with the exposed face of the sign area no more than ten percent (10%) of building face in square feet - minimum ten (10) square feet, maximum forty (40) square feet - with the exposed face of the sign in a place parallel to the building wall.

910.4 B-1 Shopping Center Districts

Signs shall be permitted within a planned business district as follows:

910.4.1 One (1) sign may be placed or inscribed upon the front facade of each unit in the total planned business complex equal in area to no more than fifteen percent (15%) of such total area of the facade of the individual units. Such signs shall not project more than twelve inches (12") in front of the facade.

910.4.2 In such planned business district there may be one (1) directory sign identifying the names of the occupants of the units at any location therein and the name of the center. Said directory signs shall not exceed fifty (50) square feet in area on either of two (2) sides.

910.5 B-2 General Business Districts

Signs to identify a permitted business use and located on the same property as the permitted use and which meet the following standards:

910.5.1 One (1) sign may be placed or inscribed upon the front of a building for each permitted use or activity. Said sign shall not exceed an area equal to fifteen percent (15%) of the surface upon which it is located and shall not project more than twelve inches (12") in front of the facade. Such signs may be illuminated but shall not be flashing.

910.5.2 Each permitted use may have one (1) freestanding sign. Said sign shall not exceed twenty-five feet (25') in height and shall not exceed eighty (80) square feet in area on either of two (2) sides.

910.6 Motor Vehicle Service Stations

910.6.1 In addition to the sign requirements for business uses in the B-1 and B-2 Districts, each motor vehicle service station shall be permitted to have one (1) freestanding or pylon sign setting forth the name of the station and for the principal products sold on the premises, including special company or brand names, insignia or emblem, provided that such sign shall not exceed twenty (20) square feet in area on either of two (2) sides and shall be hung within the property line and no less than ten feet (10') nor more than twenty-five feet (25') above the ground.

910.6.2 Service stations may also exhibit one (1) temporary signlocated no less than ten feet (10') inside the property line and specifically setting forth special seasonal servicing of automobiles, provided that such sign does not exceed seven (7) square feet in area.

910.7 I-1 and I-2 Industrial Districts

Signs shall be permitted within an industrial district for advertising industrial activities on the premises which shall not exceed, in aggregate, fifteen percent (15%) of the area of the front facade of the building.

910.8 Real Estate and Contractor Signs

One (1) temporary sign no longer than three feet (3') in height by five feet (5') in length and not placed within twenty-five feet (25') of any lot line, advertising:

910.8.1 The sale or rental of the property on which it is located.

910.8.2 The name of the builder or contractor erecting or repairing a structure on the premises.

910.9 For Advertising Farm Products

Two (2) signs not exceeding twelve (12) square feet each for advertising the sale of products grown or produced on the premises where such premises are used as a farm, truck garden or nursery.

910.10 Signs necessary for the identification, operation or protection of a public utility installation.

910.11 Signs incident to a legal process or necessary to the public welfare.

910.12 Signs directing attention to a pre-existing non-conforming procession, business, service, entertainment or commodity conducted, offered, sold or manufactured upon the same lot may be maintained and continued; such signs may also be replaced by a sign which is neither larger nor brighter nor closer to a lot line or street line than the existing sign; provided, however, that such replacement sign shall not be larger, brighter or closer to a lot line or street line than would be allowed in a district in which the principal use would be conforming.

910.13 For the Sale of Lots in a Subdivision

Temporary signs advertising the sale of lots in a subdivision which has been approved by the Planning Board. Such signs shall be no longer than eight feet (8') in height by twelve feet (12') in length, and shall be removed upon the termination of the purpose for which erected.

910.14 Signs Prohibited

The following types of signs are prohibited and shall not be permitted, erected, or maintained in any zoning district and the owner thereof shall upon written notice of the Town Engineer forthwith, in the case of immediate danger and in any case within not more than ten (10) days, make such sign conform with the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the Town Engineer may cause such sign to be removed at the expense of the owner.

910.14.1 Any sign which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device or public streets and roads.

910.14.2 No person shall erect or maintain a sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

910.14.3 Signs which make use of words such as "**STOP**", "**LOOK**", "**DANGER**", or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

910.14.4 Any sign that becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected, or maintained.

910.14.5 Any sign which has any visibly revolving parts or visible mechanical movement of any description (except time and temperature revolving signs as allowed) or other apparent visible movement achieved by electrical, electronic or kinetic means, including intermittent electrical pulsations, or by action of normal wind currents.

910.14.6 Any sign or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be located.

910.14.7 It shall be unlawful for any person to display upon a sign or other advertising structure any obscene, indecent or immoral matter.

910.14.8 Any sign painted on the exterior surface of a building or structure.

910.15 Board of Appeals

The Board of Appeals shall have authority to interpret this chapter and may in specific cases and after public notice and hearings grant variances from these requirements.

