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CHAPTER 1. GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward: Art. I, 6-27-88 as L.L. No. 3-1988. Amendments noted where applicable.]

ARTICLE I. Adoption of Code

[Adopted 6-27-88 as L.L. No. 3-1988]

§ 1-1. Legislative intent.

The local laws, ordinances and resolutions of the Town of Fort Edward referred to in § 1-2 of this local law shall be known collectively as the "Code of the Town of Fort Edward," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this local law.

§ 1-2. Distribution of local laws, ordinances and resolutions.

Derivation Table

(Sections providing for severability of provisions, repeal of conflicting legislation and effective dates which are covered by provisions of Chapter 1, Article 1, have been omitted from the Code, and such sections are indicated as "omitted" in the table which follows.)

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Ch. <u>4</u> , Appearance Tickets	L.L. No. 2-1986	9-8-86
§ <u>4-1</u>	Sec. 1	
Omitted	Sec. 2	
Ch. <u>8</u> , Continuity of Government		7-17-63
§ <u>8-1</u>	§ 7-1	
§ <u>8-2</u>	§ 7-2	
§ <u>8-3</u>	§ 7-3	Amended at time of adoption of Code
§ <u>8-4</u>	§ 7-4	
§ <u>8-5</u>	§ 7-5	
§ <u>8-6</u>	§ 7-6	
§ <u>8-7</u>	§ 7-7	
Omitted	§ 7-8	
Omitted	§ 7-9	
Ch. <u>12</u> , Ethics, Code of		6-10-70
§ <u>12-1</u>	Art. I, Sec. 1	
§ <u>12-2</u>	Art. I, Sec. 2	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>12-3</u>	Art. II, Sec. 1	
§ <u>12-4</u>	Art. II, Sec. 2	
§ <u>12-5</u>	Art. II, Sec. 3	
§ <u>12-6</u>	Art. II, Sec. 4	
§ <u>12-7</u>	Art. III, Sec. 1	
§ <u>12-8</u>	Art. III, Sec. 2	
§ <u>12-9</u>	Art. III, Sec. 3	
§ <u>12-10</u>	Art. IV, Sec. 1	
§ <u>12-11</u>	Art. IV, Sec. 2	
§ <u>12-12</u>	Art. IV, Sec. 3	
Omitted	Art. V, Sec. 1	
Omitted	Art. VI, Sec. 1	
Ch. <u>17</u> , Local Laws, Adoption of		At time of adoption of Code
§ <u>17-1</u>	§ <u>17-1</u>	
§ <u>17-2</u>	§ <u>17-2</u>	
§ <u>17-3</u>	§ <u>17-3</u>	
§ <u>17-4</u>	§ <u>17-4</u>	
Ch. <u>31</u> , Bingo		8-12-58
§ <u>31-1</u>	§ <u>4-1</u>	Amended at time of adoption of Code
§ <u>31-2</u>	§ 4-2	Amended at time of adoption of Code

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>31-3</u>	§ 4-3	Amended at time of adoption of Code
§ <u>31-4</u>	§ 4-4	Amended at time of adoption of Code
§ <u>31-5</u>	§ 4-5	Amended at time of adoption of Code
§ <u>31-6</u>	§ 4-6	Amended at time of adoption of Code
§ <u>31-7</u>	§ 4-7	
§ <u>31-8</u>	§ 4-8	
§ <u>31-9</u>	§ 4-9	Amended at time of adoption of Code
§ <u>31-10</u>	§ 4-10	
§ <u>31-11</u>	§ 4-11	Amended at time of adoption of Code
§ <u>31-12</u>	§ 4-12	Amended at time of adoption of Code
§ <u>31-13</u>	§ 4-13	Amended at time of adoption of Code
§ <u>31-14</u>	§ 4-14	Amended at time of adoption of Code
§ <u>31-15</u>	§ 4-15	Amended at time of adoption of Code
§ <u>31-16</u>	§ 4-16	Amended at time of adoption of Code
§ <u>31-17</u>	§ 4-17	Amended at time of adoption of Code

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>31-18</u>	§ 4-18	Amended at time of adoption of Code
§ <u>31-19</u>	§ 4-19	Amended at time of adoption of Code
§ <u>31-20</u>	§ 4-20	Amended at time of adoption of Code
§ <u>31-21</u>	§ 4-21	
§ <u>31-22</u>	§ 4-22	
Omitted	§ 4-23	
§ <u>31-23</u>	§ 4-24	
Ch. <u>37</u> , Buildings, Unsafe		11-22-61
§ <u>37-1</u>	§ 21-1	
§ <u>37-2</u>	§ 21-2	Amended at time of adoption of Code
§ <u>37-3</u>	§ 21-3	Amended at time of adoption of Code
§ <u>37-4</u>	§ 21-4	
§ <u>37-5</u>	§ 21-5	
§ <u>37-6</u>	§ 21-6	
§ <u>37-7</u>	§ 21-7	
§ <u>37-8</u>	§ 21-8	
Omitted	§ 21-9	
Ch. <u>42</u> , Dogs		5-13-85

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Omitted	Sec. 1	
§ <u>42-1</u>	Sec. 2	
§ <u>42-2</u>	Sec. 3	Amended at time of adoption of Code
§ <u>42-3</u>	Sec. 4	
§ <u>42-4</u>	Sec. 5	
§ <u>42-5</u>	Sec. 6	
§ <u>42-6</u>	Sec. 7	
§ <u>42-7</u>	Sec. 8	
§ <u>42-8</u>	Sec. 9	
§ <u>42-9</u>	Sec. 10	
§ <u>42-10</u>	Sec. 11	
§ <u>42-11</u>	Sec. 12	
§ <u>42-12</u>	Sec. 13	
§ <u>42-13</u>	Sec. 14	Amended at time of adoption of Code
	Sec. 15	Deleted at time of adoption of Code
Omitted	Sec. 16	
§ <u>42-14</u>	Sec. 17	
Omitted	Sec. 18	
§ <u>42-15</u>	Sec. 19	
Omitted	Sec. 20	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>42-16</u>	§ <u>42-16</u>	Added at time of adoption of Code
Ch. <u>47</u> , Fair Housing	L.L. No. 1-1980	11-10-80
§ <u>47-1</u>	Sec. 1	
§ <u>47-2</u>	Sec. 2, first paragraph	
§ <u>47-3</u>	Sec. 2, second paragraph	
§ <u>47-4</u>	Sec. 3	
Omitted	Sec. 4	
Ch. <u>54</u> , Flood Damage Prevention	L.L. No. 2-1987	8-10-87
§ <u>54-1</u>	Sec. 1.1	
§ <u>54-2</u>	Sec. 1.2	
§ <u>54-3</u>	Sec. 1.3	
§ <u>54-4</u>	Sec. 2.0	
§ <u>54-5</u>	Sec. 3.1	
§ <u>54-6</u>	Sec. 3.2	
§ <u>54-7</u>	Sec. 3.3	
Omitted	Sec. 3.4	
§ <u>54-8</u>	Sec. 3.5	
§ <u>54-9</u>	Sec. 3.6	
§ <u>54-10</u>	Sec. 4.1	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>54-11</u>	Sec. 4.2	
§ <u>54-12</u>	Sec. 4.3	
§ <u>54-13</u>	Sec. 5.1	
§ <u>54-14</u>	Sec. 5.2	
§ <u>54-15</u>	Sec. 5.3	
§ <u>54-16</u>	Sec. 6.0	
Ch. <u>58</u> , Games of Chance	L.L. No. 2-1977	9-2-77
§ <u>58-1</u>	Sec. 1	
§ <u>58-2</u>	Sec. 2	
§ <u>58-3</u>	Sec. 3	
§ <u>58-4</u>	Sec. 4	
§ <u>58-5</u>	Sec. 5	
§ <u>58-6</u>	Sec. 6	
§ <u>58-7</u>	Sec. 7	
§ <u>58-8</u>	Sec. 8	
Ch. <u>62</u> , Hazardous Wastes	L.L. No. 1-1985	10-9-85; amended in its entirety at time of adoption of Code
§ <u>62-1</u>	Sec. 1	
§ <u>62-2</u>	Sec. 2	
§ <u>62-3</u>	Sec. 3	
§ <u>62-4</u>	Sec. 4	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>62-5</u>	Sec. 5	
Omitted	Sec. 6	
Ch. <u>66</u> , Junkyards		6-12-68
§ <u>66-1</u>	Sec. 20.1	
§ <u>66-2</u>	Sec. 20.2	Amended at time of adoption of Code
§ <u>66-3</u>	Sec. 20.3	
§ <u>66-4</u>	Sec. 20.4	
§ <u>66-5</u>	Sec. 20.5	
§ <u>66-6</u>	Sec. 20.6	
§ <u>66-7</u>	Sec. 20.7	
§ <u>66-8</u>	Sec. 20.8	Amended at time of adoption of Code
§ <u>66-9</u>	Sec. 20.9	
§ <u>66-10</u>	Sec. 20.10	Amended at time of adoption of Code
Omitted	Sec. 20.11	
Omitted	Sec. 20.12	
Ch. <u>71</u> , Mobile Homes	L.L. No. 1-1987	6-4-87
§ <u>71-1</u>	Sec. 1	
§ <u>71-2</u>	Sec. 2	
§ <u>71-3</u>	Sec. 3	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>71-4</u>	Sec. 4	
§ <u>71-5</u>	Secs. 5 and 6	
§ <u>71-6</u>	Sec. 7	
§ <u>71-7</u>	Sec. 8	
§ <u>71-8</u>	Sec. 9	
§ <u>71-9</u>	Sec. 10	
§ <u>71-10</u>	Sec. 11	Amended at time of adoption of Code
§ <u>71-11</u>	Sec. 12	
Omitted	Sec. 13	
Omitted	Sec. 14	
Ch. <u>76</u> , Peddling and Soliciting	L.L. No. 1-1984	6-11-84
§ <u>76-1</u>	Sec. 1	
§ <u>76-2</u>	Sec. 2	
§ <u>76-3</u>	Sec. 3	
§ <u>76-4</u>	§ <u>76-4</u>	Added at time of adoption of Code
§ <u>76-5</u>	Secs. 4 and 5	Amended at time of adoption of Code
Ch. <u>80</u> , Records, Public Access to		During codification
§ <u>80-1</u>	§ <u>80-1</u>	
§ <u>80-2</u>	§ <u>80-2</u>	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>80-3</u>	§ <u>80-3</u>	
§ <u>80-4</u>	§ <u>80-4</u>	
Ch. <u>85</u> , Streets and Sidewalks		
Art. I, Notification of Defects	L.L. No. 1-1986	9-8-86
§ <u>85-1</u>	Sec. I	
§ <u>85-2</u>	Sec. II	
§ <u>85-3</u>	Sec. III	
Omitted	Sec. IV	
Ch. <u>89</u> , Swimming Pools		At time of adoption of Code
§ <u>89-1</u>	§ <u>89-1</u>	
§ <u>89-2</u>	§ <u>89-2</u>	
§ <u>89-3</u>	§ <u>89-3</u>	
§ <u>89-4</u>	§ <u>89-4</u>	
§ <u>89-5</u>	§ <u>89-5</u>	
§ <u>89-6</u>	§ <u>89-6</u>	
§ <u>89-7</u>	§ <u>89-7</u>	
§ <u>89-8</u>	§ <u>89-8</u>	
§ <u>89-9</u>	§ <u>89-9</u>	
Ch. <u>92</u> , Taxation		
Art. II, Industrial and	L.L. No. 1-1977	1-10-77

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Commercial Tax Exemption		
	Sec. 1	Deleted at time of adoption of Code
§ <u>92-1</u>	Sec. 2	
§ <u>92-2</u>	Sec. 3	Amended at time of adoption of Code
Ch. <u>96</u> , Vehicles, Abandoned		6-12-68
§ <u>96-1</u>	Sec. 19.1	
§ <u>96-2</u>	Sec. 19.2	
§ <u>96-3</u>	Sec. 19.3	Amended at time of adoption of Code
§ <u>96-4</u>	Sec. 19.4	
§ <u>96-5</u>	Sec. 19.5	Amended at time of adoption of Code
§ <u>96-6</u>	Sec. 19.6	Amended 8-8-83; at time of adoption of Code
§ <u>96-7</u>	Sec. 2.7a	Added 8-10-87
Omitted	Sec. 19.7	
Omitted	Sec. 19.8	
Ch. <u>99</u> , Vehicles and Traffic		
Art. I, Speed Regulations		11-23-59

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>99-1</u>	§ 23-1	Amended at time of adoption of Code
§ <u>99-2</u>	§ 23-2A	
	§ 23-2B	Deleted at time of adoption of Code
§ <u>99-3</u>	§ 23-3	Amended at time of adoption of Code
Omitted	§ 23-4	
Art. II, Emergency Removal of Vehicles		1-17-73
§ <u>99-4</u>	Sec. 1	
§ <u>99-5</u>	Sec. 2	
§ <u>99-6</u>	Sec. 3	
§ <u>99-7</u>	Sec. 4	
Art. III, Truck Exclusions		3-8-82
§ <u>99-8</u>	Unnumbered paragraph	Amended at time of adoption of Code
Ch. <u>103</u> , Vehicles, Off-Road	L.L. No. 2-1985	10-9-85
§ <u>103-1</u>	§ <u>1-1</u>	
§ <u>103-2</u>	§ <u>1-2</u>	
§ <u>103-3</u>	§ <u>1-3</u>	
§ <u>103-4</u>	§ <u>1-4</u>	
§ <u>103-5</u>	§ <u>1-5</u>	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>103-6</u>	§ <u>1-6</u>	
§ <u>103-7</u>	§ <u>1-7</u>	
§ <u>103-8</u>	§ <u>1-8</u>	
§ <u>103-9</u>	§ <u>1-9</u>	
§ <u>103-10</u>	§ <u>1-10</u>	Amended at time of adoption of Code
§ <u>103-11</u>	§ <u>1-11</u>	
Omitted	§ <u>1-12</u>	
Omitted	§ 1-13	
Ch. <u>108</u> , Zoning		8-7-63
Art. I	Art. I	
§ <u>108-1</u>	§ 25-1	
Art. II	Art. II	
§ <u>108-2</u>	§ 25-2	Amended at time of adoption of Code
Art. III	Art. III	
§ <u>108-3</u>	§ 25-3	
§ <u>108-4</u>	§ 25-4	
§ <u>108-5</u>	§ 25-5	Amended at time of adoption of Code
Art. IV	Art. IV	
§ <u>108-6</u>	§ 25-6	
§ <u>108-7</u>	§ 25-7	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>108-8</u>	§ 25-8A through C	
§ <u>108-9</u>	§ 25-8D through F	Amended 9-15-71; at time of adoption of Code
§ <u>108-10</u>	§ 25-8G through I	Amended at time of adoption of Code
§ <u>108-11</u>	§ 25-8J through L	
§ <u>108-12</u>	§ 25-8M through O	
§ <u>108-13</u>	§ 25-9	
Art. V	Art. V	
§ <u>108-14</u>	§ 25-10	Amended at time of adoption of Code
§ <u>108-15</u>	§ 25-11	
§ <u>108-16</u>	§ 25-12	
§ <u>108-17</u>	§ 25-13	
§ <u>108-18</u>	§ 25-14	
Art. VI	Art. VI	
§ <u>108-19</u>	§ 25-16	
§ <u>108-20</u>	§ 25-17	
§ <u>108-21</u>	§ 25-18	Amended at time of adoption of Code
§ <u>108-22</u>	§ 25-19	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>108-23</u>	§ 25-20A	
§ <u>108-24</u>	§ 25-20B and C	
§ <u>108-25</u>	§ 25-21	
§ <u>108-26</u>	§ 25-22	
§ <u>108-27</u>	§§ 25-23 through 25-27	
Art. VII		
§ <u>108-28</u>	§ 25-29	
§ <u>108-29</u>	§ 25-30	
§ <u>108-30</u>	§ 25-15	
§ <u>108-31</u>	§ 25-28	
§ <u>108-32</u>	§ 25-31	
§ <u>108-33</u>	§ 25-32	
§ <u>108-34</u>	§ 25-33	Amended at time of adoption of Code
§ <u>108-35</u>	§§ 25-34 and 25-35	
§ <u>108-36</u>	§ 25-36	
§ <u>108-37</u>	§ 25-37	
§ <u>108-38</u>	§ 25-38	
§ <u>108-39</u>	§ 25-39	
§ <u>108-40</u>	§ 25-40	
§ <u>108-41</u>	§ 25-41	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>108-42</u>	§ 25-42	
§ <u>108-43</u>	§ 25-43	Amended 9-15-71
Art. VIII		
§ <u>108-44</u>	§ 25-44	Amended 9-15-71
§ <u>108-45</u>	§ 25-45	Amended at time of adoption of Code
Art. IX	Art. VII	
§ <u>108-46</u>	§ 25-46	
§ <u>108-47</u>	§ 25-47	
§ <u>108-48</u>	§ 25-48	
§ <u>108-49</u>	§ 25-49	
Art. X	Art. VIII	
§ <u>108-50</u>	§ 25-50	Amended at time of adoption of Code
§ <u>108-51</u>	§ 25-51	Amended at time of adoption of Code
§ <u>108-52</u>	§ 25-52	Amended at time of adoption of Code
Art. XI	Art. IX	
§ <u>108-53</u>	§ 25-53A	Amended at time of adoption of Code
§ <u>108-54</u>	§§ 25-53B and 25-54	Amended at time of adoption of Code
§ <u>108-55</u>	§ 25-55	Amended at time of adoption of Code

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ <u>108-56</u>	§ 25-56	Amended at time of adoption of Code
§ <u>108-57</u>	§ 25-57	Amended at time of adoption of Code
§ <u>108-58</u>	§ 25-58A, B and C	Amended 9-26-83; at time of adoption of Code
§ <u>108-59</u>	§ 25-58D	Amended 9-26-83; at time of adoption of Code
Art. XII	Art. X	
§ <u>108-60</u>	§ 25-59	
§ <u>108-61</u>	§ 25-60	
§ <u>108-62</u>	§ 25-61	
§ <u>108-63</u>	§ 25-62	Amended at time of adoption of Code
	Art. XI	
§ <u>108-64</u>	§ 25-63	
Omitted	§ 25-64	
Omitted	§ 25-65	

§ 1-3. Repeal of enactments not included in Code.

All local laws, ordinances and resolutions of a general and permanent nature of the Town of Fort Edward in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws, ordinances and resolutions provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, resolutions, rights and obligations, which are hereby expressly saved from repeal:

A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Fort Edward prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.

B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Fort Edward, or any penalty, punishment or forfeiture which may result therefrom.

C. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Town of Fort Edward.

D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Fort Edward.

E. Any local law, ordinance or resolution of the Town of Fort Edward providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Fort Edward or any portion thereof.

F. Any local law, ordinance or resolution of the Town of Fort Edward appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Fort Edward or other instruments or evidence of the town's indebtedness.

G. Local laws, ordinances or resolutions authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.

H. The levy or imposition of special assessments or charges.

I. The dedication of property.

J. Any local laws, ordinances or resolutions relating to salaries.

K. All legislation regarding senior citizens tax exemptions.

L. All legislation adopted subsequent to June 1, 1986.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 hereof, or any local law, ordinance or resolution included in this Code through supplementation, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Fort Edward and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified to by the Town Clerk of the Town of Fort Edward by impressing thereon the Seal of the Town of Fort Edward, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while the said Code is in effect.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Fort Edward," or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Fort Edward required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes or local laws, ordinances or resolutions until such change or local law, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

[Amended 6-13-2005 by L.L. No. 6-2005]

Copies of the Code, certain portions of the Code and zoning maps may be purchased from the Town Clerk of the Town of Fort Edward upon the payment of a fee in the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule, Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Fort Edward, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Fort Edward to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-11. Changes in previously adopted legislation.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Fort Edward, as distributed and designated in the table in § 1-2 hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Town Board that all such changes

be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.) Editor's Note: In accordance with the provisions of § 1-11B, the following sections have been added or amended: § 8-3B, Ch. 17, §§ 31-1, 31-2, 31-3, 31-4B and C, 31-5A, B, C, D and J, 31-6A and B, 31-9, 31-11, 31-12, 31-13, 31-14A, 31-15, 31-16, 31-17, 31-18, 31-19, 31-20, 37-2, 37-3, 42-2, 42-13, 42-16, 54-8, Ch. 62, §§ 66-2, 66-8A, 66-10, 71-10, 76-4, 76-5, Ch. 89, §§ 92-2, 96-3, 96-5, 96-6, 99-1, 99-3, 99-8, 103-10, 108-2B, 108-5B, 108-9C(5), 108-10, 108-14D, 108-21, 108-34, 108-45, 108-50, 108-51C(3), 108-52B(1), (3) and (6), 108-53, 108-54, 108-55, 108-56A, 108-57A, 108-58, 108-59 and 108-63. In addition, the following sections have been deleted: former Section 15 of an ordinance adopted 5-13-1985, former Section 1 of L.L. No. 1-1977 and former § 23-2B of an ordinance adopted 11-23-59. A complete description of these changes is included in L.L. No. 3-1988, on file in the office of the Town Clerk.

