

ARTICLE XXIII  
**Southern Hamburg Overlay District**  
**[Added 8-17-2015 by L.L. No. 11-2015<sup>1</sup>]**  
**Repealed by Article XXXIE Southeastern**  
**Hamburg Overlay District [Added 4-24-2023**  
**by L.L. No. 6-2023]**

**~~§ 280-151. Purpose and intent.~~**

- ~~A. In accordance with the recommendations and policies of the Town of Hamburg 2010 Comprehensive Plan (1997 Master Plan update), the purpose of this overlay district is to preserve important environmental resources, including scenic views and vistas; encourage bicycle and pedestrian access; and preserve the rural character of the area. This district contains significant tracts of freshwater wetlands and woodlands, as well as habitats and management areas and designated conservation areas. This overlay is also intended to control suburban development without impacting the economic value of the land or hampering development altogether.~~
- ~~B. The overlay district regulations will supplement the underlying zoning restrictions and provide for harmonious, safe and orderly development within the district.~~

**~~§ 280-152. Boundary description.~~**

~~The Southern Hamburg Overlay District shall encompass all the land area that is located southeast of Old Lake Shore Road and the shoreline of Lake Erie; southeast of Amsdell Road and Rogers Road and south of East Pleasant and Pleasant Avenue and southwest of the boundaries of the Incorporated Village of Hamburg and continuing along the southern boundaries of the Village of Hamburg to the south and of Newton Road and the southeast of the boundary of the Town of Orchard Park; and north of the boundary with the Towns of Boston, Eden and Evans.~~

**~~§ 280-153. Objectives.~~**

~~The special regulations contained herein, which govern all proposed development and redevelopment within the boundaries of the Southern Hamburg Overlay District, shall be founded upon the following objectives:~~

~~A. Guidelines and objectives for development.~~

- ~~(1) Land use decisionmaking shall consider a wide variety of uses through the implementation of impact criteria to prevent potential adverse effects to adjoining properties and allow for more flexibility and creativity in design.~~
- ~~(2) Land use controls shall, in some cases, allow smaller lots as long as the overall density guidelines are maintained (cluster development), thereby preserving open space and furthering the goals of the Town of Hamburg 2010 Comprehensive Plan.~~
- ~~(3) Open space protection and good design shall supersede the importance of density in development decisions.~~
- ~~(4) Suburban development shall be minimized to control/manage growth. Standard road~~

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<sup>1</sup> Editor's Note: This local law also repealed former Art. XXIII, Southwestern Boulevard Overlay District, added 3-9-1992 by L.L. No.

~~4-1992.~~

~~frontage lots are highly discouraged to help preserve the character of this overlay area.~~

- ~~(5) Rural development guidelines shall be applied to manage growth and achieve a more desirable environment than what would be possible through the strict application of existing zoning regulations.~~
- ~~(6) Development should be set back from roadways and adjacent agricultural development, as directed by the Planning Board, to preserve the rural character of the district.~~
- ~~(7) To better manage suburban growth, the extension of public sewer lines beyond existing areas shall be discouraged.~~
- ~~(8) Development shall be set back from roadways and adjacent agricultural development to preserve the rural character of the district. The aesthetics and layout of proposed development should be reviewed to prevent the area from taking on a suburban appearance.~~
- ~~(9) Commercial development shall be concentrated in existing commercial areas rather than spread out in strips along major highways to preserve the rural character of this overlay district.~~

~~B. Guidelines and objectives for environmental preservation.~~

- ~~(1) The amount of land clearing shall be minimized, and development shall be designed around significant resources on site, i.e., wetlands, steep slopes, scenic vistas, floodplain boundaries and wooded areas, to manage growth and achieve a more desirable environment than what would be possible through the strict application of the existing zoning.~~
- ~~(2) Development shall be concentrated in areas that are already developed to control suburban sprawl and further the goals of the Town of Hamburg 2010 Comprehensive Plan.~~
- ~~(3) Conservation easements, deed restrictions and other methodologies shall be utilized, to the greatest extent practicable, to preserve significant natural resources of developable lots.~~
- ~~(4) More stringent environmental review shall be conducted for development of properties that contain extensive woodlands and other important natural resources.~~
- ~~(5) Important habitats on the site should be identified, and the relative value of these areas for supporting wildlife should be determined.~~
- ~~(6) Trees of a minimum size of eight inch diameter at breast height (DBH), all important trees and any significant stands of vegetation shall be preserved to the greatest extent possible. (The Planning Board, with input from the Conservation Board, will direct the applicant in areas to preserve.)~~

~~§ 280-154. Permitted uses.~~

- ~~A. The uses permitted in the Southern Hamburg Overlay District shall be the same uses as~~

~~permitted in the underlying zoning district(s).~~

~~B.—Cluster development shall be encouraged, and in certain cases required, in accordance with the provisions of § 280-282A of the Town of Hamburg Zoning Code.~~

