

Local Law Filing

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

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

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

~~County~~
~~City~~ of Howard
Town
~~Village~~

Local Law No. 2 of the year ~~19~~ 2007

A local law Planning Board Law
(Insert Title)

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

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

(See Local Law annexed hereto)

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

TOWN OF HOWARD PLANNING BOARD LAW
LOCAL LAW NO. 2, 2007

1. TITLE

This law shall be known as the "Town of Howard Planning Board Law".

2. AUTHORITY

This law is enacted pursuant to Town Law Section 271 and Municipal Home Rule Law Section 10.

3. PURPOSE

This law is enacted to establish a Planning Board for the Town of Howard for purpose of securing, planning for and promoting the public health, comfort, convenience, safety, welfare, the environment, appropriate land use, and orderly development in and of the Town of Howard.

4. ESTABLISHMENT OF THE PLANNING BOARD

There shall be a Planning Board of seven (7) members, which shall have the powers and duties set forth in Town Law Section 271.

5. ELIGIBILITY

A. Residency. All members of the Planning Board shall be electors in the Town of Howard.

B. Membership on Other Boards. No person who is a member of the Town Board shall be eligible for membership on the Planning Board. No person shall be disqualified from serving as a member of the Planning Board by reason of serving as a member or employee of the Steuben County Planning Board or Department.

C. Agricultural Members. Nothing hereunder shall be interpreted to require that at least one member of the Planning Board shall be an agricultural member. However, the Town Board shall attempt to ensure that at least one of the members of the Planning Board at any given time will be an agricultural member, as provided by Town Law Section 271(11). If such attempts are unsuccessful in making any appointment pursuant to Section 6 of this law, such failure shall be duly noted and taken into strong consideration when filling the next vacancy on the Planning Board. Each such agricultural member must derive a significant percentage of his or her gross annual income from agricultural pursuits in the Town of Howard, as determined by the sole discretion of the Town Board. As used in this subdivision, the term "agricultural pursuits" means the production of crops, livestock and livestock products, agricultural products, and woodland products as defined in Agriculture and Markets Law Section 301.

D. Attendance and Training. Any Planning Board member who is absent, without excuse, for more than two consecutive meetings of the board shall be subject to removal for failure to attain minimum attendance requirements. All Planning Board members shall complete such training requirements, including seminars, conferences, videotapes, audiotapes, or reading, as may be prescribed by the Town Board by resolution *or Town Law*.

E. Alternate Members. Pursuant to Town Law Section 271 (15) (a), the Town Board shall appoint, by resolution, up to four (4) alternate members to the Town Planning Board to substitute for a regular member or members of the Town Planning Board in the event such regular member is unable to participate in matters before the Town Planning Board because of a conflict of interest, illness or other absence. Such alternate members shall be appointed for 1-year terms.

6. TERM OF OFFICE

A. Appointment. The Town Board shall appoint the members of the Planning Board by resolution. The terms of the initial members of the Planning Board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such member was initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a five-year term.

B. Removal. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

C. Vacancies. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

7. COMPENSATION

The Town Board, by resolution, may provide for compensation to be paid to Board members.

8. PROCEDURES

A. Chairperson. The Town Board shall, by resolution, designate the chairperson of the Planning Board. In the absence of a Chairperson, the Planning Board may designate a member to serve as Chairperson.

B. Town Board Liaison. The Town Board shall designate one of the Town Board members to be the Town Board's liaison to the Planning Board. Such designation shall occur annually at the Town's organizational meeting, or such later time the Town Board, by resolution, so determines.

C. Meetings. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. The Town Code Enforcement Officer shall be notified of such meetings and is required to attend each meeting unless previously excused. The concurring vote of a majority of the members of the Board shall be necessary for the Planning Board to act.

D. Oaths. The Chairperson, or in absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

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

F. Filing. Every rule, regulation, every amendment or repeal of rules or regulations, and every order, requirement, decision or determination of the Board shall be filed immediately in the office of the Town Clerk, and shall be a public record.