§ 1-12. When effective.

This local law shall take effect upon filing with the Secretary of State and State Comptroller as required by § 27 of the Municipal Home Rule Law.

ARTICLE II. Legislation Enacted During Codification

[During the process of codification, certain new legislation was approved by the Town Board for inclusion in the Code of the Town of Fort Edward. Such new enactments are noted in the histories of individual chapters as "... adopted during codification; see Ch. 1, General Provisions, Art. II." During the course of routine supplementation, specific amendment dates will be inserted where pertinent in the text of the various chapters. The listing below sets forth each chapter and, where applicable, each section affected by any such legislation adopted during codification. The complete text of such amendments is on file in the office of the Town Clerk, where it may be inspected during regular office hours.]

Chapter/Section	Adoption Date	Legislation
Ch. <u>80</u> , Records, Public Access	12-14-87	Resolution

Chapter/Section	Adoption Date	Legislation
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to

CHAPTER 4. APPEARANCE TICKETS

§ 4-1. Authority to issue tickets for zoning violations.

CHAPTER 4. APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 9-8-86 as L.L. No. 2-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 108.

§ 4-1. Authority to issue tickets for zoning violations.

The Town of Fort Edward Town Zoning Administrator and the Town of Fort Edward Building Inspector shall have the authority to issue appearance tickets to all offenders of the Town of Fort Edward's Zoning Laws. Said appearance ticket shall direct the designated person to appear in the Town of Fort Edward Justice Court at a designated future time in connection with his alleged commission of the designated offense.

CHAPTER 6. BOARD OF ASSESSMENT REVIEW

ARTICLE I. Grievance Day

§ 6-1. Purpose.

§ 6-2. Statutory authority.

§ 6-3. Grievance Day established.

§ 6-4. When effective.

CHAPTER 6. BOARD OF ASSESSMENT REVIEW

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 92.

ARTICLE I. Grievance Day

[Adopted 4-14-2008 by L.L. No. 3-2008]

§ 6-1. Purpose.

The purpose of this article is to establish the first Thursday following the fourth Tuesday in May as the date the Board of Assessment Review shall meet to hear complaints related to real property assessments in the Town of Fort Edward, otherwise known as "Grievance Day."

§ 6-2. Statutory authority.

The authority for this article is contained in § 512 of the Real Property Tax Law of the State of New York.

§ 6-3. Grievance Day established.

The Board of Assessment Review shall meet on the first Thursday following the fourth Tuesday in May and so many days thereafter as the Board of Assessment Review deems necessary to hear complaints related to real property assessments.

§ 6-4. When effective.

This article shall take effect upon filing with the Secretary of State and the Office of Real Property Services of the State of New York.

CHAPTER 8. CONTINUITY OF GOVERNMENT

§ 8-1. Authority.

§ 8-2. Definitions.

§ 8-3. Designation of emergency interim successors; qualifications; status; compensation.

§ 8-4. Powers and duties of emergency interim successors.

§ 8-5. Records; notification of affected persons.

§ 8-6. Qualification for office.

§ 8-7. Suspension of quorum requirements.

CHAPTER 8. CONTINUITY OF GOVERNMENT

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 7-17-63. Section 8-3B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 8-1. Authority.

The New York State Defense Emergency Act, in Section 29-a thereof, Editor's Note: See § 9134-a of the Unconsolidated Laws. authorizes political subdivisions of the state to provide for the continuity of their governments in the event of an actual or imminent attack upon the United States by an enemy or foreign nation; and the General Municipal Law, in § 60 thereof, Editor's Note: See now § 27 of the Executive Law. authorizes political subdivisions to provide for the continuity of their governments in the event of other public disasters, catastrophes or emergencies. Therefore, pursuant to the authority contained in such law and in order to ensure that, on such occasions, the government of the Town of Fort Edward may continue to function properly and efficiently under emergency circumstances, the Town Board of the Town of Fort Edward, Washington County, New York, hereby ordains and enacts as follows.

§ 8-2. Definitions.

As used in this chapter, the following terms shall mean and include:

ATTACK

Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire or nuclear, radiological, chemical, bacteriological or biological means or other weapons or processes.

DULY AUTHORIZED DEPUTY

A person authorized to perform all of the powers and duties of a public office in the event that the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general or special law other than the sections of law pursuant to which this chapter is adopted.

EMERGENCY INTERIM SUCCESSOR

A person designated pursuant to this chapter for possible temporary succession to the powers and duties, but not the office, of a town officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the town or other physical, mental or legal reasons, to perform the powers and duties of the office.

PUBLIC DISASTER

A disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that a substantial number of the residents of the Town of Fort Edward either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed or die as the result of injury,

disease or exposure or the property of a substantial number of such residents is imperiled, damaged or destroyed and it is necessary and essential, in the interest of public safety, health and welfare, that the continuity of the government of the Town of Fort Edward be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes and emergencies may include, but shall not be limited to, conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services or any incident or occurrence which causes or threatens to cause danger to life, health or property from exposure to noxious materials or radiation.

§ 8-3. Designation of emergency interim successors; qualifications; status; compensation.

A. Elective officers. Within thirty (30) days following the effective date of this chapter, and thereafter within thirty (30) days after first entering upon the duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three (3) duly authorized deputies or emergency interim successors, or combination thereof, to perform the powers and duties of the office.

B. Appointive officers. Each officer or body of officers empowered by law to appoint officers shall, within the time specified in Subsection A of this section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three (3) duly authorized deputies or emergency interim successors, or combination thereof, for each such officer. Where such a body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such body of officers within thirty (30) days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. Review of designations. The incumbent, in the case of those elective officers specified in Subsection A of this section, and the appointing officer or body of officers specified in Subsection B of this section shall from time to time review and, as necessary, promptly revise the designations of emergency

interim successors to ensure that at all times there are at least three (3) duly authorized deputies or emergency interim successors, or combination thereof, for each elective and appointive officer of the town.

D. Qualifications. No person shall be designated to nor serve as an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.

E. Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator, and such a designation shall remain effective until replaced by another by the authorized designator.

F. Compensation. An emergency interim successor shall serve without salary, unless otherwise provided by ordinance or resolution. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

§ 8-4. Powers and duties of emergency interim successors.

If, in the event of an attack or public disaster, an officer described in § 8-3A or B of this chapter or his duly authorized deputy, if any, is unable, due to death, absence from the town or other physical, mental or legal reason, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law.

§ 8-5. Records; notification of affected persons.

A. The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the Town Clerk, and each designator files with such Clerk the successor's name, address and rank in order of succession. Such Clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors, and the same shall be open to public inspection.

B. The Clerk shall notify, in writing, each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify, in writing, any person previously designated who is replaced or whose place in order of succession is changed.

§ 8-6. Qualification for office.

At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take the oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

§ 8-7. Suspension of quorum requirements.

In the event of an attack or a public disaster, the Supervisor or his duly authorized deputy or emergency interim successor performing his powers and duties may suspend quorum requirements for the Town Board. If quorum requirements are suspended, any ordinance, resolution or other action requiring enactment, adoption or approval by an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

CHAPTER 10. DEFENSE AND INDEMNIFICATION

§ 10-1. Statutory authority; conferral of benefits.

§ 10-2. Provision of defense and indemnification.

§ 10-3. Construal of provisions.

CHAPTER 10. DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 7-25-88 as L.L. No. 5-1988. Amendments noted where applicable.]

§ 10-1. Statutory authority; conferral of benefits.

The Town Board hereby adopts § 18 of the Public Officers Law and confers the benefits thereof upon all town officers and employees.

§ 10-2. Provision of defense and indemnification.

The town shall provide for the defense of any town officer or employee in any civil action or proceeding arising out of any alleged act or omission in which it is alleged that the officer or employee has violated the civil rights of the claimant, petitioner or plaintiff under Sections 1981 and 1983 of the United States Civil

Rights Act. The town shall indemnify and save harmless such officer or employee in the amount of any judgment or settlement of claim obtained against such officer or employee. Such legal defense and indemnification shall be provided where the officer or employee, at the time of such alleged act or omission, was acting in good faith and within the scope of his employment, powers or duties.

§ 10-3. Construal of provisions.

The provisions of this chapter shall be in addition to any other statute, local law or enactment providing legal defense and indemnification in civil actions brought against such officer or employee.

CHAPTER 12. ETHICS, CODE OF

§ 12-1. Legislative intent.

§ 12-2. Construal of provisions.

§ 12-3. Definitions.

§ 12-4. Conflicts of interest.

§ 12-5. Standards of conduct.

§ 12-6. Penalties for offenses.

§ 12-7. Membership, qualifications and compensation of Board of Ethics.

§ 12-8. Duties of Board.

§ 12-9. Rules and regulations of Board; records.

§ 12-10. Distribution of copies.

§ 12-11. Filing with state.

§ 12-12. Appropriation of funds.

CHAPTER 12. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 6-10-70. Amendments noted where applicable.]

§ 12-1. Legislative intent.

The Town Board of the Town of Fort Edward recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this town as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards and

to create a Board of Ethics to render advisory opinions to the town's officers and employees as provided for herein.

§ 12-2. Construal of provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

§ 12-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

TOWN

Any board, commission, district, council or other agency, department or unit of the government of the Town of Fort Edward.

TOWN EMPLOYEE

Any officer or employee of the Town of Fort Edward, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

§ 12-4. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 12-5. Standards of conduct.

- A. No town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- B. No town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position of authority.
- C. No town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- D. No town employee shall engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

E. A town employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.

F. Each employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

H. No town employee employed on a full-time basis nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the town in which such employee serves or is employed.

I. Each town employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation before the Town Board.

§ 12-6. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any such town employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.

§ 12-7. Membership, qualifications and compensation of Board of Ethics.

There is hereby established a Board of Ethics consisting of at least three (3) members to be appointed by the Town Board, all of whom reside in the Town of Fort Edward, and who shall serve without compensation and at the pleasure of the Town Board of the Town of Fort Edward. A majority of such members shall be persons other than town employees, but shall include at least one (1) member who is an elected or appointed town employee of the Town of Fort Edward.

§ 12-8. Duties of Board.

The Board of Ethics established hereunder shall render advisory opinions to town employees on written request and, upon request of the Town Board, make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the town employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

§ 12-9. Rules and regulations of Board; records.

Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

§ 12-10. Distribution of copies.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor the enforcement provisions hereof.

§ 12-11. Filing with state.

Within thirty (30) days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 12-12. Appropriation of funds.

The Town Board may appropriate moneys from the general town funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of town moneys except within the appropriations provided herein.

CHAPTER 17. LOCAL LAWS, ADOPTION OF

§ 17-1. Public hearing required; notice.

§ 17-2. Posting and distribution of copies.

§ 17-3. Posting and publication after adoption.

§ 17-4. Proof of publication and posting.

CHAPTER 17. LOCAL LAWS, ADOPTION OF

[HISTORY: Adopted by the Town Board of the Town of Fort Edward at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 17-1. Public hearing required; notice.

No local law shall be adopted by the Town Board of the Town of Fort Edward until a public hearing has been held thereon in its final form before such Town Board not less than three (3) nor more than thirty (30) days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Town Clerk by causing the same to be published once in the official newspaper or other newspaper having general circulation within the town. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

§ 17-2. Posting and distribution of copies.

The Town Clerk shall cause to be printed or otherwise reproduced copies of such proposed local law and shall, not later than the day such notice is published, post one (1) such copy, together with the notice of hearing, on the bulletin board maintained for that purpose in the Town Hall and shall also make copies of such proposed local law available at his office for inspection by and distribution to any interested person during business hours.

§ 17-3. Posting and publication after adoption.

In addition to the filing and publication of local laws required under § 27 of the Municipal Home Rule Law, the Town Clerk shall immediately, upon the adoption of a local law by the Town Board, post a copy thereof on the bulletin board maintained for that purpose in the Town Hall and shall, within ten (10) days after such adoption, cause the local law or an abstract thereof describing the same in general terms to be published in the official newspaper or other newspaper having general circulation within the town.

§ 17-4. Proof of publication and posting.

Proof of publication of the notice of public hearing required by § 17-1 hereof and proof of the posting and publication required by § 17-3 hereof shall be filed in the office of the Town Clerk.

CHAPTER 19. OFFICERS AND EMPLOYEES

ARTICLE I. Term of Office of Clerk

§ 19-1. Establishment of term.

§ 19-2. Referendum.

§ 19-3. When effective.

ARTICLE II. Animal Control Officer

§ 19-4. Title.

§ 19-5. Intent.

§ 19-6. Statutory authority.

§ 19-7. Duties.

CHAPTER 19. OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward: Art. I, 1-23-1989 as L.L. No. 12-1989; Art. II, 3-26-1990 as L.L. No. 3-1990. Amendments noted where applicable.]

ARTICLE I. Term of Office of Clerk

[Adopted 1-23-89 as L.L. No. 12-1989]

§ 19-1. Establishment of term.

In conformity with and pursuant to the authority existing herein by the enactment of the Municipal Home Rule Law of the State of New York and notwithstanding any rule, law or ordinance to the contrary, the term of office of the Town Clerk, hereafter to be elected, be and it hereby is designated as four (4) years instead of its current term of two (2) years, as now provided for by the pertinent provisions of the Town Law of the State of New York.

§ 19-2. Referendum.

The adoption of the within Article is subject to a mandatory referendum to be submitted for the approval of the electors of the Town of Fort Edward at the next general election to be held on November 6, 1989. Editor's Note: This local law was passed at a referendum held on November 6, 1989.

§ 19-3. When effective.

This Article shall take effect immediately upon compliance with § 27 of the Municipal Home Rule Law of the State of New York.

ARTICLE II. Animal Control Officer

[Adopted 3-26-1990 as L.L. No. 3-1990]

§ 19-4. Title.

This Article shall be known as the "Animal Control Officer Law of 1990 of the Town of Fort Edward."

§ 19-5. Intent.

The Town Board of the Town of Fort Edward hereby determines that there is a need of an Animal Control Officer to carry out the provisions of the Agriculture and Markets Law and local municipal laws dealing with the control of small animals, including their seizure, impoundment and disposition.

§ 19-6. Statutory authority.

This Article is hereby enacted pursuant to the authority granted by § 10 of the New York State Municipal Home Rule Law.

§ 19-7. Duties.

The duties of an Animal Control Officer shall only exist in an emergency situation and shall be as follows:

- A. Investigate complaints as related to small animal annoyances.
- B. Report sick or injured animals to a veterinarian for corrective action.
- C. Maintain records of work performed.
- D. Enforce local laws and orders applicable to small animals.

CHAPTER 20. PLANNING BOARD

ARTICLE I. Number of Members

§ 20-1. Title.

§ 20-2. Determination.

§ 20-3. Statutory authority.

§ 20-4. Number of members established.

§ 20-4.1. Alternate members.

ARTICLE II. Additional Member for Agricultural Pursuits

§ 20-5. Findings; appointment.

§ 20-6. Definitions.

CHAPTER 20. PLANNING BOARD

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 108.

ARTICLE I. Number of Members

[Adopted 3-26-1990 by L.L. No. 1-1990]

§ 20-1. Title.

This article shall be known as the "Number of Planning Board Members of the Town of Fort Edward."

§ 20-2. Determination.

The Town Board of the Town of Fort Edward hereby determines that the character of the Town of Fort Edward has changed and, as a result, there is vast additional work required of the Planning Board members. The Town Board further determines that it is appropriate to expand the number of members of the Planning Board from five to seven.

§ 20-3. Statutory authority.

This article is hereby enacted pursuant to the authority granted by § 271 of the New York State Town Law.

§ 20-4. Number of members established.

The Town Board of the Town of Fort Edward being so empowered establishes the number of members of the Fort Edward Planning Board at seven.

§ 20-4.1. Alternate members.

[Added 6-9-2003 by L.L. No. 3-2003]

The Town Board shall appoint two alternate members of the Planning Board to substitute for any regular member in the event of a conflict of interest or other factor such as illness, vacation or other absences. The alternate member(s) shall be appointed by resolution of the Town Board for terms of three year(s). The Chairperson of the Planning Board may designate an alternate member to substitute for a regular member when such regular member is unable to

participate in an application or matter before the Board. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. All provisions relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

ARTICLE II. Additional Member for Agricultural Pursuits

[Adopted 7-9-1990 by L.L. No. 8-1990]

§ 20-5. Findings; appointment.

With at least 20% of the area of the Town of Fort Edward being devoted to agricultural pursuits, the Town Board of the Town of Fort Edward, pursuant to Town Law § 271, Subdivision 2, is hereby empowered to appoint an additional member to said Planning Board for a term of five years from and after his appointment. Said additional member shall be required to be a person who derives more than 1/2 his annual income from agricultural pursuits.

§ 20-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AGRICULTURAL PURSUITS

The growing, producing, processing or selling of the products of agriculture.

CHAPTER 22. SALARIES AND COMPENSATION

[The salaries and compensation of all officers and employees of the Town of Fort Edward are as set forth from time to time by the Town Board. Information concerning current salary and compensation figures is on file in the office of the Town Clerk, where it is available for examination during regular office hours.]

CHAPTER 26. ADULT USES

§ 26-1. Purpose.

§ 26-2. Definitions.

§ 26-3. Locational restrictions; site plan review required; preexisting uses.

CHAPTER 26. ADULT USES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 4-9-2001 by L.L. No. 2-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 108.

§ 26-1. Purpose.

The Town Board hereby finds that the conduct of adult uses results in decreased property values, increased loss of business for non-adult businesses and deterioration of residential neighborhoods. This chapter will protect the general welfare, health, safety and well-being of the persons and property of the town and the integrity of the Town Master Plan and Zoning Ordinance by regulating the conduct of adult uses. This chapter is adopted in accordance with Municipal Home Rule Law § 10 and Town Law Article 16.

§ 26-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified adult activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE

A commercial establishment which offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe specified adult activities.

B. Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified adult activities.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas.

ADULT ENTERTAINMENT USES

A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion-picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude persons 17 years of age and younger.

ADULT MOTEL

A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown, which are characterized by the depiction or description of specified adult activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities.

ESCORT

A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

ESCORT AGENCY

A person or business association who or which furnishes, or offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip or other consideration.

NUDE MODEL STUDIO

Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

NUDITY or A STATE OF NUDITY

The appearance of specified anatomical areas.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMINUDE

A state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

SPECIFIED ADULT ACTIVITIES

Includes any of the following:

- A. Actual sex acts, normal or perverted, including intercourse, oral copulation or sodomy;
- B. Masturbation;
- C. Excretory functions; or
- D. Actual acts of dismemberment, mutilation or torture of humans or animals.

SPECIFIED ANATOMICAL AREAS

Includes any of the following:

- A. Unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately above the top of the areola; and
- B. Even if completely and opaquely covered, male genitals in a discernibly turgid state.

§ 26-3. Locational restrictions; site plan review required; preexisting uses.

Adult entertainment uses shall be permitted with site plan review only in the Light Industrial Zoning District(s); provided, however, that no adult entertainment uses shall be conducted within 1,000 feet of institutions of religious worship, schools, zoning districts which allow residential uses or any existing adult entertainment uses. Any such use which is a preexisting lawfully established use in such areas as of the effective date of this chapter may be continued and maintained but may not be expanded or increased and may not be resumed if such use is abandoned for a period of six consecutive months.

CHAPTER 31. BINGO

§ 31-1. Authority; title.

§ 31-2. Definitions.

§ 31-3. Authorization to conduct games.

§ 31-4. Application for license.

§ 31-5. General regulations.

§ 31-6. Issuance of license; fees; duration of license.

§ 31-7. Hearing; amendment of license.

§ 31-8. Form of license.

§ 31-9. Supervision of games; right of entry.

§ 31-10. Conduct restricted to certain days.

§ 31-11. Participation by minors.

§ 31-12. Frequency of games; alcoholic beverages.

§ 31-13. Persons conducting games; equipment; expenses; compensation.

§ 31-14. Admission charge; prizes.

§ 31-15. Advertising.

§ 31-16. Records; quarterly report.

§ 31-17. Examination of records and personnel.

§ 31-18. Appeals.

§ 31-19. Immunity from prosecution; exceptions.

§ 31-20. Offenses; forfeiture of license.

§ 31-21. Amendment of chapter.
§ 31-22. Delegation of authority.
§ 31-23. Approval at referendum required.

CHAPTER 31. BINGO

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 8-12-1958. Amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 58.

§ 31-1. Authority; title.

[Amended 6-20-1988 by L.L. No. 3-1998]

This chapter shall regulate the conduct of certain games of bingo by certain organizations, pursuant to Article 1, § 9, of the Constitution of the State of New York, and Chapter 854 of the Laws of 1957, Editor's Note: See Article 14-H of the General Municipal Law. and shall be known by the short title "Bingo Ordinance of the Town of Fort Edward."