910.16 Non-Conformance

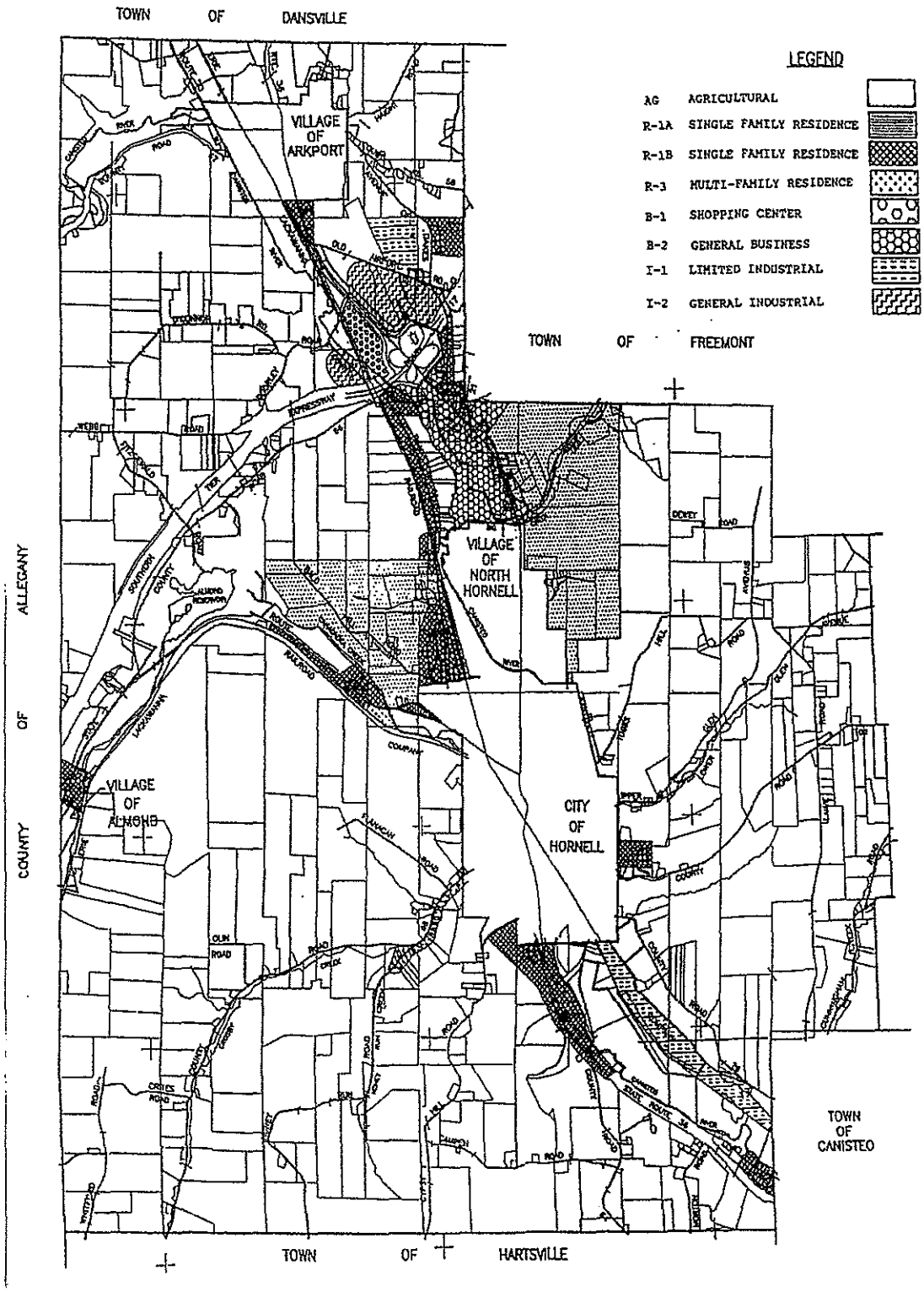
It is the intent of this Section to recognize that the eventual elimination, as expeditiously as is reasonable of existing signs that are not in conformity with the provisions of this Section is as much a subject of health, safety and welfare as is the prohibition of new signs that would violate the provisions of this Section. It is also the intent of this Section that any elimination of non-conforming signs shall be effected so as to avoid any unreasonable invasion of established private property rights.

A non-conforming sign may be continued and shall be maintained in good condition, but it shall not be:

- changed to another non-conforming sign;
- structurally altered so as to prolong the life of the sign;
- expended;
- re-established after its discontinuance for ninety (90) days; or,
- re-established after damage or destruction if the estimated expense of reconstruction exceeds fifty percent (50%) of the appraised replacement cost (as determined by the Code Enforcement Officer/Zoning Inspector.)

APPENDIX A

TOWN OF HORNELLSVILLE ZONING MAP



(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 2013 of the ~~(County)(City)~~(Town)~~(Village)~~ of Hornellsville was duly passed by the Hornellsville Town Board on May 14 2013, in accordance with the applicable
(Name of Legislative Body)
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)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20[ ][ ], in accordance w ith 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
(Elective Chief Executive Officer)*
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.