#### ~~§ 280-155. Permitted accessory uses.~~

~~The accessory uses permitted in the Southern Hamburg Overlay District shall be the same as the accessory uses permitted in the underlying zoning district(s).~~

#### ~~§ 280-156. Design regulations.~~

~~A.—The division of lands, regardless of zoning classification, shall be subject to Chapter 230, Subdivision of Land, of the Code of the Town of Hamburg.~~

~~B.—Subdivision plans must clearly depict all features identified in the Town of Hamburg Open Space/Recreation Plan and all other important environmental and cultural features in relation to the approximate locations of proposed homes and driveways on the property.~~

~~C.—Areas with significant trees along the road frontage must be identified and preserved to the greatest extent practicable. Predetermined driveway and home locations, as required under § 280-156A(2), will help to minimize tree loss during construction. Penalties and/or replacement of trees will be imposed and enforced by the Building Inspector if unauthorized tree losses occur during construction.~~

~~D.—Creativity and flexibility in site design shall be encouraged, including variation in the configuration of lots (clustering) and building setbacks, as well as the utilization of conservation easements, deed restrictions, flag lots, common driveways, curved driveways, the preservation of stone walls and hedges, and the like.~~

~~E.—The subdivision must be laid out to incorporate all important natural and cultural features; these features must be preserved to the greatest extent practicable.~~

~~F.—Standard road frontage lots are highly discouraged. Where frontage lots are proposed (three or more lots) on existing roadways, the applicant shall provide an alternative plan or plans illustrating how the lots will accomplish the guidelines and objectives of this overlay. This alternative plan or plans will include the creativity and flexibility discussed in these design regulations; such things as clusters, flag lots, common driveways, varied building setbacks, conservation areas, etc. The Planning Board will review these alternative plans and provide input to the applicant on the use of these alternative plans. This review and input of alternative plan(s) will assist in making SEQR and approval decisions on the application.~~

~~G.—Clear cutting of trees for subdivision lots shall be prohibited. In accordance with the Town of Hamburg Tree Preservation Law,<sup>2</sup> plans shall be submitted that clearly delineate those vegetated areas of the site that will be preserved and those areas that will be disturbed for the construction of home sites (including driveways, septic systems, lawns, etc.). No more than 1/2 acre of any building site shall be cleared for the construction of a single family home. In cluster developments this requirement can be reduced by the Planning Board. Prior to~~

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~~2.—Editor's Note: See Ch. 243, Tree Management.~~

~~construction these areas must be properly delineated in the field and reviewed by the Town.  
(This requirement shall be noted on the plans.)~~

- ~~H. All proposed projects that include lands identified in the Town of Hamburg Open Space/ Recreation Plan must submit a clustered site design layout that incorporates the preservation of all identified important natural and cultural features. All cluster developments must comply with the provisions of § 280-282 of the Town of Hamburg Zoning Code.~~
- ~~I. In certain cases, to preserve the rural character of the Southern Hamburg Overlay District, the Town may allow the establishment of open development areas, pursuant to § 280-a, Subdivision (4) of the New York State Town Law.~~
- ~~J. For properties that do not contain features identified in the Town of Hamburg Open Space/ Recreation Plan, creativity and flexibility in site design shall also be encouraged (to achieve the preservation of rural character), including variation in the configuration of lots (clustering) and building setbacks, as well as the utilization of conservation easements, deed restriction, flag lots, common driveways, curved driveways, the preservation of stone walls and hedges, and the like.~~
- ~~K. Entrances to proposed subdivisions must be designed in a manner that will discourage extended views of the subdivision. Corner lots at entrance points shall front on the new entrance road, and these homes will be set back a minimum of 100 feet from the intersection.~~
- ~~L. For all proposed subdivisions that include the construction of a new roadway, all extensions of private utility and communication distribution facilities shall be installed below grade. Installation shall be in a manner prescribed by the Building Code, and the utility company having jurisdiction.~~
- ~~M. All major subdivisions (in areas not having public sewers) must include the submission of percolation test results (performed by a licensed engineer) for areas throughout the site. If the results indicate areas in the site that have poor soils (would not allow the installation of a standard septic system), these areas should be avoided for development. The Planning Board will work with the applicant in developing a subdivision layout that would minimize environmental impacts due to poor soils.~~
- ~~N. All proposed applications shall illustrate how pedestrian and bicycle traffic will be accommodated on the property.~~
- ~~O. All proposed commercial structures shall be designed to preserve and continue the rural character and appearance of the district. All site plan applications shall include perspective drawings to illustrate the proposed design.~~
- P. The Planning Board may waive or modify any requirements under this section where an undue hardship on the property owner is clearly demonstrated and, that in doing so, the intent and purpose of the district is not diminished. In granting this waiver, the Planning Board shall attach such conditions as are, in the Planning Board's judgment, necessary to secure substantially the objectives of this overlay.