§ 31-2. Definitions.

As used in this chapter, unless the context requires otherwise, the following terms shall have the following meanings:

AUTHORIZED ORGANIZATION

Includes only bona fide religious, charitable or nonprofit organizations of veterans, volunteer firemen and similar nonprofit organizations.

BINGO or GAME

Includes a specific game of chance, commonly known as "bingo" or "lotto," in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

CONTROL COMMISSION

The State Racing and Wagering Board.

[Amended 6-20-1988 by L.L. No. 3-1998]

LICENSE

A license issued pursuant to the provisions of this chapter.

§ 31-3. Authorization to conduct games.

[Amended 6-20-1988 by L.L. No. 3-1998]

It shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct the game of bingo within the territorial limits of the Town of Fort Edward, subject to the provisions of this chapter and the provisions of Article 14-H of the General Municipal Law and the provisions of the State Bingo Control Law. Editor's Note: See § 430 et seq. of the Executive Law.

§ 31-4. Application for license.

A. Each applicant shall file with the Town Clerk of the Town of Fort Edward a written application of the form prescribed in the rules and regulations of the Control Commission duly executed and verified.

B. In each application there shall be designated an active member or members of the applicant organization under whom the game or games of bingo described in the application are to be held, operated and conducted, and there shall be appended to the application a statement, executed and verified by the applicant and by the member or members so designated, that he, she or they will be responsible for the holding, operation and conduct of such games of bingo in accordance with the terms of the license and the provisions of this chapter, Chapter 854 of the Laws of 1957 Editor's Note: See Article 14-H of the General Municipal Law. and the rules and regulations of the Control Commission, if such license is granted.

[Amended 6-20-1988 by L.L. No. 3-1998]

C. In the event that any premises upon which any such game of bingo is to be held, operated or conducted or which is to be used for any other purpose in connection with the holding, operation or conduct thereof is to be leased or rented from any person, persons or corporations, the application shall be accompanied by a written statement, signed and verified under oath by such person or persons or on behalf of such corporation, stating his or its address, the amount of rent to be paid for such premises and stating that such lessor, lessors or, if a corporation, all of its officers and each of its stockholders who hold ten percent (10%) or more of its stock issued and outstanding are of good moral character and have not been convicted of a crime.

[Amended 6-20-1988 by L.L. No. 3-1998]

§ 31-5. General regulations.

Any game or games licensed hereunder shall be subject to the following restrictions in addition to such other restrictions as may be provided herein or contained in the rules and regulations of the Control Commission:

A. No person, firm, association, corporation or organization, other than an authorized organization licensed under the provision of this chapter, shall be permitted to conduct such games or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatever, direct or indirect.

[Amended 6-20-1988 by L.L. No. 3-1998]

B. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

[Added 6-20-1988 by L.L. No. 3-1998]

C. No authorized organization licensed under the provisions of this chapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law Editor's Note: See § 430 et seq. of the General Municipal Law. or from another authorized organization.

[Added 6-20-1988 by L.L. No. 3-1998]

D. The entire net proceeds of any game or games and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

[Amended 6-20-1988 by L.L. No. 3-1998]

E. No single prize shall exceed the sum or value of two hundred fifty dollars (\$250.).

F. No series of prizes on any one (1) occasion shall aggregate more than one thousand dollars (\$1,000.).

G. No person, except a bona fide member of such organization, shall participate in the management or operation of such game.

H. No person shall receive any remuneration for participating in the management or operation of any such game.

I. The unauthorized conduct of a bingo game and any willful violation of any provision of this chapter shall constitute and be punishable as a misdemeanor.

J. Limited period bingo shall be conducted in accordance with the provisions of this chapter and the rules and regulations of the Commission.

[Added 6-20-1988 by L.L. No. 3-1998]

§ 31-6. Issuance of license; fees; duration of license.

A. The Town Board of the Town of Fort Edward shall cause to be investigated the qualifications of each applicant and the merits of each application with due expedition after the filing of the application. Such investigation shall be made with the view to determining whether the applicant is duly qualified to be licensed under this chapter to hold, operate and conduct games of bingo under the provisions of this chapter and the rules and regulations governing the holding, operation and conduct thereof in the Town of Fort Edward; that the member or members of the applicant designated in the application to hold, operate or conduct the games of bingo, which the license was applied for, are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime; that such games of bingo are to be held, operated and conducted in accordance with the provisions of this chapter and in accordance with the rules and regulations governing the holding, operation and conduct thereof and that the proceeds thereof are to be disposed of as provided by this chapter; and if said Town Board of the Town of Fort Edward is satisfied that no commission, salary, compensation, reward or recompense whatsoever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games of bingo, except as in this chapter otherwise provided, and that no prize will be offered and given in excess of the sum or value of \$250 in any single game of bingo, and that the aggregate of all prizes offered and given in all of such games of bingo held, operated and conducted on a single occasion under said license shall not exceed the sum or value of \$1,000, it shall issue a license to the applicant for the holding, operation and conduct of the specific kinds of games of bingo applied for, accordingly, upon payment of a license fee or fees in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. for each occasion upon which any games of bingo are to be conducted under such license.

[Amended 6-20-1988 by L.L. No. 3-1998; 6-13-2005 by L.L. No. 6-2005]

B. On or before the 30th day of each month, the Supervisor of the Town of Fort Edward shall transmit to the State Comptroller a sum equal to eleven dollars and twenty-five cents (\$11.25) per occasion of all license fees collected for the conduct of bingo and fifty percent (50%) of all commercial lessor license fees collected by the Town of Fort Edward pursuant to this section during the preceding calendar month.

[Amended 6-20-1988 by L.L. No. 3-1998]

C. No license shall be issued under this chapter which shall be effective for a period of more than one (1) year.

§ 31-7. Hearing; amendment of license.

A. No application for a license hereunder shall be denied by the Town Board of the Town of Fort Edward until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

B. Any license issued under this chapter may be amended upon application to said Town Board if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon the payment of such additional license fee, if any, as would have been payable if it had been so included.

§ 31-8. Form of license.

Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the Control Commission.

§ 31-9. Supervision of games; right of entry.

[Amended 6-20-1988 by L.L. No. 3-1998]

A. The Town Board of the Town of Fort Edward shall have and exercise control and supervision over all games of bingo held, operated or conducted under such license, and such Town Board and the Control Commission shall have the power and authority to suspend any such license and, after notice and hearing, to revoke the same for violation of any provision of such license, this chapter, §§ 475 to 499 of the General Municipal Law or the rules and regulations of the Control Commission.

B. The Town Board and the Control Commission or any officer designated by them shall have the right of entry at all times into any premises where any such

game of bingo is being held, operated or conducted or where it is intended that any such game of bingo shall be held, operated or conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

§ 31-10. Conduct restricted to certain days.

Such games may be held on any day provided for in such license, excluding Sunday.

§ 31-11. Participation by minors.

[Amended 6-20-1988 by L.L. No. 3-1998]

No person under the age of eighteen (18) years shall be permitted to participate in any game or games of bingo held, operated or conducted pursuant to any license issued under this chapter unless accompanied by an adult.

§ 31-12. Frequency of games; alcoholic beverages.

[Amended 6-20-1988 by L.L. No. 3-1998]

No game or games of bingo shall be held, operated or conducted under any license issued under this chapter oftener than on six (6) days in any one (1) calendar month or in any room or outdoor area where alcoholic beverages are sold or served during the progress of the game or games.

§ 31-13. Persons conducting games; equipment; expenses; compensation.

[Amended 6-20-1988 by L.L. No. 3-1998]

A. No person shall hold, operate or conduct any game or games of bingo under any license issued under this chapter except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game or games of bingo under such license except such an active member or member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association, and except bookkeepers or accountants as hereinafter provided, and no such game of bingo shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee, and no item of expense shall be incurred or paid in connection with

the holding, operating or conducting of any game of bingo held, operated or conducted pursuant to any license issued under this chapter, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof under any circumstances whatever.

B. No rental shall be paid for the use of any premises for holding, operating or conducting any such game of bingo thereon or for any other purpose in connection with the holding, operating or conducting thereof unless the amount of such rental is stated in a statement annexed to the application for the license, as provided in § 480 of the General Municipal Law, or which is in excess of the sum stated as the rental to be charged therefor in such statement; and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting or assisting in the holding, operation or conduct of any game of bingo so held, operated or conducted, except that reasonable compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of compensation prescribed by the rules of the Control Commission.

§ 31-14. Admission charge; prizes.

A. Not more than one dollar and twenty-five cents (\$1.25) shall be charged by any licensee for admission to any room or place in which any game or games of bingo are to be held, operated and conducted under any license issued under this chapter, which admission fee, upon payment thereof, shall entitle the person paying the same to a card entitling him to participate without additional charge in all regular games of bingo to be played under such license on such occasion. and no charge in excess of one dollar and twenty-five cents (\$1.25) shall be made for a single opportunity to participate in all special games to be played under such license on such occasion.

[Amended 6-20-1988 by L.L. No. 3-1998]

B. No prize greater in amount or value than two hundred fifty dollars (\$250.) shall be offered or given in any single game conducted under any such license, and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed one thousand dollars (\$1,000.), and all winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any such game.

§ 31-15. Advertising.

[Amended 6-20-1988 by L.L. No. 3-1998]

No game of bingo to be conducted under any license issued under this chapter shall be advertised as to its location, the time when it is to be or has been played or the prizes awarded or to be awarded by means of newspapers, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one (1) sign not exceeding sixty (60) square feet in area may be displayed on or adjacent to the premises where the game will be played, and an additional sign may be displayed on or adjacent to the premises where the prize or prizes are displayed, and additional signs may be displayed upon any fire-fighting equipment belonging to any licensee which is a volunteer fire company or upon any first-aid or rescue-squad equipment belonging to any licensee which is a first-aid or rescue squad in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

§ 31-16. Records; quarterly report.

[Amended 6-20-1988 by L.L. No. 3-1998]

A. Within seven (7) days after the conclusion of the holding, operating and conducting of any such game of bingo, the authorized organization which held, operated or conducted the same and its members who were in charge thereof shall furnish to the Clerk of the Town of Fort Edward a duly verified statement showing the amount of the gross receipts derived from each game of bingo, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate therein, each item of expense incurred or paid and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net profit derived from each such game of bingo and the use to which such net profit has been or is to be applied and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of such licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

B. Within fifteen (15) days after the end of each calendar quarter during which there has been any occasion of bingo, a summary statement of such information, in a form prescribed by the state, shall be furnished in the same manner to the State Racing and Wagering Board.

§ 31-17. Examination of records and personnel.

[Amended 6-20-1988 by L.L. No. 3-1998]

The Town Board of the Town of Fort Edward and the Control Commission shall have power to examine or cause to be examined the books and records of any authorized organization to which any such license is issued so far as they may relate to any transactions connected with the holding, operating and conducting of any game of bingo thereunder and to examine any manager, officer, director, agent member or employee thereof under oath in relation to the conduct of any such game of bingo under any such license, but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this chapter.

§ 31-18. Appeals.

[Amended 6-20-1988 by L.L. No. 3-1998]

Any applicant for or holder of any license issued or to be issued under this chapter aggrieved by any action of the Town Board of the Town of Fort Edward concerning an application which has been made or a license which has been issued may appeal to the Control Commission from the determination of the town, its officers or agents by filing with said Town Board a written notice of appeal within thirty (30) days after the determination of action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before said Town Board and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the Control Commission upon said appeal shall be binding upon the town and all parties to said appeal.

§ 31-19. Immunity from prosecution; exceptions.

[Amended 6-20-1988 by L.L. No. 3-1998]

No person or corporation lawfully conducting or participating in the conduct of, possessing, selling or in any manner disposing of any shares, tickets or rights to participate in or permitting the conduct upon any premises owned by him or it of any game of bingo conducted or to be conducted under any license lawfully issued pursuant to this chapter shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this chapter, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of bingo under

any license obtained by any false pretense or statement made in any application for such license or otherwise or possessing, selling or disposing of shares, tickets or rights to participate in or permitting the conduct upon any premises owned by him or it of any game of bingo conducted under any license known to him or it to have been obtained by any such false pretense or statement.

§ 31-20. Offenses; forfeiture of license.

[Amended 6-20-1988 by L.L. No. 3-1998]

Any person, association or corporation who or which shall make any false statement in any application for any such license or in any statement annexed thereto or shall pay any rental for the use of any premises for holding, operating or conducting any game of bingo under this chapter or for any other purpose in connection with the holding, operating or conducting thereof, unless the amount of such rental is stated in a statement annexed to the application for the license as provided in § 31-4 of this chapter, or shall pay or receive any sum for such rental in excess of the sum stated as the rental to be charged therefor in such statement executed by him or on its behalf or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating and conducting of games of bingo under any such license or shall falsify or make any false entry in any book or record so far as they relate to any transaction connected with the holding, operating or conducting of any game of bingo under any such license or shall violate any of the provisions of this chapter or of any term of such license shall be guilty of a misdemeanor and shall forfeit any license issued to it under this chapter and be ineligible to apply for a license under this chapter for one (1) year thereafter.

§ 31-21. Amendment of chapter.

This chapter may be amended from time to time or repealed by said Town Board, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty (30) days following the date of enactment of the local law or ordinance affecting such amendment or repeal, as the case may be; and the approval of a majority of the electors shall not be a condition prerequisite to the taking effect of such local law or ordinance.

§ 31-22. Delegation of authority.

The Town Board of the Town of Fort Edward may delegate to an officer or officers thereof designated by it for that purpose any of the authority granted to it hereby in relation to the issuance, amendment and cancellation of licenses, the

conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

§ 31-23. Approval at referendum required.

The provisions of this chapter shall remain inoperative unless and until a proposition therefor submitted at a general or special election in the Town of Fort Edward shall be approved by a vote of the majority of the qualified electors voting thereon. In the event that such proposition is so approved, this chapter shall become effective immediately after filing a copy thereof with the control commission. Editor's Note: This ordinance was passed at referendum 11-4-58

CHAPTER 37. BUILDINGS, UNSAFE

§ 37-1. Title; statutory authority.

§ 37-2. Purpose.

§ 37-3. Definitions.

§ 37-4. Buildings to be kept safe.

§ 37-5. Inspection; report.

§ 37-6. Order to repair, hearing.

§ 37-7. Contents of notice.

§ 37-8. Service and filing of notice.

§ 37-9. Hearing procedure.

§ 37-10. Failure to comply.

§ 37-11. Assessment of expenses.

§ 37-12. Emergency cases.

§ 37-13. Court order.

§ 37-14. When effective.

CHAPTER 37. BUILDINGS, UNSAFE

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 9-12-88 as L.L. No. 6-1988. Editor's Note: This local law also repealed former Ch. 37, Buildings, Unsafe, adopted 11-22-61, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 54.

§ 37-1. Title; statutory authority.

This chapter shall be known as the "Unsafe Buildings Ordinance of the Town of Fort Edward" and is promulgated pursuant to the authority contained in § 130, Subdivision 16, of the Town Law of the State of New York.

§ 37-2. Purpose.

Unsafe buildings pose a threat to life and property in the Town of Fort Edward. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. Debris, rubble or parts of buildings left on the ground and not removed constitute a dangerous, unhealthy and unsightly condition. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Fort Edward by requiring such unsafe buildings to be repaired or demolished and removed.

§ 37-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING

Any building, structure or portion thereof used for residential, business, industrial, recreational or other purpose.

BUILDING INSPECTOR

The Building Inspector of the Town of Fort Edward or such other person appointed by the Town Board to enforce the provisions of this chapter.

PORTION OF BUILDING OR STRUCTURE

Any debris, rubble or parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

UNSAFE BUILDING OR STRUCTURE

Any building or structure or portion thereof which:

- A. Because of its structural condition, is or may become dangerous or unsafe to the public.
- B. Is open at the doorways or walls, making it accessible to and an object of attraction to minors under eighteen (18) years of age, as well as to vagrants and other trespassers.
- C. Is or may become a place of rodent infestation.

D. Consists of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.

E. Presents any other danger to the health, safety, morals and general welfare of the public.

§ 37-4. Buildings to be kept safe.

It shall be unlawful for any owner, tenant or occupant of any building or structure or portion of any building or structure in the Town of Fort Edward to maintain such building or structure or portion of any building or structure in any condition or manner which shall be unsafe as defined in § 37-3 of this chapter.

§ 37-5. Inspection; report.

When, in the opinion of the Building Inspector, any building or structure located in the Town of Fort Edward shall be deemed to be dangerous or unsafe to the public as defined in § 37-3, the Building Inspector shall make a formal inspection thereof and report, in writing, to the Town Board his findings and recommendations in regard to the building's or structure's removal or repair.

§ 37-6. Order to repair, hearing.

The Town Board shall thereupon consider and report, and, if it finds that such building or structure is dangerous and unsafe to the public, it shall, by resolution, order its repair if the same can be safely repaired and, if not, its removal and demolition and shall further order that a hearing be held before the Town Board at a time and place therein specified, and on at least five (5) days' notice to the owner of the building or structure or persons having an interest therein, to determine whether said order to repair or remove shall be affirmed or modified or vacated and, in the event of modification of affirmance, to assess all costs and expenses incurred by the town in the repair or removal of such building or structure against the land on which said building or structure is located. Said order shall also provide that the securing or removal of said building or structure shall commence within thirty (30) days after service of notice and shall be completed within sixty (60) days thereafter.

§ 37-7. Contents of notice.

The notice shall contain the following statements:

A. The name of the owner or person in possession as appears from the tax and deed records.

B. A brief description of the premises and its location.

C. A description of the building or structure which is unsafe or dangerous and a statement of the particulars in which is unsafe or dangerous.

D. An order requiring the same to be made safe and secure or to be removed.

E. That the securing or removal of said building or structure shall commence within thirty (30) days of the service of the notice and shall be completed within sixty (60) days thereafter.

F. The time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board.

G. That, in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Town Board will order the repair or removal of such building or structure by the town and that the town will assess all costs and expenses incurred in such removal against the land on which such building or structure is located.

§ 37-8. Service and filing of notice.

A. A copy of said notice shall be personally served upon the owner or some of the owners, executors, legal representatives, agents, lessees or other person having a vested interest in the premises as shown on the town tax records or in the records in the Washington County Clerk's office.

B. If no such person can be reasonably found for personal service, then a copy of said notice shall be mailed to such person by registered mail addressed to his last known address as shown on said records and by personally serving a copy of said notice upon any adult person residing in or occupying said premises or by securely affixing a copy of said notice upon said building or structure.

C. A copy of said notice shall be filed in the Washington County Clerk's office, which notice shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided. A notice so filed shall be effective for a period of one (1) year from the date of filing. It may be vacated upon an order of a Judge or Justice of a court of record or upon written consent of the Town Attorney of the Town of Fort Edward. The Washington

County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.

§ 37-9. Hearing procedure.

The Town Board shall conduct the public hearing at the time and place specified in the notice to repair or demolish. It may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to revoke the order to repair or remove, modify said order or continue and affirm said order and direct the owner or other persons to complete the work within the time specified in the order or such other time as shall be determined by the Town Board.

§ 37-10. Failure to comply.

In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Town Board within the time specified in said order and after the public hearing, the Town Board shall provide that such building or structure be made safe and secure or removed and demolished by town employees or by independent contractors. Except in emergency cases as herein provided, any contract for repair or demolishing and removal of a building or structure in excess of five thousand dollars (\$5,000.) shall be awarded through competitive bidding.

§ 37-11. Assessment of expenses.

All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town law for the levy and collection of a special ad valorem levy.

§ 37-12. Emergency cases.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building or structure is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such

repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 37-11 hereof.

§ 37-13. Court order.

The Town Board, in its discretion, may elect to apply to the Supreme Court of the State of New York for an order directing that the building be repaired and secured or demolished and removed.

§ 37-14. When effective.

This chapter shall take effect immediately.

CHAPTER 42. DOGS

ARTICLE I. General Provisions

§ 42-1. Title.

§ 42-2. Definitions.

§ 42-3. License required.

§ 42-4. Female dogs in heat.

§ 42-5. Running at large.

§ 42-6. Howling and barking.

§ 42-6.1. Cruel and inhuman treatment.

§ 42-7. Complaints of damage or nuisance.

§ 42-8. Complaints of harassment or injury.

§ 42-9. Notice of complaint summons.

§ 42-10. Hearing.

§ 42-11. Seizure of dogs.

§ 42-12. Redemption of dogs; disposal of unredeemed dogs.

§ 42-13. Penalties for offenses.

§ 42-14. Seeing Eye dogs.

§ 42-15. License fees.

§ 42-16. Issuance of appearance tickets.

ARTICLE II. Impoundment

§ 42-17. Authority.

§ 42-18. Purpose.

§ 42-19. Penalties for offenses.

CHAPTER 42. DOGS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

ARTICLE I. General Provisions

[Adopted 5-13-85]

§ 42-1. Title.

This Article shall be known as the "Dog Ordinance of the Town of Fort Edward" and may be referred to by that title.