G. Assistance. The Planning Board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made for such items for the Planning Board by the Town Board.

H. State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in title Six, Part 617 of the New York Codes, Rules and Regulations.

I. Hearings.

Time of Hearing. If a public hearing is required, the Board shall schedule a hearing of all applications within the time permitted by the applicable ordinance, law, or regulation giving jurisdiction to the Board in the manner.

Notice of Hearing. The Board shall give notice of the hearing at least five (5) business days prior to the date thereof by publication in the official paper. The Board shall mail notices of the hearing to the parties, and if required by Section 239 of the General Municipal Law of the State of New York, to the County Planning Board.

Form of Notice. The notice shall state the name of the applicant, the location of the property involved, the general nature of the application involved, and the date, time and place of the hearing sought.

Proceedings. The order of business at a hearing shall be as follows: (a) roll call; (b) the Chairman shall give a statement of the case; (c) the Chairman shall read all correspondence and reports received thereon; (d) the applicant shall present his/her case; (e) those in favor shall present their arguments; (f) those opposed shall present their arguments; (g) rebuttal by both sides; (h) adjournment of hearings.

General Rules. Any party may appear in person or by agent or attorney.

Oaths. The Chairman, or in his/her absence, the Acting Chairman, may administer oaths.

9. POWERS

The Planning Board shall have the powers allowed under Article 16 of the Town Law and this law, including the following:

A. **Comprehensive Plan.** The Town Board may, by resolution, direct the Planning Board to prepare a comprehensive plan for the Town or amendments thereto. In such event, the Planning Board shall hold one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such plan or amendment, and after such hearings and meetings shall, by resolution, make a recommendation to the Town Board on such proposed plan or amendment.

B. **Report on Referred Matters: General Reports.** The Town Board may, by resolution, provide the reference of any matter or class of matters, to the Planning Board before final action is taken thereon by the Town Board or other officer or officers of said town having final authority over said matter. The Town Board may further stipulate that final action thereon shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time, to be fixed by the Town Board in said resolution, to submit the report.

C. **Local Laws, Ordinances, Statutes, and Regulations.** The Planning Board shall review all matters as required under any applicable local law, ordinance, statute, and regulations in effect for the Town of Howard.

D. **Town Code Officer.** The Town Code Enforcement Officer, upon the adoption of an appropriate resolution evidencing the Town Board's approval, may refer any matters submitted to the Town Code Enforcement Officer, including but not limited to Building Permit Applications, to the Planning Board for its review and recommendation, before final action is taken thereon by the Code Enforcement Officer.

E. **Basis for Determination.** In reaching a determination, the Board shall be guided by standards specified in the applicable ordinance, law, or regulation as well as by the community goals and policies as established by the Town Board.

F. **Conflicts with Other Laws or Regulations.** In reviewing any application on any matter, the standards in any applicable Local Law or Ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

10. INCONSISTENCY

All other local laws and ordinances of the Town of Howard inconsistent with the Provisions of this Local law are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Local Law shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by this local law. In particular, any duly appointed members of the Town Planning Board on the effective date of this local law, shall not in any way be affected hereby, nor any terms of office of such positions associated therewith be modified, changed or amended in any way as a result of the adoption of this local law.

11. UNCONSTITUTIONALITY AND ILLEGALITY

If any clause, sentence, paragraph, word, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgement shall not affect, impair, or invalidate any paragraph, word, section or part thereof not directly involved in the controversy in which such judgement shall have been rendered.

12. EFFECTIVE DATE

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of ~~19~~ 2007 of the ~~(County)(City)(Town)(Village)~~ of Howard was duly passed by the Town Board on March 14 2007, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

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

Loreen A. Karr

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

LOREEN A. KARR, Town Clerk

Date: MARCH 22, 2007

(Seal)

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

STATE OF NEW YORK
COUNTY OF STEVEN

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

Signature

THOMAS W. REED II, Atty.

Title

County

City of Howard

Town

Village

Date: 3/19/07