Sheryl Isaman

~~Clerk of the county legislative body, City,~~ Town ~~or village~~ Clerk ~~or~~ ~~officer designated by the local legislative body~~ Sheryl Isaman, Homellsville Town Clerk

(Seal)

Date: May 14, 2013

999

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

June 5, 2013

Linda Burton
Servico
PO Box 871
Albany NY 12201

RE: Town of Hornellsville, Local Law 1 2013, filed on June 5, 2013

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 474-2755

518) 463-4179
800) 828-4428 NYS ONLY
518) 463-3752 Fax
www.servico.com
4-1638171 Tax I.D. No.

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P.O. 871
Albany, N.Y. 12201

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INVOICE # 506054

957768 6072957768

YOUR FILE # _____

DATE 6/6/2013

SOLD TO

Attn: Sheryl Isaman, Town Clerk
Town Of Hornellsville
P.O. Box 1 - 4 Park Ave.
Arkport, NY 14807

SHIP TO

	PRICE
FILED LOCAL LAW FILING	
LOCAL LAW #1 - YEAR 2013	
AMENDING THE ZONING ORDINANCE OF THE TOWN OF HORNELLSVILLE	
FILING OF LOCAL LAW	35.00
ADMINISTRATIVE CHARGE	5.00
WE HAVE RECEIVED YOUR PREPAYMENT OF $40.00 CK #10270	0.00
THE REMAINING BALANCE ON THIS INVOICE IS $0.00 THANK YOU FOR YOUR PAYMENT.	
	$40.00
- THANK YOU • PAY THIS INVOICE UPON RECEIPT -	Balance Due

RETURN GREEN COPY OF INVOICE WITH PAYMENT - WRITE INVOICE NUMBER ON ALL PAYMENTS

NOTE: We guarantee our information to be as accurate as REASONABLE CARE can make it. However, the ultimate responsibility for maintaining files rests with the filing officer and/or government agency and we will accept NO LIABILITY beyond the exercise of REASONABLE CARE.

LB LB

Biller _____

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STATE OF NEW YORK}
STEUBEN COUNTY} SS.

AFFIDAVIT

Beth Ann Hults *being duly sworn, disposes and says that* she *resides in the County of* Steuben, *and State of New York, that she is the* signor and authorized designee of the publisher *of* The Evening Tribune, *a public newspaper, published and printed daily in the* City *of* Hornell *by* GateHouse Media, Inc., *and that a notice of which the annexed is a printed copy, was published in said newspaper* The Evening Tribune, *said publication therein being on the following dates:*

4/29/13

Beth A. Hults

Subscribed and sworn to before me this 2

day of May, 20 13

Ellen M Slaght

Notary Public

ELLEN M SLAGHT
NOTARY PUBLIC - STATE OF NEW YORK
STEUBEN COUNTY - NO 01SL5038660
My Comm Expires 07 / 18 / 2014

PUBLIC HEARING

The Town of Hornellsville Town Board will hold a Public Hearing at the Town of Hornellsville Town Hall at 4 Park Avenue, Arkport, New York on May 14, 2013 at 7:00 p.m.

The purpose will be to hear comments on the proposed Zoning changes being considered to amend the Town's Zoning Ordinance.

Interested parties may review these changes during regular business hours at the Town Hall.

BY ORDER OF THE TOWN BOARD

TOWN OF HORNELLSVILLE

P.O. BOX 1, 4 PARK AVE.
ARKPORT, NEW YORK 14807
607-295-7768
FAX# 607-295-8015

Kenneth Isaman, Supervisor
James Giglio, Board Member
Ronald Kennell, Board Member
Graham Marcus, Board Member
William Giese III, Board Member
David Weeks, Assessor

Sheryl Isaman, Town Clerk
Jason Emo, Hwy. Supt.
Gretchen McManus, Justice
Howard Plank, Justice
Sharon Ames, Tax Collector
Shawn Grasby, Codes Officer

LOCAL LAW #1-2013
ZONING ORDINANCE

WHEREAS, THE TOWN OF HORNELLSVILLE desires to upgrade its current Zoning Ordinances, which were adopted December 8, 1992, and

WHEREAS, THE TOWN OF HORNELLSVILLE wishes to clarify some procedural policies, Add Definitions, removal of outdated Flood Plain Regulations and add Special Uses to some Districts,

THEREFORE, BE IT RESOLVED that the Town of Hornellsville has heretofore completed a Type 1 SEQR Review and declares a **NEGATIVE DECLARATION,**

AND IT IS FURTHER RESOLVED, THAT THE TOWN OF HORNELLSVILLE, does hereby **ADOPT LOCAL LAW #1 OF 2013.**

THIS LOCAL LAW #1 OF 2013 WILL TAKE EFFECT UPON FILING WITH THE SECRETARY OF STATE.

Motion made by:

Motion seconded by:

Roll Call:	AYES	NAYES	ABSTAIN	ABSENT
Kenneth Isaman	x			
Ronald Kennell	x			
William Giese III	x			
James Giglio				x
Graham Marcus	x			

Motion Carried.

Dated: May 14, 2013