§ 42-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

DOG

Includes either a male or female dog.

[Amended 6-27-1988 by L.L. No. 3-1988]

OWNER

Includes any person, persons, association or corporation owning, harboring, in possession of or keeping a dog or dogs within the Town of Fort Edward.

§ 42-3. License required.

All dogs kept, harbored or maintained in the Town of Fort Edward shall be licensed if running at large or if over six (6) months of age, and all owners must comply with all pertinent laws and provisions incident to obtaining and the wearing of such license by a dog.

§ 42-4. Female dogs in heat.

It shall be the duty of the owner or person harboring any female dog to confine such dog to the premises of such owner or person in possession of the dog during the period when it is in heat.

§ 42-5. Running at large.

No dog, whether licensed or unlicensed, muzzled or not muzzled, shall be allowed to run at large in any street, sidewalk, lane or public place unless said dog is effectively restrained by a chain or leash, not exceeding six (6) feet in length, affixed to the collar or harness of the dog or, in the alternative, unless said dog is in the immediate custody and control of the owner or a responsible person who is over twelve (12) years of age.

§ 42-6. Howling and barking.

It shall be unlawful for any person to keep, harbor or maintain any dog which engages in unduly loud howling or barking habitually or conducts itself in such a manner as to unduly annoy any person other than the owner.

§ 42-6.1. Cruel and inhuman treatment.

[Added 3-26-1990 by L.L. No. 4-1990]

It shall be unlawful for any person to treat a dog in a cruel or inhuman manner.

§ 42-7. Complaints of damage or nuisance.

A. Any person who observes a dog causing damage or destruction to property of a person other than its owner or committing a nuisance upon the premises of a person other than its owner or running at large or otherwise violating the provisions of this chapter may file a signed complaint, under oath, with the Justice Court of the Town of Fort Edward, specifying the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog and the name and residence, if known, of the owner or other person harboring said dog.

B. Upon receipt of a complaint, the Town Justice Court may summon the alleged owner or other person harboring said dog to appear in person before the Town Justice Court. If the summons is disregarded, the Town Justice Court may permit the filing of an information and issue a warrant for the arrest of such person.

§ 42-8. Complaints of harassment or injury.

Any person who is chased or otherwise harassed by any dog in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury or any person who witnesses such offensive conduct by any dog may file a signed complaint, under oath, with the Town Justice Court, stating the specific objectionable conduct of the dog, the date thereof, the place of occurrence, a description of the dog and the name and residence, if known, of the person harassed and the owner or other person harboring said dog; or, in the alternative, the person so harassed by a dog may file with the Town Justice Court an information charging a violation of this chapter.

§ 42-9. Notice of complaint summons.

Where a complaint has been filed or an information has been filed on dogs for bodily harm or injury, the Town Justice Court shall cause notice of such complaint, and the general nature thereof, to be served upon the alleged owner or other person claimed to be harboring said dog, and the Town Justice Court may summon the alleged owner or other person claimed to be harboring said dog to appear before the Town Justice Court. If the summons is disregarded, the Town Justice Court may permit the filing of an information and issue a warrant for the arrest of such person.

§ 42-10. Hearing.

Where a complaint has been filed or an information has been filed charging a violation of any of the provisions of this chapter, the Town Judge shall hold a hearing thereon, and if satisfied, after inquiry into and investigation of the charge, that the dog's conduct was offensive and in violation of this chapter, then the Town Judge may order the owner or other person harboring said dog to confine the dog to the premises of the owner for a period of time in his discretion or impose the penalties set forth in § 42-13 of this chapter.

§ 42-11. Seizure of dogs.

Any dog found at large and not under effective restraint or in the immediate custody and control of the owner or a responsible person who is over twelve (12) years of age, as required by § 42-5, may be seized by any duly appointed Dog Warden, peace officer or duly authorized officer or representative of the Town of Fort Edward or the American Society for the Prevention of Cruelty to Animals and confined and impounded. Any dog so found at large not under effective restraint, which cannot be safely seized, may be destroyed by such Dog Warden, peace officer or other duly authorized officer.

§ 42-12. Redemption of dogs; disposal of unredeemed dogs.

A. Any dog impounded under the provisions of this article shall be confined in accordance with the provisions of the Agriculture and Markets Law of the State of New York and may be redeemed by the owner or harbinger thereof upon payment to the Town Clerk of the Town of Fort Edward of the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

[Amended 6-13-2005 by L.L. No. 6-2005]

B. Any dog not so redeemed shall, at the option of the directors of the pound, be sold at public or private sale or destroyed by the Warden or peace officer or

given to a recognized society for the care and welfare of dogs. All proceedings shall be in accordance with the provisions of the Agriculture and Markets Law of the State of New York.

§ 42-13. Penalties for offenses.

[Amended 6-27-1988 by L.L. No. 3-1988]

Any person violating any provision of this Article or any part thereof shall be subject to a fine or penalty as set forth in § 119 of the Agriculture and Markets Law. Each day or part thereof that the violation is permitted, including days during which a dog is at large or confined to the pound, shall constitute a separate offense, and said fine or penalty shall be in addition to any redemption fee hereinabove provided for. Upon presentation of proof of payment of the fine or penalty, the pound is authorized to release any dog impounded to its owner or harbinger after its receipt of the redemption fee noted in § 42-12. Editor's Note: Former Section 15, Violation constitutes disorderly conduct, which immediately followed this section, was deleted 6-20-1988 by L.L. No. 3-1988.

§ 42-14. Seeing Eye dogs.

This Article shall not apply to Seeing Eye dogs during such times when such dogs are performing the functions for which they are trained.

§ 42-15. License fees.

[Amended 6-13-2005 by L.L. No. 6-2005]

A. The annual license fee for each spayed or neutered dog shall be the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

B. The annual fee for each unsplayed or unneutered dog shall be the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule.

C. The annual fee for a purebred dog kennel license shall be the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule.

§ 42-16. Issuance of appearance tickets.

[Added 6-27-1988 by L.L. No. 3-1988]

The Dog Warden, having reasonable cause to believe that a violation of this Article has been committed in his presence or upon information and belief, shall issue and serve an appearance ticket for such violation. The appearance ticket shall be in the form prescribed by this Board by resolution in accordance with the provisions of § 126 of the Agriculture and Markets Law and this Article.

ARTICLE II. Impoundment

[Adopted 8-28-1989 as L.L. No. 10-1989]

§ 42-17. Authority.

This Article is hereby enacted pursuant to the authority granted in § 10 of the New York State Municipal Home Rule and § 118 of the New York State Agriculture and Markets Law.

§ 42-18. Purpose.

The purpose of this Article is to modernize and keep abreast of the costs of impounding dogs so as not to be a burden on the local taxpayer.

§ 42-19. Penalties for offenses.

[Amended 7-13-1992 by L.L. No. 1-1992]

Any violation of the provisions of this Article shall be deemed a violation and shall be punishable by a fine of twenty-five dollars (\$25.) but not exceeding fifteen (15) days' imprisonment, or by both such fine and imprisonment.

CHAPTER 43. DOG KENNELS

§ 43-1. Purpose; findings.

§ 43-2. Statutory authorization.

§ 43-3. Definitions.

§ 43-4. Regulations.

§ 43-5. Penalties for offenses.

CHAPTER 43. DOG KENNELS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 10-15-1991 as L.L. No. 4-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Dogs — See Ch. 42.

Fire prevention and building code — See Ch. 51.

Zoning — See Ch. 108.

§ 43-1. Purpose; findings.

A. It is the purpose of this chapter to conserve and protect the public health, safety and general welfare by the creation of Chapter 43 of the Code of the Town of Fort Edward, Washington County, New York (hereinafter the "town").

B. Said Chapter 43 of the Code of the town shall set forth controls on all dog kennels within the town.

C. The town notes the expansion of the dog population within the town and the potential for danger where several dogs are housed in one (1) residence.

§ 43-2. Statutory authorization.

This chapter is enacted pursuant to § 10 of the Municipal Home Rule of the State of New York.

§ 43-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

KENNELS

Housing for dogs while outside of a residential building.

§ 43-4. Regulations.

A. Any residence or single parcel of land that is a non-multiple residence, "multiple residence" being three (3) or more residences on a single parcel of land, shall have a kennel for the outdoor housing of dogs where there are four (4) or more adult dogs over the age of six (6) months.

B. Any preexisting kennels or kennels coming into existence after the adoption of this chapter will conform to the following restrictions within ninety (90) days from the effective date of this chapter.

(1) Fence. Each kennel, either preexisting or coming into existence after the adoption of this chapter, shall have a fence surrounding said kennel with the following requirements:

(a) Each fence will be a minimum of six (6) feet in height and a maximum of six (6) feet six (6) inches in height and is to be of consistent height.

(b) Each fence shall be set back at least eight (8) feet from adjoining property lines, roads, sidewalks or highways.

(c) Each fence must conform to Chapter 108, Zoning, of the Code of the town.

(d) Each fence shall be of such construction so as to be capable of confining said dog or dogs at all times.

(2) When any dog is outside the residential building, off a leash and not under the direct control of a responsible adult or the owner, in a residence or parcel of land where a kennel is necessary under this said chapter, said dog or dogs shall be confined to said kennel.

§ 43-5. Penalties for offenses.

Any person violating any provision of this chapter of the Code of the town shall be fined a minimum of one hundred dollars (\$100.) and a maximum of one hundred fifty dollars (\$150.) for the first offense. For each offense after the first, there shall be a minimum fine of one hundred fifty dollars (\$150.) and a maximum fine of two hundred fifty dollars (\$250.).

CHAPTER 47. FAIR HOUSING

ARTICLE I. Community Development Fund Programs and Activities

§ 47-1. Affirmative action by town.

§ 47-2. Policy.

§ 47-3. General regulations.

§ 47-4. Complaints.

ARTICLE II. Fair Housing Opportunities

§ 47-5. Title.

§ 47-6. Purpose; enactment.

§ 47-7. Definitions and word usage.

§ 47-8. Discrimination in sale or rental of housing prohibited.

§ 47-9. Discrimination in financing of housing prohibited.

§ 47-10. Discrimination in provision of brokerage services prohibited.

§ 47-11. Exemptions.

§ 47-12. Complaints; filing; processing; disposition.

§ 47-13. Amendment; conflict with other provisions.

CHAPTER 47. FAIR HOUSING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

ARTICLE I. Community Development Fund Programs and Activities

[Adopted 11-10-1980 by L.L. No. 1-1980]

§ 47-1. Affirmative action by town.

The Town of Fort Edward, as a recipient of funding under the Housing and Community Development Act of 1974 (PL 93-83), as amended in 1977 (PL 95-129), will take affirmative action to ensure that no person shall, on the grounds of race, color, national origin, religion or sex, be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity funded, in whole or in part, with community development funds.

§ 47-2. Policy.

It is the policy of the Town of Fort Edward to obey all applicable fair housing laws that no person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied benefit of or be subject to discrimination under any program or activity funded, in whole or in part, with community development funds and to affirmatively promote fair housing.

§ 47-3. General regulations.

It shall be the policy of the Town of Fort Edward that the following affirmative actions will be complied with:

A. A copy of this article and plan, together with a copy of Executive Order 11063, Title VI, of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 and copies of state and local fair housing laws shall be kept on file in the town offices.

B. HUD-approved discrimination complaint forms will be available to the general public at the town offices.

C. Assistance shall be provided to all persons in filing such forms, and all eligible persons shall be referred to Legal Aid for further assistance, if necessary.

D. Copies of HUD fair housing pamphlets will be distributed to all interested parties upon request.

E. All advertising for the community development program will use the equal housing opportunity logotype and statement.

F. The Fair Housing Officer will collect all complaints filed with the town and perform preliminary investigation to ascertain and verify the allegation.

G. If the Fair Housing Officer is unable to conciliate the issue, he or she will refer to all the appropriate state and federal agencies (United States Department of Housing and Urban Development and the New York State Division of Human Rights).

H. The Fair Housing Officer will forward a copy of this article and plan to all local banks and financing organizations and cooperatively work for voluntary compliance with Title VIII of the Civil Rights Act of 1968.

§ 47-4. Complaints.

The Town Clerk's office will be opened to the public to receive all discrimination complaints and to assist in the filing of such complaints with the Fair Housing Officer.

ARTICLE II. Fair Housing Opportunities

[Adopted 3-13-1997 by L.L. No. 3-1997]

§ 47-5. Title.

This article shall be known and may be cited as the "Town of Fort Edward Fair Housing Law."

§ 47-6. Purpose; enactment.

The purpose of this article is to provide and ensure fair housing opportunities for all persons within the Town of Fort Edward, County of Washington, State of New York, under the applicable federal and state laws and regulations pertaining thereto, as the same may be amended from time-to-time, and, under the authority of General Municipal and Town Law, hereby obtains, enacts and publishes this article.

§ 47-7. Definitions and word usage.

A. General. For the purpose of this article, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural; words used in the

present tense include the future tense; the word "person" includes a corporation as well as an individual; and the word "shall" is always mandatory.

B. Specific words or phrases. For the purpose of this article, certain terms or words herein shall be interpreted as follows:

AGGRIEVED PERSON

The meaning set forth in 42 U.S.C.A. § 3602(i), as amended.

COMPLAINANT

The meaning set forth in 42 U.S.C.A. § 3602(j), as amended.

CONCILIATION

The meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

CONCILIATION AGREEMENT

The meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

DISCRIMINATORY HOUSING PRACTICE

The meaning set forth in 42 U.S.C.A. § 3602(f), and 24 CFR, Part 100, as amended, and shall include an act that is unlawful under § 3604, 3605, 3606 or 3617 of Chapter 45 of Title 42 of the United States Code, as amended.

DWELLING

The meaning set forth in 42 U.S.C.A. § 3602(b), as amended.

FAMILIAL STATUS

The meaning set forth in 42 U.S.C.A. § 3602(k), as amended.

FAMILY

The meaning set forth in 42 U.S.C.A. § 10602(c), as amended.

HANDICAP

The meaning set forth in 42 U.S.C.A. § 3602(h), as amended.

PERSON

The meaning set forth in 42 U.S.C.A. § 3602(d), as amended.

PREVAILING PARTY

The meaning set forth in 42 U.S.C.A. § 1988, as amended.

RESPONDENT

The meaning set forth in 42 U.S.C.A. § 3602(n), as amended.

TO RENT

The meaning set forth in 42 U.S.C.A. § 3602(e), as amended.

§ 47-8. Discrimination in sale or rental of housing prohibited.

Except as exempted by § 47-11, it shall be unlawful within the Town of Fort Edward to:

A. Refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny a

dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

B. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

C. Make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex handicap, familial status or national origin, or intention to make any such preference, limitation or discrimination.

D. Represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, handicap, familial status or national origin.

F. Refuse a physically or mentally disabled person (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS related complex and mental retardation that substantially limit one or more major life activities) to make reasonable modifications to a dwelling or common use area, at the expense of the person with the disability, if necessary for the handicapped person to use the housing.

G. Refuse to make reasonable accommodations in rules, policies, practices or services, if necessary for the handicapped person to use the housing.

§ 47-9. Discrimination in financing of housing prohibited.

It shall be unlawful in the Town of Fort Edward for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex,

handicap, familial status or national origin of such person or any person associated with him in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or the present or prospective owner, lessee, tenant or occupant of the dwelling in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exemptions contained in § 47-11.

§ 47-10. Discrimination in provision of brokerage services prohibited.

It shall be unlawful within the Town of Fort Edward to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service organization or facility relating to the business of selling or renting dwellings; or to discriminate against him or her in terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status or national origin.

§ 47-11. Exemptions.

A. Sales/rentals by owners. Nothing in § 47-8 (other than § 47-8C) shall apply to the sales/rental by owners to owner's family members.

[Amended 7-12-1999 by L.L. No. 1-1999]

B. Sales/rentals by religious organizations. Nothing in this article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, handicap, familial status or national origin. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

§ 47-12. Complaints; filing; processing; disposition.

A. Any aggrieved person may file a complaint in person or by mail to:

(1) The Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development, Washington, DC 20410-2000;

(2) Any regional or field office of the United States Department of Housing and Urban Development; or

(3) The Town Fair Housing Officer, who shall immediately file a copy thereof with the regional or field office of the United States Department of Housing and Urban Development, along with a request for a determination as to whether such complaint will be referred to said Officer for administrative disposition.

B. A complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.

C. No complaint shall be filed more than one year after an alleged discriminatory housing practice has occurred or terminated.

D. A complaint shall be made on the form prescribed by the United States Department of Housing and Urban Development and shall contain all of the information required therein and thereby.

E. A complaint may be reasonably and fairly amended at any time as permitted by the United States Department of Housing and Urban Development or, upon referral, by the Town Fair Housing Officer.

F. The respondent may file an answer to any complaint not later than 10 days after receipt of notice from either the United States Department of Housing and Urban Development or the Fair Housing Officer of the filing of such complaint.

G. Any complaint and any answer shall be affirmed by the person filing the same.

H. Upon referral by the United States Department of Housing and Urban Development of a complaint duly filed therewith to the Fair Housing Officer, the Fair Housing Office shall service notice, by certified mail or personal service, upon both the complainant and the respondent containing the following:

(1) Acknowledge the referral of the complaint, stating the date that the complaint was accepted for filing and that the respondent must file an answer within 10 days.

(2) Include a copy of the complaint.

(3) Advise the aggrieved person and the respondent of the time limits applicable to complaint processing and disposition, and of the procedural rights and obligations of the aggrieved person, under this article.

(4) Advise the aggrieved person and the respondent that the aggrieved person has the right to commence a civil action under § 813 of the Fair Housing Act in an appropriate United States District Court not later than two years after the occurrence or termination of the alleged discriminatory housing practice and states that the computation of said two-year period excludes any time during which this administrative proceeding is pending and includes the time period during which an action arising from a breach of conciliation agreement under § 814(b)(2) of the Fair Housing Act is pending.

(5) Advise the aggrieved person and the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or conciliation under this article is a discriminatory housing practice that is prohibited under this article and § 818 of the Fair Housing Act.

I. The Town Supervisor or his/her designated agent is hereby designated to be the administrative enforcement officer of this article, and the following powers and duties are hereby delegated to him/her:

(1) To investigate the allegations of any complaint, including the power to issue subpoenas in connection with such investigation, and complete the investigation in not more than 100 days after receipt of the complaint, unless it is impracticable to do so, in which event, he/she shall notify the complainant and the respondent in writing of the reasons therefor.

(2) Following completion of the investigation, to issue a final investigative report, which may be amended at any time if additional evidence is discovered, containing at least the following:

(a) The names and dates of contact with witnesses.

(b) A summary of each witness' statement.

(c) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

(d) A summary description of other pertinent records.

(3) To conciliate the matters set forth in any complaint and approve any conciliation agreement arising out of such conciliation efforts.

(4) To make a final administrative disposition of a complaint, after providing the complainant and the respondent with a copy of the final investigative report and thereafter affording the complainant and the respondent of the right to be heard and present evidence in connection with the complaint and/or said final investigative report, within one year of the date of receipt of a complaint, unless it is impracticable to do so, in which event, he/she shall notify the complainant and the respondent in writing of the reasons therefor.

J. In making a final administrative disposition, or in approving any conciliation agreement, the Fair Housing Office shall have the power and authority to grant to the prevailing party actual damages, injunctive or other equitable relief and/or to assess a civil penalty not in excess of \$1,000.

K. Any approved conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Fair Housing Officer determines that disclosure is not required in order to further the purpose of this article.

L. A final administrative disposition shall be subject to judicial review by a proceeding commenced pursuant to Article 78 of the New York Civil Practice Law and Rules and venue in Washington County Supreme Court, provided that such proceeding is commenced within 30 days of the receipt of such final administrative disposition by the person commencing such proceeding.

§ 47-13. Amendment; conflict with other provisions.

A. Amendment. The Town Board may, on its own initiative or petition, amend, supplement or repeal the provisions of this article in conformity with applicable law after public notice and hearing.

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

CHAPTER 49. FARMING

ARTICLE I. Right To Farm

- § 49-1. Title.
- § 49-2. Declaration of policy; purpose.
- § 49-3. Definitions.
- § 49-4. Right to farm.
- § 49-5. Interference prohibited; penalties for offenses.
- § 49-6. Notice upon conveyance of adjoining property.
- § 49-7. Construal of provisions.
- § 49-8. Required notations.
- § 49-9. Resolution of disputes by Grievance Committee.

CHAPTER 49. FARMING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward: Art. I, 9-14-1992 as L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes — See Ch. 71.
Site plan review — See Ch. 81.
Subdivision of land — See Ch. 87.
Zoning — See Ch. 108.

ARTICLE I. Right To Farm

[Adopted 9-14-1992 as L.L. No. 2-1992]

§ 49-1. Title.

This Article shall be known as the "Right To Farm Law of the Town of Fort Edward."

§ 49-2. Declaration of policy; purpose.

A. It is the general purpose and intent of this Article to maintain and preserve the rural tradition and character of the Town of Fort Edward, to permit the continuation of the business of farming within the town and to protect the existence and operation of farming businesses, consistent with the declared policy of the State of New York in Article XIV of the State Constitution and further enumerated in Agriculture and Markets Law Article 25-AA and within this Article.

B. The Town Board finds, declares and determines that, in order to maintain agriculture as the town's and New York State's largest industry, farmers must be afforded protection allowing them the right to farm.

C. Since World War II, there has been a trend toward urban expansion into suburban and rural areas. Increased populations in rural areas often change the character of the community. Farming near other land uses may generate neighborhood conflicts. Generally accepted farming practices may aggravate those who do not understand agricultural methods. Neighbors may complain about odors, noise, dust, vibration and the presence of slow-moving vehicles. In some cases, residents may file a nuisance suit against agricultural practices.

D. It shall be the declared policy of the Town of Fort Edward to ensure farmers the right to conduct generally accepted farm practices in order to remain viably solvent.

E. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the business of farming, it is the specific purpose and intent of this Article to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions. The Town Board further finds that the continued maintenance and growth of farming are essential elements in the economic stability of the Town of Fort Edward and so declares that agriculture is one of the preferred and dominant land uses. An additional purpose is to promote a good neighbor policy between agricultural and nonagricultural residents of the town and to encourage farmers to be considerate, responsible and careful with their practices so as to minimize the effect on others as much as possible.

F. It is the general purpose and intent of this Article to maintain and preserve the rural tradition and character of the Town of Fort Edward, to permit the continuation of the business of farming within the town, to protect the existence and operation of established farms and to encourage the initiation and expansion of farming businesses.

G. Currently, the Town of Fort Edward is located within the agricultural districts of Washington County and is committed to the continued practice of preserving as well as expanding agricultural districts and in general farming within the Town of Fort Edward, within or without agricultural districts.

§ 49-3. Definitions.

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

B. As used in this Article, the following terms shall have the meanings indicated:

AGRICULTURAL DISTRICT

FARMER

Any person, organization, entity, association, partnership or corporation engaged in the business of agriculture, whether for profit or otherwise, including but not limited to the cultivation of land; the raising of crops; the raising of livestock, poultry, fur-bearing animals or fish; the harvesting of timber; or the practicing of horticulture or apiculture.

FARMING PRACTICES

Any legal activity engaged in by a farmer in connection with the furtherance of the business of farming, including but not limited to the collection, transportation, distribution and storage of animal and plant wastes; the storage, transportation and use of equipment for tillage, planting and harvesting, the transportation, storage and use of legally permitted fertilizers and limes, insecticides, herbicides and pesticides in accordance with the manufacturer's instructions; and the construction of farm structures, fences and facilities as permitted by local and state building codes and regulations.

FARM PRODUCTS

Those plants and animals useful to human beings, including but not limited to forages and sod crops; grains and seed crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; fruits; vegetables; flowers; seeds; grasses; trees; fish; apiaries; equine or other similar products; or any other products which incorporate the use of food, feed, fiber or fur.

GENERALLY ACCEPTED AGRICULTURAL BEST MANAGEMENT PRACTICES

Those practices including but not limited to operation of farm equipment; production, processing and marketing of farm products; proper use of legal agricultural chemicals and other crop-protection methods; and construction and use of farm structures, including such structures used for agricultural labor, as defined by the Commissioner of Agriculture and Markets after consultation with and approval by the State Advisory Council on Agriculture. The Commissioner and the Council shall give due consideration to existing New York State Department of Agriculture and Markets information and written recommendations from the New York State College of Agriculture experiment station in cooperation with the United States Department of Agriculture Soil and Conservation Service and the Agricultural Stabilization and Conservation Service, the Department of Environmental Conservation and other professional and

industry organizations. Such practices may be defined on a case-by-case basis.

PERSON

An individual, corporation, partnership, association or other legal entity.

TOWN

The Town of Fort Edward.

§ 49-4. Right to farm.

A. Farmers, as well as those employed by or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Fort Edward at any and all such times and at all such locations as are reasonably necessary to conduct the business of farming.

B. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

§ 49-5. Interference prohibited; penalties for offenses.

A. The Town of Fort Edward, County of Washington, State of New York and the United States Government shall not exercise any of their powers to enact local laws or ordinances within the Town of Fort Edward, both within agricultural districts and without agricultural districts, in a manner which would unreasonably restrict or regulate (farm structures or farming practices) generally accepted agricultural best management practices, as defined by the Commissioner after consultation with and approval by the State Advisory Council on Agriculture and the State Soil and Water Conservation Committee, in contravention of the purposes of the act, unless such restrictions or regulations bear a direct relationship to the public health or safety.

B. No person, group, entity, association, partnership or corporation will engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly and/or deliberately interfere with, prevent or in any way deter the practice of farming within the Town of Fort Edward. Such actions may constitute an offense, punishable by law with a fine of not less than twenty-five dollars (\$25.) nor more than one hundred fifty dollars (\$150.) for each day's violation or continuance of a violation.

C. In addition, an action to restrain or enjoin any violation of the Article may be brought in a court of competent jurisdiction by any person and/or the Town of Fort Edward aggrieved by such violation.

D. A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural best management practices according to policy as determined by the Department of Agriculture and Markets, generally accepted by the State Advisory Council on Agriculture and the State Soil and Water Conservation Committee and revised as considered necessary by the Department of Agriculture and Markets with the approval of the Advisory Council on Agriculture and the State Soil and Water Conservation Committee.

§ 49-6. Notice upon conveyance of adjoining property.

A. Conveyance of real property adjoining lands eligible to receive an agricultural assessment within agricultural districts. Prior to entering into a contractual agreement or as part of the contractual agreement or purchase and sales agreement for the conveyance of any real property adjoining lands eligible to receive an agricultural assessment pursuant to Article 25-AA of the Agriculture and Markets Law, the prospective grantor shall deliver to the prospective grantee an affidavit which states the following:

THIS PROPERTY IS ADJACENT TO PROPERTY USED FOR AGRICULTURAL PRODUCTION. IT IS THE POLICY OF THE TOWN OF FORT EDWARD TO CONSERVE, PROTECT AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF AGRICULTURAL LAND FOR THE PRODUCTION OF FOOD AND OTHER PRODUCTS AND ALSO FOR ITS NATURAL AND ECOLOGICAL VALUE. FARMERS RETAIN THE LEGAL RIGHT TO CONDUCT GENERALLY ACCEPTED AGRICULTURAL BEST MANAGEMENT PRACTICES REGARDING THE OPERATION OF FARM EQUIPMENT; PRODUCTION, PROCESSING AND MARKETING OF FARM PRODUCTS; PROPER USE OF LEGAL AGRICULTURAL CHEMICALS AND OTHER CROP-PROTECTION METHODS; AND CONSTRUCTION AND USE OF FARM STRUCTURES. THIS NOTICE IS TO INFORM PROSPECTIVE RESIDENTS THAT THESE AGRICULTURAL ACTIVITIES MAY GENERATE TEMPORARY DUST, NOISE, ODOR AND VIBRATION.

B. If an adjoining parcel of property is currently farmed yet outside the agricultural district, this notification requirement is recommended but not mandatory, and Subsection C within this section is not applicable.

C. Notwithstanding any provision of law to the contrary, a failure to comply with the provisions of Subsection A of this section shall, at the option of the prospective grantee, render any contractual agreement between the prospective grantee and the prospective grantor relative to such lands null and void, provided that the prospective grantor declares such contractual agreement null and void prior to the actual conveyance by deed of such lands to the grantee.

§ 49-7. Construal of provisions.

A. Intent.

(1) It is the intent of this Article, pursuant to the powers of the Municipal Home Rule Law, General Municipal Law and Town Law, to supersede any Washington County law, New York State law or federal law and its rules and regulations when in conflict with the policy and statement regarding this Right To Farm Law.

(2) Furthermore, it is the intent of this Article to preempt state and/or federal land use legislation, regulations and policies when said legislation and policies and regulations conflict with the purposes, intent and objectives of this Article, specifically New York State Department of Conservation and United States Park Agency rules and regulations.

(3) This Article does not intend to preempt or supersede the federal floodplain and stormwater regulations.

B. Pursuant to the authority provided in § 22 of the Municipal Home Rule Law, provisions of the New York State Public Health Law are hereby changed and superseded by this Article insofar as they apply to farming practices, as defined herein, within the Town of Fort Edward.

(1) Public Health Law § 1300-a shall not apply.

(2) Public Health Law § 1300-c shall be changed to read as follows:
"Notwithstanding any other provisions of law, farming practices shall not be considered a public or private nuisance, provided that such farming practices are consistent with the best management practices or generally accepted farming practices which are undertaken in conformity with federal, state and

local laws, ordinances, rules or regulations which do not unreasonably restrict such practices in contravention of the purposes of this Article or the purposes of Article 25-AA of the Agriculture and Markets Law."

C. Except as provided in Subsection A above, this Article and the proscriptions set forth herein are in addition to and not in lieu of all other applicable laws, rules and regulations, which are therefore continued in full force and effect.

§ 49-8. Required notations.

The Town of Fort Edward will require the Fort Edward Planning Board to record the following notation on all plats/mylars on any subdivision project (minor or major), mobile home park or site plan project approved by the Planning Board within the Town of Fort Edward. Furthermore, the Town of Fort Edward will require the grantor within an approved subdivision, approved site plan or approved mobile home park to incorporate this language in any subsequent conveyance by deed or other means.

THIS PROPERTY IS WITHIN THE TOWN OF FORT EDWARD.
IT IS THE POLICY OF THE TOWN TO CONSERVE, PROTECT
AND ENCOURAGE THE DEVELOPMENT AND
IMPROVEMENT OF FARM OPERATIONS WITHIN OUR
BORDERS FOR THE PRODUCTION OF FOOD AND OTHER
PRODUCTS, AND ONE SHOULD BE AWARE OF THE
INHERENT POTENTIAL CONDITIONS ASSOCIATED WITH
SUCH PURCHASE OR RESIDENCE.

SUCH CONDITIONS MAY INCLUDE BUT ARE NOT LIMITED
TO NOISE; ODORS; FUMES; DUST; SMOKE; INSECTS;
OPERATION OF MACHINERY DURING ANY HOUR, DAY OR
NIGHT; STORAGE AND DISPOSAL OF PLANT AND ANIMAL
WASTE PRODUCTS; AND THE APPLICATION OF CHEMICAL
FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND
PESTICIDES BY GROUND OR AERIAL SPRAYING OR
OTHER METHODS. OCCUPYING LAND WITHIN THE TOWN
OF FORT EDWARD MEANS THAT ONE SHOULD EXPECT
AND ACCEPT SUCH CONDITIONS AS A NORMAL AND
NECESSARY ASPECT OF LIVING IN SUCH AN AREA.

§ 49-9. Resolution of disputes by Grievance Committee.

A. Any issue or controversy that arises which cannot be resolved directly between the parties involved and is not addressed by other laws or regulations

may be promptly and inexpensively resolved by referral to the Local Grievance Committee.

(1) The Grievance Committee shall be appointed by the Town Board and will consist of five (5) members. At least three (3) of these members shall be residents of the Town of Fort Edward. Two (2) of the three (3) will be from an agricultural-related business, and the other shall be from a nonagricultural-related background. Selection of the remaining two (2) members may be at large from within Washington County, such as a county extension agent or other county official. The original appointments shall have terms of two (2) for one (1) year, two (2) for two (2) years and one (1) for three (3) years. Thereafter, members will be appointed annually for three-year terms.

(2) Any controversy between the parties shall be submitted to the Grievance Committee within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party becomes aware of the occurrence.

(3) The parties will recognize the value and importance of full discussion and complete presentation and agreement concerning all pertinent facts in order to eliminate any misunderstandings. The parties will cooperate in the exchange of pertinent information concerning the controversy.

(4) The controversy shall be presented to the Committee by written request of one (1) of the parties within the time limits specified. Thereafter, the Committee may investigate the facts of the controversy but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within ten (10) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have the opportunity to present what each considers to be pertinent facts.

(5) The decision of the Committee shall not be binding. If one (1) of the parties is not satisfied with the Committee's decision, upon agreement of both parties, the matter may be submitted to the Town Board according to the procedures set forth in Subsection B below.

B. Town Board procedures.

(1) The controversy between the parties shall be submitted to the Town Board upon written agreement of both parties.

(2) The Town Board shall review the controversy with a report submitted from the proceedings of the Grievance Committee. Within twenty (20) days

of the written request, the Town Board shall render a written decision to the parties.

CHAPTER 50. FEE SCHEDULE

§ 50-1. Establishment and revision of fee schedule; posting and distribution.

CHAPTER 50. FEE SCHEDULE

[HISTORY: Adopted by the Town Board of Town of Fort Edward 6-13-2005 by L.L. No. 6-2005; amended in its entirety 6-12-2006 by L.L. No. 3-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fee for Town Code — See Ch. 1, § 1-9.
Bingo — See Ch. 31.
Dogs — See Ch. 42.
Fire Prevention and Building Code — See Ch. 51.
Garage sales — See Ch. 59.
Junkyards — See Ch. 66.
Mobile homes — See Ch. 71.
Peddling and soliciting — See Ch. 76.
Rental property — See Ch. 79A.
Sanitary standards — See Ch. 80A.
Site plan review — See Ch. 81.
Streets and sidewalks — See Ch. 85.
Subdivision of land — See Ch. 87.
Wireless telecommunications facilities — See Ch. 106.
Zoning — See Ch. 108.

§ 50-1. Establishment and revision of fee schedule; posting and distribution.

Following the initial adoption of a fee schedule by resolution of the Town Board, the Town Board shall review the fee schedule at its organizational meeting each year. In the event the Board concludes that no changes are required in the fee schedule, the Board shall, by adoption of a resolution, authorize the continued use and distribution of the unchanged fee schedule. If the Board determines that changes should be made, it shall adopt a resolution describing any proposed revisions or amendments. The Board may also review the fee schedule at any

other time it deems necessary and propose revisions or amendments to it. No proposed revisions or amendments shall be implemented unless the Board first holds a public hearing on them. The public hearing shall be held not less than five days from publication in the Glens Falls Post Star of notice of the time and place of such hearing. Following the public hearing, the Board may adopt a resolution implementing revisions or amendments to the fee schedule. Upon the adoption of such a resolution, the revised and/or amended fees or other changes in the fee schedule shall be effective immediately unless otherwise specified by the Board in its resolution. The fee schedule, incorporating the revisions, amendments and changes approved in the Board's resolution, shall be posted on the bulletin board maintained for that purpose in the Town Hall and in the offices of the Town Clerk, the Town Assessor and the Building Inspector at all times, and shall be made available by the Town Clerk for distribution at those offices to persons requesting the same.

CHAPTER 51. FIRE PREVENTION AND BUILDING CODE

ARTICLE I. General Provisions

§ 51-1. Title.

§ 51-2. Authority.

§ 51-3. Purpose.

§ 51-4. Compliance required.

ARTICLE II. Administration

§ 51-5. Code Enforcement Official.

§ 51-6. Powers and duties of Code Enforcement Official.

§ 51-7. Acting Code Enforcement Official.

§ 51-8. Appointment of inspectors.

ARTICLE III. Building Permits

§ 51-9. Building permit required.

§ 51-10. Applications.

§ 51-11. Approval or disapproval.

§ 51-12. Revocation.

§ 51-13. Expiration; renewal.

ARTICLE IV. Inspections

§ 51-14. Inspections required.

§ 51-15. Occupied private dwellings.

§ 51-16. Prior notice required; exceptions.

§ 51-17. Court warrant.

§ 51-18. Responsibility for arrangement of building construction inspections.

§ 51-19. Fire prevention inspections.

ARTICLE V. Certificates of Occupancy

§ 51-20. Certificate of occupancy required.

§ 51-21. Temporary certificates; extensions.
ARTICLE VI. Contents of Building Permit and Certificate of Occupancy
§ 51-22. Building permit information.
§ 51-23. Certificate of occupancy information.
ARTICLE VII. Enforcement; Penalties
§ 51-24. Failure to comply.
§ 51-25. Stop order.
§ 51-26. Statutory penalties.
§ 51-27. Penalties for offenses.
ARTICLE VIII. Appeals
§ 51-28. Appealable actions.
§ 51-29. Forms.
ARTICLE IX. Miscellaneous Provisions
§ 51-30. Rules and regulations.
§ 51-31. Records and reports.
§ 51-32. Municipal cooperation.

CHAPTER 51. FIRE PREVENTION AND BUILDING CODE

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 3-27-1989 as L.L. No. 2-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 37.
Flood damage prevention — See Ch. 54.
Mobile homes — See Ch. 71.
Site plan review — See Ch. 81.
Subdivision of land — See Ch. 87.
Zoning — See Ch. 108.

ARTICLE I. General Provisions

§ 51-1. Title.

The Town Board of the Town of Fort Edward, pursuant to Section 1 of Chapter 707 of the laws of 1981 (Executive Law § 381, Subdivision 2), now formally adopts this chapter to be known as "A Local Law Authorizing Town Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code."

§ 51-2. Authority.

This chapter is hereby enacted pursuant to the authority granted by § 10 of the New York State Municipal Home Rule Law.

§ 51-3. Purpose.

This chapter shall provide the method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (hereinafter the "code") in the Town of Fort Edward and shall establish powers, duties and responsibilities in connection therewith.

§ 51-4. Compliance required.

[Amended 6-13-2005 by L.L. No. 6-2005]

All new construction, alterations, improvements, removal or demolition of any building or structure, and the installation of any heating equipment, system or component and the installation of any in-ground or aboveground swimming pool shall be in compliance with the most recent edition of the New York State Uniform Fire Prevention and Building Code, prepared by the New York State Division of Housing and Community Renewal.

ARTICLE II. Administration

§ 51-5. Code Enforcement Official.

There is hereby designated in the Town of Fort Edward a public official to be known as the "Code Enforcement Official" with the approval of the Town Board, at a compensation to be fixed by it.

§ 51-6. Powers and duties of Code Enforcement Official.

- A. The Code Enforcement Official shall be considered an official of the Town of Fort Edward.
- B. The Code Enforcement Official shall:

- (1) Except as otherwise specifically provided by law or except as herein otherwise provided, administer and enforce all of the provisions of the Uniform Fire Prevention and Building Code applicable to the plans, specifications or permits for the construction, alteration and repair of buildings and structures; the installation and use of materials and equipment therein; and the location, use and occupancy thereof in regard to building construction specifications and fire prevention requirements.

(2) Receive applications, approve plans and specifications and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved or such permits have been issued for the purpose of ensuring compliance with the code.

(3) Make inspections and issue in writing all appropriate notices or orders, including stop orders, to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of the code.

(4) Make all building construction and fire prevention inspections which are necessary and proper for the carrying out of duties as required by the code.

(5) Issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the Uniform Fire Prevention and Building Code, which shall certify that the building conforms to the requirements of the code.

§ 51-7. Acting Code Enforcement Official.

In the absence of the Code Enforcement Official or in the case of his inability to act for any reason, the Supervisor of the Town of Fort Edward shall have the power, with the consent of the Town Board of the Town of Fort Edward, to designate a person to act on behalf of the Code Enforcement Official and to exercise all the powers conferred upon that person.

§ 51-8. Appointment of inspectors.

The Supervisor with the approval of the Town Board may appoint one (1) inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Official and to exercise any portion of the powers and duties of the Code Enforcement Official as that person may direct. The compensation of such inspector shall be fixed by the Board of Trustees.

ARTICLE III. Building Permits

§ 51-9. Building permit required.

[Amended 6-13-2005 by L.L. No. 6-2005]

No person, firm, corporation, association or other organization shall commence the erection, construction, alteration, improvement, removal or demolition of any building or structure, except agricultural buildings or structures, and the

installation of any heating equipment, system or component and the installation of any in-ground or aboveground swimming pool, without having applied for and obtained a building permit from the Code Enforcement Official. At the request of the applicant, building permit requirements may be waived where the work to be done involves minor interior or exterior alterations.

§ 51-10. Applications.

A. Applications for building permits shall be available through the Town Clerk's office.

B. Applications for building permits shall be delivered in person to the Town Clerk's office.

C. Building permit application fees must be paid in the amounts adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

[Amended 6-13-2005 by L.L. No. 6-2005]

D. The building permit applications shall specify at a minimum:

(1) The items set forth in § 108-7 of the Code of the Town of Fort Edward.

(2) The requisite number of copies of certified plans, specifications and maps.

(3) The signature of the applicant or authorized agent.

(4) The work site.

(5) A statement of the use or occupancy of all parts of the land and of the proposed building or structure.

(6) A brief description of the proposed work, including plans and specifications.

(7) The estimated cost of the proposed work.

(8) The name and address of the owner and applicant.

(9) The fee for the building permit as set forth under § 108-59 of the Code of the Town of Fort Edward.

(10) If either the owner or the applicant is a corporation, the names and addresses of responsible officers.

§ 51-11. Approval or disapproval.

A. The Code Enforcement Official shall examine, or cause to be examined, building permit applications and plans, specifications and documents filed therewith. The application shall be approved or disapproved in accordance with § 108-54 or the Code of the Town of Fort Edward.

B. Upon approval of the application, plans and specifications shall be endorsed with the word "approved". One (1) set of such approved plans and specifications shall be retained in the files of the Code Enforcement Official, and one (1) set shall be returned to the applicant, together with the building permit, and shall be kept by the applicant at the building site open to inspection by the Code Enforcement Official at all reasonable times.

C. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all the requirements of the applicable Building Code regulations, the Code Enforcement Official shall disapprove the same and shall return the plans and specifications to the applicant. Upon request of the applicant, the Code Enforcement Official shall cause such refusal, together with the reasons thereof, to be transmitted to the applicant in writing.

§ 51-12. Revocation.

The Code Enforcement Official may revoke a building permit previously issued in the following instances:

A. Where it is found that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;

B. Where it is found that the building permit was issued in error and should not have been issued in accordance with the applicable provisions of the code;

C. Where it is found that the work performed under the permit is not being completed in accordance with the provisions of the application, plans, specifications or the code; or

D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Official.

§ 51-13. Expiration; renewal.

A building permit shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy, whichever occurs first. A building permit may, upon written request, be renewed for successive one-year periods, provided that the permit has not been revoked or suspended at the time the application for renewal is made. The relevant information in the application for renewal must be up-to-date in order to obtain an extension.

ARTICLE IV. Inspections

§ 51-14. Inspections required.

All dwellings, structures and uses regulated under the State Uniform Fire Prevention and Building Code, including but not limited to those buildings and structures for which a building permit has been obtained, shall be inspected for compliance with the building construction and the fire prevention provisions of the code.

§ 51-15. Occupied private dwellings.

Except as otherwise required by the code, no regular or periodic inspections of occupied dwelling units shall be required. This shall not, however, be a limitation on inspections conducted at the invitation of the occupant or by an affected property owner, where conditions on the premises are shown to threaten or present a hazard to public health, safety and welfare.

§ 51-16. Prior notice required; exceptions.

Access to buildings and premises by the Code Enforcement Official to conduct inspections shall be made only after reasonable prior notice has been given to the owner or his authorized representative with the following exceptions:

A. In the event that the owner or his authorized representative can not be located with due diligence.

B. In the event that the occupant makes a complaint that the conditions within the premises pose a threat to the health, safety or welfare of its occupants.

§ 51-17. Court warrant.

If entrance to make an inspection is refused or cannot be obtained, the Code Enforcement Official may apply for a warrant to make an inspection to any court of competent jurisdiction.

§ 51-18. Responsibility for arrangement of building construction inspections.

Upon issuance of a building permit, it shall be the responsibility of the owner, the applicant or their authorized agent to arrange building construction inspections with the Code Enforcement Official.

§ 51-19. Fire prevention inspections.

The Department of Code Enforcement shall conduct required fire prevention inspections for compliance with the fire prevention provisions of the code.

ARTICLE V. Certificates of Occupancy

§ 51-20. Certificate of occupancy required.

The Code Enforcement Official or the enforcement officer as designated in § 108-53 of the Code of the Town of Fort Edward, upon determination that a dwelling or structure undergoing construction or alteration has complied with the provisions of the code, shall issue a certificate of occupancy. A certificate of occupancy must be issued before any occupancy or use of the dwelling or structure is allowed.

§ 51-21. Temporary certificates; extensions.

Upon request from the owner, the applicant or his agent, the Code Enforcement Official or the enforcement official as designated in § 108-53 of the Code of the Town of Fort Edward may issue a temporary certificate of occupancy for a building or structure or a part thereof before the entire work covered by the building permit shall have been completed, provided that such portion or portions as have been completed may be occupied safely without endangering life or the public health or welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good cause, the Code Enforcement Official or the enforcement official as designated in § 108-53 of the Code of the Town of Fort Edward may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

ARTICLE VI. Contents of Building Permit and Certificate of Occupancy

§ 51-22. Building permit information.

The building permit issued pursuant to this chapter shall specify at a minimum the address of the proposed construction or structural alteration activity, the activity for which the permit is issued, the date of permit issuance, any conditions

relevant or required as part of the issuance and the signature of the Code Administrator or Code Enforcement Official.

§ 51-23. Certificate of occupancy information.

The certificate of occupancy issued pursuant to this chapter shall specify at a minimum the address of the dwelling or structure inspected, the use for which the certificate of occupancy is issued, the date the dwelling or structure was inspected and the date the building permit was issued, any conditions relevant or required as part of the issuance and the signature of the Code Enforcement Official.

ARTICLE VII. Enforcement; Penalties

§ 51-24. Failure to comply.

It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the New York Uniform Fire Prevention and Building Code or this chapter, as well as any regulation or rule promulgated by the Code Enforcement Official in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Official or to construct alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy. In the event of a violation and the failure to comply, neither a building permit nor a certificate of occupancy shall be issued. If a certificate of occupancy has been previously issued and thereafter a violation is found, the certificate shall be revoked if such violation is not remedied.

§ 51-25. Stop order.

Whenever the Code Enforcement Official has reasonable grounds to believe that work on any building or structure is being done in violation of the applicable provisions of the code, or it is not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or the work is being done in an unsafe and dangerous manner, the owner of the property or the owner's agent shall be notified in the form of a stop order to stop all work. Such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing and shall state the conditions under which the work may be resumed. It may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the

order to him by certified mail at the address set forth in the building permit application if such application shall have been made.

§ 51-26. Statutory penalties.

Any person who shall fail to comply with a written order of the Code Enforcement Official within the time fixed for compliance and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, permit or certificate of the Code Enforcement Official shall be subject to a fine and/or penalty consistent with the provisions of Article 18, § 382, of the Executive Law of the State of New York and the penalties imposed under this chapter.

§ 51-27. Penalties for offenses.

A. Any person, firm or corporation who violates any provision of the code or any rule or regulation of this chapter, or the terms or conditions of any building permit or any certificate of occupancy issued by the Code Enforcement Official shall be liable to a civil penalty of not more than two hundred fifty dollars (\$250.) for each day or part thereof during which such violation shall be continued. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Official.

B. Alternatively or in addition to an action to recover the civil penalties provided by Subsection A of this section, the Town Board may institute any appropriate action or proceeding to present, restrain, enjoin, correct or abate any violation of or to enforce any provisions of the Uniform Code or the terms or conditions of any certificate of occupancy issued by the Code Enforcement Official.

C. Any person who shall willfully fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance herewith and any owner, builder, architect, tenant, contractor, subcontractor, plumber, construction superintendent or their agents or any other person taking part in assisting in the construction or use of any building who shall violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Code Enforcement Official made thereunder or, in addition to any other remedies provided for in this chapter, any person who shall violate any of the provisions of this chapter, the Code or any rules or regulations adopted pursuant to this chapter or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any

detailed statement of specifications or plans submitted and approved thereunder shall severally for each and every such violation be guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.) nor more than two hundred fifty dollars (\$250.) or by imprisonment for not more than thirty (30) days, or both fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that the prohibited condition(s) or violation continues shall constitute a separate offense. The imposition of any such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction.

ARTICLE VIII. Appeals

§ 51-28. Appealable actions.

Any owner or authorized representative of a building or premises affected by the State Uniform Fire Prevention and Building Code or this chapter may appeal the following actions to the appropriate New York State Regional Board of Review:

A. The application of the code where practical difficulties or unnecessary hardship may result.

B. Any order or determination or the failure within a reasonable time to make such order or determination by an administrative official charged with the enforcement or purporting to enforce the code.

§ 51-29. Forms.

An appeal to the Regional Board of Review shall be in writing, on forms prescribed by the Secretary of State, and accompanied by a fee determined by the state.

ARTICLE IX. Miscellaneous Provisions

§ 51-30. Rules and regulations.

The Town Board may, after public notice and publication at least five (5) days prior to the effective date thereof in the official town newspaper and in other newspapers with general circulation in the town, adopt, by resolution, further procedural/administrative rules and regulations as the Board deems reasonable to carry out the provisions of this chapter. The Code Enforcement Official may

also make recommendations to the Town Board to adopt, amend or appeal such rules and regulations as they may relate to the efficient administration and enforcement of the provisions of the Uniform Fire Prevention and Building Code. Such rules and regulations shall not conflict with the code, this chapter or any other provisions of law.

§ 51-31. Records and reports.

A. The Code Enforcement Official shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.

B. The Code Enforcement Official shall submit to the Supervisor and Town Board a written report of all business conducted. Said report is to be submitted on a monthly basis or any periodic basis that the Supervisor or Town Board deems proper.

§ 51-32. Municipal cooperation.

To effectuate implementation of the New York State Uniform Fire Prevention and Building Code, the Town Board of the Town of Fort Edward is hereby authorized pursuant to Article 5G of the General Municipal Law to contract with any other municipality for services on an as-needed basis in the administration and enforcement of the Uniform Fire Prevention and Building Code.

CHAPTER 54. FLOOD DAMAGE PREVENTION

§ 54-1. Findings.

§ 54-2. Purpose.

§ 54-3. Objectives.

§ 54-4. Definitions.

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§ 54-11. Development permit.

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§ 54-13. General standards.

§ 54-14. Specific standards.

§ 54-15. Floodways.

§ 54-16. Appeals Board; variances.

CHAPTER 54. FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 8-10-87 as L.L. No. 2-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes — See Ch. 71.

Zoning — See Ch. 108.

§ 54-1. Findings.

The Town Board of the Town of Fort Edward finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Fort Edward and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 54-2. Purpose.

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

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 54-3. Objectives.

The objectives of this chapter are:

A. To protect human life and health.

B. To minimize expenditure of public money for costly flood control projects.

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. To minimize prolonged business interruptions.

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard.

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G. To provide that developers are notified that property is in an area of special flood hazard.

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 54-4. Definitions.

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

B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL

A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 -99, V, VO, VE or V1 - 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT

That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL

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

BUILDING

Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR

The same meaning as "basement."

COASTAL HIGH-HAZARD AREA

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

DEVELOPMENT

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

ELEVATED BUILDING

A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

The same meaning as "regulatory floodway."

FLOOR

The top surface of an enclosed area in a building, including basement, i.e., the top of the slab in concrete slab construction or the top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE

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

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR

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

MANUFACTURED HOME

A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME

The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD

The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND

At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

REGULATORY FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 54-12B of this chapter.

SAND DUNES

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION

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

STRUCTURE

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

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either.

(1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

(2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 54-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Fort Edward.

§ 54-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Town of Fort Edward, of Washington County, New York," dated June 15, 1982, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the Fort Edward Town Clerk's office, 118 Broadway, Fort Edward, New York. Flood Insurance Rate Map, Community-Panel Number 360885 00 10 A.

§ 54-7. Interpretation; conflict with other provisions.

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

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

§ 54-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Fort Edward from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under § 54-16 will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

§ 54-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Fort Edward, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 54-10. Designation of local administrator.

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 54-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 54-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.
- (2) The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.
- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 54-13C(1).
- (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 54-14.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 54-12. Powers and duties of local administrator.

Duties of the local administrator shall include but not be limited to:

A. Permit application review. The local administrator shall:

(1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.

(2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

(a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.

(b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

(4) Review all development permits for compliance with the provisions of § 54-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 54-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 54-13D(4), in order to administer § 54-14, Specific standards, and § 54-15, Floodways.

C. Information to be obtained and maintained. The local administrator shall:

(1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.

(2) For all new or substantially improved floodproofed structures:

(a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.

(b) Maintain the floodproofing certifications required in §§ 54-13 and 54-14.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

(1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

(2) Base flood elevation data established pursuant to § 54-6 and/or Subsection B, when available, shall be used to accurately delineate the areas of special flood hazard.

(3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

(1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 54-8 of this chapter.

(2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 54-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

(1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.

I. All certifications shall be based upon the inspections conducted subject to Subsection G and/or any certified elevations, hydraulic information,

floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 54-13. General standards.

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

A. Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

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

B. Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

(1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

(2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(3) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

(1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 54-12A(3). This may require the submission of additional technical data to assist in the determination.

(2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 54-12B or Subsection D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(3) In all areas of special flood hazard where floodway data is provided or available pursuant to § 54-12B, the requirements of § 54-15, Floodways, shall apply.

§ 54-14. Specific standards.

A. In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 54-6, Basis for establishing areas of special flood hazard, and § 54-12B, Use of other base flood and floodway data, the following standards are required:

(1) Residential construction. New construction and substantial improvements of any resident structure shall:

(a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

(b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria

[1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

[2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

[3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

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

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

[1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

[2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

[3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(b) If the structure is to be floodproofed:

[1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation, in relation to mean sea level, to which the structure is floodproofed.

(c) The local administrator shall maintain on record a copy of all such certificates noted in this section.

B. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 54-12B or two (2) feet above the highest adjacent grade where no elevation data is available.

(1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

(2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

(c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 54-15. Floodways.

Located within areas of special flood hazard are areas designated as "floodways" (See definition, § 54-4.) The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 54-6 and 54-12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 54-16. Appeals Board; variances.

A. Appeals Board.

(1) The Zoning Board of Appeals as established by the Town of Fort Edward shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

- (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (5) Upon consideration of the factors of Subsection A(4) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection A(4)(a) through (l) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.

(3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met.

(b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

CHAPTER 56. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

§ 56-1. Findings.

§ 56-2. Purpose and objectives.

§ 56-3. Definitions.

§ 56-4. Applicability; review.

§ 56-5. Exemptions.

§ 56-6. Stormwater pollution prevention plans.

§ 56-7. Performance and design criteria.

§ 56-8. Maintenance and repair of stormwater facilities.

§ 56-9. Administration and enforcement.

§ 56-10. Enforcement; penalties for offenses.

§ 56-11. Fees for services.

Attachments:

56a Schedule A

CHAPTER 56. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 6-12-2006 by L.L. No. 4-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 54.

Hazardous wastes — See Ch. 62.

Mobile homes — See Ch. 71.

Site plan review — See Ch. 81.

Subdivision of land — See Ch. 87.

Zoning — See Ch. 108.

§ 56-1. Findings.

It is hereby determined that:

A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.

B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.

C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.

D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing soil erosion and sedimentation.

E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.

F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.

G. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities and resulting disturbed areas.

H. The regulation of stormwater runoff discharges from land development activities controls and minimizes increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff and is in the public interest as it will minimize threats to public health and safety.

I. Regulation of land development and other land-disturbing activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 56-2. Purpose and objectives.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the residents of the Town. This chapter seeks to achieve the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.
- B. Require land development and disturbance activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
- C. Minimize increases in stormwater runoff from land development and disturbance activities in order to reduce flooding, siltation, increases in stream temperature, and soil erosion and maintain the integrity of stream channels.
- D. Minimize increases in pollution caused by stormwater runoff from land development and disturbance activities which would otherwise degrade local water quality.
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.
- F. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 56-3. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY

All usual and customary practices and activities of, and relating to, the growing and harvesting of crops (including plants, fruits, vegetables, trees, turf, grass, hay and animal feed plants) and the raising of horses, milk cows, cattle, pigs, or other livestock and poultry, as well as game animals, fur-bearing animals or fish, and also including the practices of horticulture, apiculture and aquaculture. Such usual and customary practices and

activities include but shall not be limited to: plowing, tilling, cultivating, harrowing, hoeing, planting, fertilizing, irrigating and harvesting of crops, and the application of pesticides, herbicides, insecticides and other farm chemical products in accordance with applicable laws and regulations. Such usual and customary practices shall also include, but not be limited to, grazing, feeding and watering of livestock and/or poultry, game animals, fur-bearing animals or fish. Agricultural activity shall include the incidental provision of trail rides on horses, ponies or mules, as well as hayrides and creation and operation of "corn mazes," but shall not include the operation of a dude ranch (a farm or ranch which accepts paying guests who stay overnight and are allowed to participate in the activities of operating the farm or ranch) or similar lodging operation, or amusement park or any similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER

A person who undertakes land development activities.

DISTURBED AREA

All areas where vegetation is or will be removed and soil is or will be exposed due to clearing, grading or excavation during construction and/or other development activities. When calculating the total amount of disturbed area on a contiguous site where multiple, separate and distinct construction or development activities would be occurring, the applicant

must take a total of the disturbed area from all of the distinct activities. For projects where construction activity will be phased, the applicant must consider the total of land area(s) that will ultimately be disturbed when calculating the amount of disturbed area.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the "Blue Book."

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY

Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NON-POINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, and other similar habitats and areas.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION

The use of practices (erosion control measures) that prevent exposed soil from becoming detached and being transported to receiving waters.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Surface runoff and drainage, produced by precipitation and snowmelt.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff and reducing pollutant transport.

STORMWATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation or snowmelt.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water during a significant portion of the year.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain during periods of significant precipitation and/or stormwater runoff.

§ 56-4. Applicability; review.

A. This chapter shall be applicable to all land development activities as defined in § 56-3 except as provided in § 56-5.

B. All stormwater pollution prevention plans (SWPPPs) relating to land development activities subject to review and approval by the Town Board, Planning Board or Zoning Board of Appeals under subdivision, site plan, special permit or any other laws, rules or regulations shall be reviewed by the appropriate Board subject to the standards contained in this chapter.

C. All SWPPPs relating to land development activities not subject to review as stated in Subsection B shall be submitted to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this chapter.

D. The reviewing board or the Stormwater Management Officer, as the case may be, may:

(1) Review the SWPPP;

(2) Engage the services of a registered professional engineer to review the SWPPP, specifications and related documents at a cost not to exceed the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule; or

(3) Accept the certification of a licensed professional that the SWPPP conforms to the requirements of this chapter.

§ 56-5. Exemptions.

The following activities shall be exempt from review under this chapter:

A. Agricultural activity as defined in this chapter.

B. Silvicultural activity, except that landing areas and log haul roads are subject to this chapter.

C. Routine maintenance activities that disturb fewer than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

E. Any part of a subdivision if a plat for the subdivision has been approved by the Planning Board on or before the effective date of this chapter.

F. Land development activities for which a building permit has been approved on or before the effective date of this chapter.

G. Cemetery graves.

H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

I. Emergency activity immediately necessary to protect life, property or natural resources.

J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

K. Landscaping and horticultural activities in connection with an existing structure.

§ 56-6. Stormwater pollution prevention plans.

A. Stormwater pollution prevention plan required. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

B. Contents of stormwater pollution prevention plans.

(1) Requirements for all land development activities, except those identified in § 56-5. All SWPPPs shall provide the following background information and erosion and sediment controls:

(a) Background information about the scope of the project, including location, type and size of project.

(b) Site map/construction drawing(s) for the project at a scale no smaller than one inch equals 100 feet and a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

(c) Description of the soil(s) present at the site;

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

(e) Description of the pollution prevention measures that will be used to prevent litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

(g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

(h) Site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(j) Temporary practices that will be converted to permanent control measures;

(k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(m) Name(s) of the receiving water(s);

(n) Delineation of SWPPP implementation responsibilities for each part of the site;

(o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(p) Any existing data that describes the stormwater runoff at the site.

(2) Additional requirements for certain land development activities. Land development activities as defined in § 56-3 and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth below as applicable:

(a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(b) Condition B: stormwater runoff from land development activities disturbing five or more acres.

(c) Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(3) SWPPP requirements for Conditions A, B and C:

(a) All information in Subsection B(1) above.

(b) Description of each post-construction stormwater management practice.

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

(d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.

(e) Comparison of post-development stormwater runoff conditions with pre-development conditions.

(f) Dimensions, material specifications and installation details for each post-construction stormwater management practice.

(g) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

(h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

(i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 56-8 of this chapter.

C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful

for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 56-7. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").

(2) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 56-8. Maintenance and repair of stormwater facilities.

A. Maintenance during construction.

(1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the Washington County Clerk after approval by the counsel for the Town.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall be operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with this chapter.

D. Maintenance agreements. The Town shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Washington County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter entitled "Sample Stormwater Control Facility Maintenance Agreement." Editor's Note: Schedule B is on file in the Town offices. The Town, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 56-9. Administration and enforcement.

A. Inspections.

(1) Erosion and sediment control inspection.

(a) The Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least 48 hours before any of the following as required by the Stormwater Management Officer:

- [1] Start of construction.
- [2] Installation of sediment and erosion control measures.
- [3] Completion of site clearing.
- [4] Completion of rough grading.
- [5] Completion of final grading.
- [6] Close of the construction season.
- [7] Completion of final landscaping.
- [8] Successful establishment of landscaping in public areas.

(b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

(2) Stormwater management practice inspections. The Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(4) Submission of reports. The Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

(5) Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection A.

B. Performance guarantee.

(1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town in its approval of the Stormwater Pollution Prevention Plan, the Town may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) has been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(3) Recordkeeping. The Town may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 56-10. Enforcement; penalties for offenses.

A. Notice of violation. When the Stormwater Management Officer determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The Town may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter, may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall

apply to such violations, Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 56-11. Fees for services.

The Town may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town or performed by a third party for the Town.

Attachments:

56a Schedule A

CHAPTER 57. STORM SEWERS

ARTICLE I. Discharges, Activities and Connections

§ 57-1. Purpose; intent.

§ 57-2. Definitions.

§ 57-3. Applicability.

§ 57-4. Responsibility for administration.

§ 57-5. Severability.

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§ 57-9. Prevention control and reduction of stormwater pollutants.

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§ 57-12. Applicability; access to facilities; and monitoring of discharges.

§ 57-13. Notification of spills.

§ 57-14. Enforcement; penalties for offenses.

§ 57-15. Appeal of notice of violation.

§ 57-16. Corrective measures after appeal.

§ 57-17. Injunctive relief.

§ 57-18. Alternative remedies.

§ 57-19. Violations deemed a public nuisance.

§ 57-20. Remedies not exclusive.

CHAPTER 57. STORM SEWERS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 54.

Stormwater management and erosion and sediment control — See Ch. 56.

Hazardous wastes — See Ch. 62.

Site plan review — See Ch. 81.

Subdivision of land — See Ch. 87.

Zoning — See Ch. 108.

ARTICLE I. Discharges, Activities and Connections

[Adopted 12-10-2007 by L.L. No. 2-2007]

§ 57-1. Purpose; intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Fort Edward through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this article are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- C. To prohibit illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, local lawn chemicals, pet waste, wastewater,

grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 57-2. Definitions.

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs)

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY

Activities requiring authorization under the SPDES Permit for Stormwater Discharges from Construction Activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL

New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLCIT CONNECTION

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

- A. Any conveyances which allow any nonstormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter

the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 57-6 of this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM

A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Local Law.

INDUSTRIAL ACTIVITY

Activities requiring the SPDES Permit for Discharges from Industrial Activities Except Construction, GP-98-03, as amended or revised.

MS4

Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

A. Owned or operated by the municipality;

B. Designed or used for collecting or conveying stormwater;

C. Which is not a combined sewer; and

D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

MUNICIPALITY

The Town of Fort Edward.

NONSTORMWATER DISCHARGE

Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON

Any individual, association, organization, partnership, firm, corporation or other entity acting as either the owner or as the owner's agent.

POLLUTANT

Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PREMISES

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

SPECIAL CONDITIONS

A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. 303(d) listed waters: the condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

C. Total maximum daily load (TMDL) strategy: the condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges: under this condition, the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its

stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

**STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)
STORMWATER DISCHARGE PERMIT**

A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee, the municipal engineer or other public official(s) designated by the municipality to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

303(d) LIST

A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL)

The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water allocated among the sources of that pollutant.

TOWN

The Town of Fort Edward.

WASTEWATER

Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 57-3. Applicability.

This article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 57-4. Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed

upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

§ 57-5. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

§ 57-6. Discharge prohibitions; exceptions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Subsection A(1) through (4). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article, unless the Department or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, uncontaminated crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable local laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under local law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4 or allows such a connection to continue.

§ 57-7. Failing individual sewage treatment systems prohibited.

No person shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

§ 57-8. Activities contaminating stormwater prohibited.

- A. Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.

(2) Cause or contribute to the municipality being subject to the special conditions as defined in § 57-2 Definitions, of this article.

B. Such activities include failing individual sewage treatment systems as defined in § 57-7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

§ 57-9. Prevention control and reduction of stormwater pollutants.

A. Best management practices: Where the SMO has identified illicit discharges as defined in § 57-2 or activities contaminating stormwater as defined in § 57-8 the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

(2) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in § 57-2 or an activity contaminating stormwater as defined in § 57-8, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Individual sewage treatment systems: response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's

being subject to the special conditions as defined in § 57-2 of this article, the owner or operator of such individual sewage treatment systems shall be required to:

(1) Maintain and operate individual sewage treatment systems as follows:

(a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.

(b) Avoid the use of septic tank additives.

(c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and

(d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

(e) Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.

(2) Repair or replace individual sewage treatment systems as follows:

(a) In accordance with 10 NYCRR, Appendix 75-A to the maximum extent practicable.

(b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

[1] Relocating or extending an absorption area to a location not previously approved for such.

[2] Installation of a new subsurface treatment system at the same location.

[3] Use of alternate system or innovative system design or technology.

(c) A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

§ 57-10. Suspension of access to MS4.

A. Illicit discharges in emergency situations. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this article may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the SMO.

§ 57-11. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

§ 57-12. Applicability; access to facilities; and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force

which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.

(3) The municipality shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The municipality has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the municipality access to a facility subject to this article is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.

(6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 57-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a

release of nonhazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 57-14. Enforcement; penalties for offenses.

A. Notice of violation.

(1) When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (d) The performance of monitoring, analyses, and reporting;
- (e) Payment of a fine; and
- (f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall farther advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 30 days, or both for conviction of a first offense; for

conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed three months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 57-15. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal and within five days of making its decision shall file its decision in the office of the Town Clerk and mail a copy of its decision by certified mail to the discharger.

§ 57-16. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 57-17. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create

further violations or compelling the person to perform abatement or remediation of the violation.

§ 57-18. Alternative remedies.

A. Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Code Enforcement Officer and concurrence of the Town's Counsel or Town Attorney, where:

- (1) The violation was unintentional.
- (2) The violator has no history of previous violations of this article.
- (3) Environmental damage was minimal.
- (4) The violator acted quickly to remedy violation.
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.

§ 57-19. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 57-20. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and is within the discretion of the authorized enforcement agency to seek cumulative remedies.

CHAPTER 59. GARAGE SALES

§ 59-1. Definitions.

§ 59-2. Registration certificate required; application; limitations.

CHAPTER 59. GARAGE SALES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 8-14-1989 as L.L. No. 7-1989. Amendments noted where applicable.]

§ 59-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

GARAGE SALE

All sales of a private, nonretail nature, including but not limited to garage sales, yard sales, tag sales, moving sales and cellar sales, which will require a registration certificate.

§ 59-2. Registration certificate required; application; limitations.

A. It shall be unlawful for any person to conduct a garage sale within the Town of Fort Edward without first applying for and obtaining a registration certificate. A garage sale shall not exceed three (3) consecutive days. Each registration certificate shall be valid for a sale not to exceed a three-day period from the first day of the sale.

B. Application for a garage sale registration certificate shall contain the following:

- (1) The name of the applicant.
- (2) The location of the residence at which the sale will be held.
- (3) The Tax Map number.

C. Registration certificate limitations.

- (1) No more than three (3) registration certificates will be issued per calendar year to any one (1) tax residence.
- (2) Registration certificates for additional garage sales will require a New York State sales tax identification number. A fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. will be charged per registration certificate.

[Amended 6-13-2005 by L.L. No. 6-2005]

(3) Nonprofit organizations are exempt from the provisions of this section.

CHAPTER 62. HAZARDOUS WASTES

ARTICLE I. Dumping and Disposal

§ 62-1. Title.

§ 62-2. Definitions.

§ 62-3. Purpose.

§ 62-4. Dumping/disposal prohibited.

§ 62-5. Penalties for offenses.

ARTICLE II. Wastes Generated Outside of Town

§ 62-6. Legislative intent.

§ 62-7. Disposal in town prohibited.

CHAPTER 62. HAZARDOUS WASTES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward: Art. I, 10-9-85 by L.L. No. 1-1985; amended in its entirety at time of adoption of Code; 6-27-88 by L.L. No. 3-1988 (see Ch. 1, General Provisions, Art. I); Art. II, 3-27-89 as L.L. No. 4-1989. Other amendments noted where applicable.]

ARTICLE I. Dumping and Disposal

§ 62-1. Title.

This chapter shall be known and may be cited as the "Local Law Restricting the Dumping of Hazardous Waste and Materials in the Town of Fort Edward."

§ 62-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HAZARDOUS WASTE AND MATERIALS

Any substance or material in a form which may pose an unreasonable risk to health, safety or property when disposed of in the Town of Fort Edward.

§ 62-3. Purpose.

The Town Board of the Town of Fort Edward recognizes that the regulation of hazardous waste and materials placed in the Town of Fort Edward has become imperative in order to protect human life, health, property and the environment.

§ 62-4. Dumping/disposal prohibited.

The dumping of hazardous waste and materials in the Town of Fort Edward is prohibited. Any Town of Fort Edward employee or agent employed in the Town of Fort Edward need not accept for dumping any waste or materials that he feels may be hazardous, unless the waste or materials are properly identified and described.

§ 62-5. Penalties for offenses.

A. Any person, corporation, joint association or partnership that causes or permits the dumping of hazardous waste or materials in the Town of Fort Edward in violation of this chapter shall be guilty of a misdemeanor.

B. Each violation of any provision of this chapter shall be punishable by a fine of five hundred dollars (\$500.) or the maximum allowed under current law and/or imprisonment for not more than thirty (30) days.

ARTICLE II. Wastes Generated Outside of Town

[Adopted 3-27-89 as L.L. No. 4-1989]

§ 62-6. Legislative intent.

The Fort Edward Town Board believes that one (1) of its most basic goals and responsibilities is to provide the best possible living environment and quality of life for town residents. In keeping with this responsibility and principle, it is of the utmost importance that actions be taken to ensure that the public is protected from potential hazards as may be introduced into the environment arising from the disposal of radioactive and/or nuclear waste material.

§ 62-7. Disposal in town prohibited.

Said Town Board of the Town of Fort Edward hereby prohibits the disposal of radioactive and/or nuclear waste materials and similar such hazardous materials within the geographic boundaries of the Town of Fort Edward, County of Washington, State of New York, as may be generated by sources from outside of such geographic boundaries.

CHAPTER 66. JUNKYARDS

§ 66-1. Legislative intent.

§ 66-2. Definitions.

§ 66-3. License required.

§ 66-4. Application.

§ 66-5. Hearing.

§ 66-6. Grant or denial of application.

§ 66-7. Existing junkyards.

§ 66-8. License fee; display; renewal; transferability; revocation.

§ 66-9. General regulations.

§ 66-10. Penalties for offenses.

CHAPTER 66. JUNKYARDS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 6-12-1968. Amendments noted where applicable.]

GENERAL REFERENCES

Hazardous wastes — See Ch. 62.

Abandoned vehicles — See Ch. 96.

Zoning — See Ch. 106.

§ 66-1. Legislative intent.

By the adoption of this chapter, the Town Board of the Town of Fort Edward declares its intent in so doing to regulate, control and license the activities or businesses known as "auto graveyards" or "junkyards" or secondhand parts collection areas, the processing of used metals for resale and the dumping, storage and disposal of waste or secondhand or used materials of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly flammable and sometimes explosive. Gasoline tanks on old automobiles often contain, in some quantity, combustible gasoline; the engine and other parts of such automobiles are frequently covered with grease and oil which is also flammable. The tires, plastic seats, tops and other elements of such autos are also flammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts or abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junkyards is unsightly and tends to detract from value of surrounding land and property unless such areas are properly maintained and operated.

§ 66-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTO

A passenger auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

JUNKYARD

A place of storage or deposit, whether in connection with another business or not, where motor vehicles, engines, bulldozers, cranes and other construction equipment, airplanes, boats, major household appliances, furniture, farm machinery or other large equipment, or the parts thereof, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials thereof, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. By the open storage or deposit of any two (2) such items, or of the parts thereof, such that the recombination of such parts would be substantially similar to two (2) such items, a rebuttable presumption is created that such open storage or deposit is a "junkyard." The presumption may be rebutted by such evidence as a currently valid motor vehicle registration, together with proof of insurance coverage, and a current inspection with respect to motor vehicles or, with respect to such other items, evidence demonstrating current fitness for the original intended purpose, as well as evidence that such storage or deposit is less than ninety (90) days; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap, for sale, for remelting purposes only.

[Amended 6-20-1988 by L.L. No. 3-1998]

PERSON

An individual, an association, a partnership or a corporation.

§ 66-3. License required.

No person shall engage in or conduct on real property within the Town of Fort Edward, New York, either for himself or for and on behalf of any other person, directly or indirectly, as agent, employee or otherwise, any junkyard or any activity or business, either for profit or otherwise, at wholesale or retail, which involves collection, storage, burning, dumping, disassembly, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal of bodies, engines or parts of autos or of any other secondhand or used property of whatever material it is composed or any waste material, whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or

otherwise, without first obtaining a license therefor and without first having obtained a certificate of approval for the location of such junkyard or activity or business as hereinafter provided.

§ 66-4. Application.

A. Each applicant for a license and certificate of approved location shall execute, under oath, an application therefor, to be supplied to him by the Town Clerk, and shall submit such application to the Town Board.

B. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct a junkyard or activity or business for which he is making application for a license and certificate of approved location hereunder, with the area of such real property which it is proposed to use for such purpose, the location of the fence required hereunder indicated thereon, as well as the location of any buildings on such land and the location of any streets or highways abutting or passing through such land.

C. In the application the applicant shall agree that, if granted the license applied for, he will conduct the activity or business pursuant to the regulations thereafter set forth and that, upon his failure to do so, such license may be revoked forthwith.

§ 66-5. Hearing.

A. A hearing on the application shall be held within the Town of Fort Edward not less than two (2) nor more than four (4) weeks from the date of the receipt of the application. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in the official newspaper, which publication shall not be less than seven (7) days before the date of the hearing.

B. The Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain a junkyard or activity or business such as described herein. In considering such application, the Board shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements and other regulations herein contained, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matters within the purposes of this chapter.

C. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval of the location of the junkyard or activity or business contemplated herein. In passing upon the same, the Board shall take into account, after proof of legal ownership or right to the use of the property for the license period by the applicant, the nature and development, such as the proximity of churches, schools, public buildings or other places of public gatherings, and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke or of other causes. If the proposed location is within five hundred (500) feet of a church, school, public building or place of assembly, a license shall not be granted.

D. At the hearing regarding location of the proposed junkyard or activity or business as contemplated herein, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of the citizens of the town by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road serving the junkyard or activity or business or from which the junkyard or activity or business may be seen, the natural or artificial barriers protecting the junkyard or activity or business to established residential areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the proposed junkyard or activity or business described herein.

§ 66-6. Grant or denial of application.

After hearing, the Town Board shall, within two (2) weeks, make a finding as to whether or not the application shall be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued, to remain in effect until the following December 31. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided that all provisions of this chapter are complied with during the license period, the junkyard or activity or business does not become a public nuisance and the applicant is not convicted of any type of larceny or the receiving of stolen goods.

§ 66-7. Existing junkyards.

For the purposes of this chapter, the location of a junkyard or activity or business described herein already established shall be considered approved by the Town

Board where located and the owner thereof deemed suitable for the issuance of a license; however, within thirty (30) days from the adoption of this chapter, such owner shall comply with all regulations of this chapter, including fencing requirements, and such owner shall further furnish the Town Board the information as to location which is required in an application, together with a license fee, and the Town Board shall issue him a license valid until the next December 31, at which time such owner may apply for renewal as herein provided.

§ 66-8. License fee; display; renewal; transferability; revocation.

A. The fee for the license shall be the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule, Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspections of premises to ascertain compliance with the regulations hereinafter prescribed.

[Amended 6-20-1988 by L.L. No. 3-1998; 6-13-2005 by L.L. No. 6-2005]

B. Such license shall be placed and at all times displayed in a conspicuous place at the licensee's junkyard or place of activity or business for which it is issued.

C. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance after which an application for renewal must be made yearly if the licensee desires to continue such junkyard or activity or business.

D. Such license is personal with the licensee. It does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of.

E. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have the opportunity to be heard. Upon revocation of the license, the Town Board may require the removal of autos, parts and materials left.

§ 66-9. General regulations.

A. The licensee must personally manage or be responsible for the management of the junkyard or activity or business for which the license is granted.

B. The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such junkyard or activity or business to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.

C. The licensee must erect and maintain an eight-foot-high fence which screens the junkyard, business or activity from view and is adequate to prohibit the entrance of children and others into the area of the junkyard or activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts a residential area or public street or highway, such fence shall be fifty (50) feet from the boundary line thereof. All materials dealt in by the licensee shall be kept within such fence at all times.

D. When the area is not supervised by the licensee or his employees, the fence shall be locked at a secure gate in a secure manner.

E. The area of the licensee's junkyard or activity or business shall not be used as a dump area nor a place for the burning and disposal of junk or trash.

§ 66-10. Penalties for offenses.

[Amended 6-20-1988 by L.L. No. 3-1998]

A violation of any of the provisions of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) per day or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment.

CHAPTER 68. LITTERING

§ 68-1. Legislative intent.

§ 68-2. Definitions.

§ 68-3. Prohibitions.

§ 68-4. Interference with municipal employees.

§ 68-5. Penalties for offenses.

CHAPTER 68. LITTERING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 2-25-1991 as L.L. No. 1-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Recycling — See Ch. 79.

Solid waste — See Ch. 82.

§ 68-1. Legislative intent.

It is hereby declared the policy of the Town of Fort Edward, County of Washington, State of New York, to preserve and maintain the clean character of its environs and to preserve and maintain the health and welfare of its residents within the incorporated area of the town, and in so doing it is necessary to enact this chapter restricting the disposal of waste and litter within the Town of Fort Edward.

§ 68-2. Definitions.

For the purposes of this chapter. the following terms shall have the following definitions:

LITTER

Any and all discarded materials, including waste, construction and demolition debris, ashes, garbage, paper, empty containers, rubbish, refuse and other debris of nondescript nature.

MUNICIPAL EMPLOYEE

Any employee or officer of the Highway Department of the Town of Fort Edward, and the Town Code Enforcement Officer or other designated personnel assigned to such Department, whether on a permanent or temporary basis.

PERSON

Any individual, partnership, corporation or unincorporated association, society, joint-stock company, estate, receiver, trustee, assignee, referee and any combination of the foregoing.

PUBLIC PLACE

Any highway, road, street, avenue, alley, park, playground, public parking area, public driveway or any property under the ownership or control of the Town of Fort Edward, or any property serving the general public.

§ 68-3. Prohibitions.

A. No person shall dispose of litter or direct or permit any servant, agent or employee, or any other person under his or her control, to dispose of litter of any kind whatsoever in or upon any public place, vacant lot or area within the Town of Fort Edward (outside the Village of Fort Edward limits).

B. Every owner, lessee, tenant or occupant or person in charge of any building or premises shall keep and cause to be kept the sidewalk and all areas abutting the building or premises free from obstruction and nuisance of any

kind and shall keep said area free of any litter within the Town of Fort Edward (outside the Village of Fort Edward limits).

C. No owner, driver, person in control or passenger of any vehicle shall throw or cause to be thrown from said vehicle, whether moving or standing, any litter in or upon any public place or upon any vacant lot or area within the Town of Fort Edward (outside the Village of Fort Edward limits).

§ 68-4. Interference with municipal employees.

No person shall interfere with any municipal employee enforcing this chapter or in the act of cleaning of any road or other public place or area or in the performance of any of the municipal employee's regular or prescribed duties or functions as related to sanitation services performed and enforcement of the local laws and codes of the Town of Fort Edward.

§ 68-5. Penalties for offenses.

Each violation of this chapter shall be punishable by a fine not exceeding five hundred dollars (\$500.) for each offense or by imprisonment for not more than ten (10) days, or by a combination of fine and imprisonment. A violation of this chapter shall constitute disorderly conduct, and any person found to violate the same shall be declared a disorderly person.

CHAPTER 71. MOBILE HOMES

§ 71-1. Title.

§ 71-2. Purpose.

§ 71-3. Definitions.

§ 71-4. License required for mobile home parks.

§ 71-5. Application for license for new mobile home park.

§ 71-6. Mobile home park requirements.

§ 71-7. Mobile homes outside of mobile home parks.

§ 71-8. Enforcement.

§ 71-9. Revocation of license.

§ 71-10. Penalties for offenses.

§ 71-11. Exceptions.

CHAPTER 71. MOBILE HOMES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 1-10-2005 by L.L. No. 2-2005. Editor's Note: This chapter also repealed former Ch. 71,

Mobile Homes, adopted 6-4-1987 by L.L. No. 1-1987. **Amendments noted where applicable.]**

GENERAL REFERENCES

Unsafe buildings — See Ch. 37.

Fair housing — See Ch. 47.

Fire prevention and building construction — See Ch. 51.

Sanitary standards — See Ch. 80A.

Site plan review — See Ch. 81.

Subdivision of land — See Ch. 87.

Zoning — See Ch. 108.

§ 71-1. Title.

This chapter shall be known as the "Local Law for the Regulation of Mobile Homes and Mobile Home Parks in the Town of Fort Edward."

§ 71-2. Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of the inhabitants of the Town of Fort Edward by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes and mobile home parks.

§ 71-3. Definitions.

For the purpose of this chapter, the following words, terms and phrases shall have the meanings ascribed to them in this section:

MOBILE HOME

Any portable vehicle or structure which is designed to be transported on its own wheels or those of another vehicle and which is used or capable of being used as living or sleeping quarters for permanent residence. This definition includes structures built or manufactured in sections which are transported to a building site and assembled, unless the structure conforms to the same codes, standards and requirements of the New York State Uniform Fire Prevention and Building Code which apply to site-built structures.

MOBILE HOME LOT

A designated site located within a mobile home park for the accommodation of one mobile home and its occupants.

MOBILE HOME PARK

Any parcel of land which is planned and improved for the placement of two or more mobile homes which are used as dwellings.

§ 71-4. License required for mobile home parks.

Any person, partnership, association or corporation being the owner, lessee or occupant of any land within the Town of Fort Edward shall not use or allow the use of such land for a mobile home park unless a license has been obtained as herein provided.

A. Issuance of license. Upon satisfaction of the necessary requirements by an applicant, the Town Clerk of the Town of Fort Edward shall issue a mobile home park license, to be effective from the day of issuance to and including December 31 of that same year.

B. For a proposed mobile home park not yet in existence, a mobile home park license will not be issued until the Town Clerk has received:

- (1) A properly completed application form from the applicant.
- (2) A copy of the deed or ground lease evidencing the applicant's ownership or control over the property on which the proposed mobile home park would be located.
- (3) Copies of all approvals required and issued by the New York State Department of Health.
- (4) Payment of the required fee as herein provided.
- (5) Written confirmation by the Town Building Inspector and/or Zoning Administrator that the proposed mobile home park is located within the Mobile Home Overlay District.
- (6) Written confirmation that the proposed site was inspected by the Town Building Inspector /Zoning Administrator and meets all pertinent requirements of this chapter.
- (7) Written confirmation that the proposed site has received site plan approval from the Planning Board in accordance with Chapter 81 of the Town Code and payment of fees as required for site plan review and payment of any other fees specified for mobile home parks in the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

[Amended 6-13-2005 by L.L. No. 6-2005]

C. Existing mobile home parks. A mobile home park which is in lawful existence and use as of the effective date of this chapter may continue in use in accordance with the following requirements:

(1) The property owner must obtain a mobile home park license for such park by March 31, 2005. The initial license application requirements for such an existing mobile home park are as follows:

(a) Submission of a properly completed application form to the Town Clerk, together with:

[1] Eleven copies of a suitable current dated map of the mobile home park and surrounding area, including adjacent streets and roads, showing all existing mobile home sites, consecutively numbered; and

[2] A copy of a receipt or acknowledgement from the Chief of the Fort Edward Fire Department showing the Department has received a copy of the map described in Subsection C(1)(a)[1] above; and

[3] A written statement or report from the Town Building Inspector or Zoning Officer affirming that he or she has inspected the mobile home park and the mobile homes in it within 30 days of the date of application and that both the park and the mobile homes comply with all applicable code provisions, regulations and requirements of law governing fire safety and health and sanitary standards.

(b) Payment of the required license fee as provided for below.

(2) Such mobile home park must be brought into compliance with all requirements of this chapter applicable to new mobile home parks, except location within the Mobile Home Overlay District, on or before March 31, 2010, as follows:

(a) On or before March 31, 2006, the owner of any mobile home park in existence prior to the effective date of this chapter shall either provide notice to the Planning Board in writing that such park will be closed and all mobile homes removed therefrom on or before April 30, 2010, or submit to the Planning Board for approval a written plan detailing the specific steps the owner will take, and the target dates for their completion, to bring such preexisting mobile home park into compliance by March 31, 2010, with the requirements of this chapter governing new mobile parks. Failure to

comply with the requirements of this subsection shall be punishable by a fine of up to \$750. Following issuance of an initial notice of violation for failure to provide such notice or submit such a plan, each subsequent thirty-day period during which the owner of such a preexisting mobile home park fails to submit such a plan or written notification shall constitute a separate violation punishable by a separate fine of up to \$750. If unpaid by the owner, such fine(s) may be levied as a tax upon the property on which the subject mobile home park is located.

(b) The Planning Board shall promptly review any plan submitted in accordance with Subsection C to determine whether the plan addresses all necessary requirements for the subject mobile home park to come into compliance with the provisions of this chapter. In the event the plan does not, the Planning Board shall return the plan with its comments and the owner of the subject park shall then have 60 days to submit a revised plan incorporating changes necessary to satisfy the requirements of Subsection C(2)(a). The Planning Board may engage the services of an engineer and/or other appropriately qualified professional as needed to assist the Board in evaluating any plan or revised plan submitted hereunder. Fees incurred for such assistance shall be paid by the owner of the subject park.

(c) If the owner of such a preexisting mobile home park fails to bring the park into compliance with the requirements of this chapter applicable to new mobile home parks, except the requirement of location within a Mobile Home Overlay District, by March 31, 2010, such owner shall close such mobile home park and remove all mobile homes therefrom by April 30, 2010. Failure to comply with this provision shall result in the imposition of a fine of \$1,000 for each day thereafter that such mobile home park remains open and/or any mobile home(s) remain(s) therein. In the event the owner of such a noncompliant park timely filed a plan in accordance with Subsection C(2)(a), above, and made diligent efforts to bring such park into compliance but, due to circumstances beyond the owner's control, the park does not comply by March 31, 2010, the Planning Board may, upon application submitted on or before March 31, 2010, and upon good cause shown, grant an extension of time for compliance. Absent the prior timely filing of the required plan or, if such a plan was timely filed, absent diligent efforts to bring about compliance and a timely application for an extension of time to comply, if the owner of such a preexisting park fails to voluntarily close such park and remove all mobile homes therefrom by June 30, 2010, the Town may do so and charge any expenses it incurs in doing so as a tax against the property.

D. Supplemental license. Any person holding a license for a mobile home park and desiring to add additional lots to such park or replace one or more existing mobile homes in such park or make any other modifications to land use within the park or to the site plan for such park shall file an application for a supplemental license. The application for a supplemental license shall be handled according to the procedure established in Subsection B above, except that a mobile home park lawfully in existence prior to the effective date of this chapter shall not require a certification under Subsection B(5) that it is located within such Overlay District. The Planning Board may, in its exercise of reasonable discretion, waive site plan review for a supplemental license application depending upon the nature of the changes proposed to the mobile home park.

E. License renewal. An initial license (including any related supplemental license) issued pursuant to the above provisions shall expire on December 31 of the year in which it is issued. Any mobile home park that will continue operating beyond such expiration date shall obtain a renewal license, as follows:

- (1) An application for the renewal of any mobile home park license which was issued in accordance with the provisions of this chapter must be filed with the Town Clerk on or before December 1 preceding the expiration of the license. The renewal application need not be accompanied by a plan of the park unless changes have been made to it, nor is it necessary that the application be accompanied by a copy of the ground lease (if applicable) unless a new lease or a lease renewal has been entered into subsequent to the time of filing previous application.

- (2) Upon payment of the required fee and the approval of the Town Building Inspector or Zoning Administrator following an inspection of the park to verify compliance with applicable codes and regulations, the Town Clerk shall issue a renewal license to be effective upon the expiration of the previous license and continue in force for a period of one year. Such renewal license shall not be transferable or assignable. A new owner or lessee of the park must apply for a new license in accordance with the provisions above.

- (3) The owner and/or lessee of a mobile home park shall be responsible for promptly providing updated information as necessary to insure that the Town has complete and current information, as required in this chapter, on such park at all times.

F. License fees. The applicant for an initial license for a new or existing mobile home park, or the renewal thereof, shall pay the Town Clerk a fee in the

amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. With regard to the issuance of such a license or its renewal, in the event the Building Inspector or Zoning Administrator provides at least 10 days' advance notice of intent to conduct an inspection of a mobile home park in order to ascertain compliance with applicable codes and regulations, if he or she must visit such mobile home park more than once in order to do a complete code compliance inspection, and such additional visit(s) are necessitated by a failure of the owner or operator of the park, or any of its inhabitants, to cooperate in affording access necessary for such inspection, the license fee shall be multiplied by the number of visits necessary to perform a complete inspection. The applicant for a supplemental license for a mobile home park shall pay the Town Clerk a one-time license fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. As for the initial issuance of a license, or a renewal thereof, the fee shall be multiplied by the number of visits required for the Building Inspector or Zoning Administrator to perform a complete code compliance inspection if multiple visits are necessitated by the failure of the owner, operator or inhabitants of the park to cooperate in affording access necessary for such an inspection.

[Amended 6-13-2005 by L.L. No. 6-2005]

§ 71-5. Application for license for new mobile home park.

A. Each application for a license for a new mobile home park not yet in existence shall be in writing and signed by the applicant. The application and related information shall be filed with the Town Clerk in duplicate. In addition, the applicant shall provide the Planning Board with the necessary number of copies, as specified in Chapter 81 of the Town Code, required for site plan review.

B. The Town Clerk shall refer one copy to the Building Inspector and/or Zoning Administrator for review and confirmation that the proposed mobile home park is located within the Mobile Home Overlay District. The Building Inspector and Zoning Administrator, after review, shall transmit the application to the Planning Board within 30 days of filing, together with his or her written statement as to whether the new mobile home park, as proposed, would meet or not meet the minimum health, fire safety, and sanitary standards as defined and required by the New York State Department of Health and other New York agencies, along with any other comments or recommendations to the Town Planning Board.

C. The Planning Board shall review the application form, plan, the statement of the Building Inspector and/or Zoning Administrator together with any recommendations he or she may make and shall further review the general arrangement of the park and factors that may affect the health, safety and welfare of the Town and its inhabitants consistent with the provisions of Chapter 81 of the Town Code governing site plan review. As provided therein, the Planning Board may engage the services of an engineer or other appropriately qualified professionals to assist it in evaluating the application and supporting materials. Fees incurred for such assistance shall be paid by the applicant. In accordance with the provisions and requirements of that chapter, the Planning Board shall render a decision approving, approving with conditions and/or modifications, or disapproving the application and shall notify the applicant in writing of its decision. The application shall be returned to the Town Clerk to be filed with the Planning Board's decision. If the application is approved, the Town Clerk may issue a license to the applicant upon satisfaction of the other requirements necessary for its issuance, as set forth in § 71-4B, above.

D. Application data. The application, and all copies thereof, shall be accompanied by a complete set of plans prepared and certified by an appropriate professional licensed by the State of New York. The plans shall be drawn to scale and shall include the date, preparer's stamp and/or certification, preparer's signature, and North point. In addition to the elements required in Chapter 81 for site plan review, the plans shall show or provide the following:

(1) Legal data:

- (a) The name and address of the applicant or applicants.
- (b) The location and description of the land to be used.
- (c) The number of lots in the proposed mobile home park.

(2) Physical features:

- (a) Location of watercourses, marshes or areas subject to flooding.
- (b) Location of all wetlands on the property.
- (c) Wooded areas.

(3) Proposed development, including but not limited to:

- (a) The location and widths of all entrances, exits and streets.

- (b) Location, size, lot number and arrangements of each lot within the park.
- (c) The method and plan for electric lighting.
- (d) The location and plan of any proposed structures and improvements.
- (e) Any proposed grading and landscaping.
- (f) Any proposed stormwater drainage.
- (g) Proposed utilities.
- (h) Source of water supply.
- (i) Proposed method of sewage disposal.
- (j) Proposed location of consolidated mailboxes and trash storage collection centers.

§ 71-6. Mobile home park requirements.

A. Site. The park shall be located on a well-drained site where soil conditions are suitable and shall be properly graded. Brush shall be cleared from the site so as to reduce fire hazard. The park shall be at least 20 acres in size, with 100 or more feet of frontage on a public road, with 100 feet of setback from said road, and properly landscaped subject to state and local laws.

B. Mobile home lots. Each mobile home park shall be marked off into mobile home lots, and each lot shall be numbered. Each mobile home lot shall have an area of not less than 15,000 square feet.

C. Mobile home. No mobile home shall be parked or otherwise located nearer than a distance of:

- (1) At least 70 feet to an adjacent mobile home in any direction.
- (2) At least 75 feet from a mobile home park property line.
- (3) At least 100 feet from a public street or highway.
- (4) At least 25 feet to the nearest edge of any roadway located within the mobile home park.

D. Accessibility.

(1) Each mobile home park and each unit in such park shall be easily accessible from an existing public highway. Where a mobile home park has more than six mobile homes, two points of entry and two points of exit from one or more public roads or streets must be provided. Two combination entry/exit points, each having separate entry and exit lanes of at least standard size, shall be permissible.

(2) All entrances and exits shall be at right angles or nearly so to the public highways and designed for the safe and convenient movement into and out of the park.

(3) All entrances and exits shall be free of any obstruction which would impede the visibility of the driver on the public highway or street.

(4) Each park shall have improved streets for the convenient access to all mobile home lots and other facilities.

(a) Streets shall be built to meet Town and county specifications, as applicable.

(b) The street system shall be designed to permit safe and convenient vehicle circulation within the park.

(c) Streets shall intersect at right angles or nearly so or shall be a design acceptable to the Planning Board.

(d) All streets shall have two-way traffic, meeting Town standards and regulations, and shall have traffic-calming features.

(e) Except in cases of emergency, no parking shall be allowed on such streets.

(f) All streets within the mobile home park shall remain as private roads and all maintenance and repair of them shall be the park owner's responsibility.

E. Parking: At least two off-street parking spaces shall be provided on each mobile home lot, and each parking space shall have a minimum width of nine feet and length of 20 feet. Additional off-street parking spaces shall be provided for guests and delivery and service vehicles. The surface of parking spaces shall be crushed stone or concrete or asphalt paving.

F. Utilities and service facilities. The following utilities and service facilities shall be provided prior to the occupancy of any lots by mobile homes within such

development, which shall be in accordance with the regulation and requirements of the New York State Department of Health:

- (1) An adequate supply of potable water for drinking and domestic purposes shall be supplied by pipes to all mobile homes and facilities in the park. Each site shall be provided with proper and sanitary water connections.
- (2) Each mobile home shall be provided with a sewer to receive the waste from such home. The sewer shall be connected to a public sewer system or code-compliant private sewer system approved by the Department of Health so as not to present a health hazard. Sewer connections in unoccupied lots shall be sealed to prevent the emission of any odors. Septic systems serving individual mobile home lots shall not be permitted.
- (3) Garbage, trash and rubbish shall be disposed of as necessary. The owner or operator of the mobile home park shall be responsible for arranging for the regularly scheduled pick-up and removal of such wastes from the park, the frequency of which shall be often enough to prevent any accumulations which might cause health, insect, pest or animal problems, or which might be unsightly. A park owner or operator is encouraged to consider establishing consolidated or centralized trash facilities within the park to minimize the potential for such problems.
- (4) No community laundry facilities shall be permitted in any mobile home park unless suitable plans for waste disposal have been approved by the New York State Department of Health.
- (5) Each mobile home lot shall be provided with weatherproof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
- (6) Mailboxes for park residents shall be at one location or shall be consolidated at as few locations as reasonably practicable, and shall be in conformity with the regulations of the U.S. Postal Service.

G. Recording. The owner or operator of each mobile home park shall keep a written record of all persons renting mobile home lots within such park and/or occupying the mobile homes located within such park. This record shall be available as to each such renter and/or occupant for a period of at least three years after termination of tenancy and/or occupancy.

H. Mobile home construction.

- (1) The roof cannot be a flat roof or "shed" roof.
- (2) The mobile home must be at least 20 feet wide and must bear the seal of the United States Department of Housing and Urban Development.
- (3) The wheel-tongue shall be removed within 30 days of placement on site within a mobile home park.
- (4) Each mobile home shall be set upon a foundation constructed as follows:
 - (a) The frost walls of the foundation shall extend a minimum of 48 inches below grade and a maximum of 24 inches above grade as measured from the lowest point of grade immediately surrounding the mobile home.
 - (b) Material: Masonry block, mortared in place, minimum block width of eight inches on poured reinforced concrete slab, and/or poured concrete foundation.
- (5) All building practices shall conform to standard engineering procedures and all applicable federal, state and local laws, codes, rules, regulations and requirements.

§ 71-7. Mobile homes outside of mobile home parks.

- A. Public places. No mobile home or travel trailer shall be located outside, parked or allowed to remain upon any street, alley, highway or other public place, except that emergency stopping or parking when caused by mechanical failure shall be permitted upon the shoulder of any street or highway for a period of not more than 24 hours, subject, however, to any prohibition or limitation imposed by other ordinance, regulation or law.
- B. Prohibition. No mobile home shall be parked, placed or sited within the Town of Fort Edward outside of a licensed mobile home park.
- C. Existing mobile homes. Any mobile home lawfully in existence and not located in a licensed mobile home park as of the effective date of this chapter may remain in place, provided that:
 - (1) If the owner wishes to replace an existing mobile home or relocate an existing mobile home on the same lot, he or she shall first apply to the Planning Board for site plan approval as provided for under Chapter 81 of the Town Code. Any such relocation or replacement shall meet all applicable requirements herein and the applicable zoning provisions. A replacement mobile home shall meet all requirements of § 71-6H above. If required under

state laws or regulations, or if necessary in the judgment of the Planning Board to protect the health and safety of the occupants of the property and/or other properties in the area, if the existing mobile home is served by a septic system, that system shall be repaired, modified or replaced in order to meet current NYS Health Department standards and requirements prior to the siting of the replacement or relocated mobile home.

(2) An applicant seeking to replace or relocate an existing mobile home shall submit a complete site plan application form and a site plan drawing to the Planning Board. The site plan drawing shall be drawn to an appropriate scale and shall otherwise comply with the requirements of Chapter 81 of the Town Code governing site plan review. The applicant shall additionally provide a description of the foundation upon which the mobile home will be placed, as well as the manufacturer's model designation (name, number, etc.) and the year of manufacture for the mobile home to be sited.

(3) An existing mobile home located outside a mobile home park must be used exclusively as living quarters for not more than one family, whether seasonal or year round.

D. Application procedure for replacement or relocation of pre-existing mobile home on the same lot.

(1) The applicant shall submit 11 copies of the permit application and 11 copies of the plan drawn to scale as provided for under Subsection C(2) above, together with a completed short SEQRA environmental assessment form to the Town of Fort Edward Building Inspector.

(2) The Building Inspector shall forward the application to the Planning Board, together with his comments.

(3) At a public meeting the Planning Board shall discuss the application and review the application with the assistance of the Building Inspector and Town Engineer, if applicable. The Planning Board may engage the services of an engineer and/or other appropriately qualified professional to assist the Board in evaluating the application and any supporting materials. Fees incurred for such assistance shall be paid by the applicant. Following its review the Planning Board shall determine whether the application is complete.

(4) Following the Planning Board's approval of a resolution deeming the application complete, a public notice shall be given and a public hearing shall be held by the Planning Board on the proposed mobile home. The notice

shall be placed within the officially designated newspaper with a minimum of five days' notice of the public hearing.

(5) Within 45 days of the close of the public hearing the Planning Board shall approve the application, or approve the application with modifications or conditions, or disapprove the application. In the event that the Planning Board disapproves the application it shall notify the owner, in writing, of the disapproval and of the reason for the disapproval.

(6) The decision of the Planning Board shall be filed in the Town Clerk's office.

E. No waiver of requirements. Planning Board approval for the placement or siting of a mobile home pursuant to provisions herein shall not be deemed to waive compliance with any statute, rule, regulation, code or ordinance of the State of New York, Washington County or the Town of Fort Edward, including, but not limited to, the zoning codes and health and sanitary codes of the Town of Fort Edward and/or Washington County.

F. Inconsistency and supersession. If there is any inconsistency between this section and other Town of Fort Edward local laws and zoning ordinances, this section shall prevail and supersede the other provisions.

§ 71-8. Enforcement.

A. Zoning Administrator authorized to enforce. The Zoning Administrator or Building Inspector of the Town of Fort Edward is hereby authorized to enforce all the provisions of this chapter.

B. Authorization to enter onto private property. For the purpose of determining compliance with the provisions of this chapter and any related chapter, the Building Inspector or Zoning Administrator may, subject to state laws, enter upon private property, including new and existing mobile home sites and mobile parks, and enter into any mobile homes and other structures in any mobile home park and at the site of any mobile home, at reasonable times and hours, and shall be further empowered to enter a mobile home park for the purpose of recording the number of developed lots at the effective date of this chapter and any time thereafter.

C. Notice of violation. Whenever, in the opinion of the Building Inspector after proper examination and inspection, there appears to exist a violation of any provision of this chapter, the Building Inspector is hereby authorized to serve a written notice of violation upon the owner of the premises.

D. Notice of violation; contents. A notice of violation issued under the authority conferred by Subsection C, above, shall inform the recipient of the following:

- (1) The nature and details of the violation(s).
- (2) Remedial action necessary to come into compliance with the provisions of this chapter.
- (3) The date by which the violation(s) must be removed or otherwise remedied.
- (4) Potential penalties for failure to timely comply and remove or otherwise remedy violation(s).

E. Extension of compliance deadline. The Building Inspector may extend the date of compliance in the notice of violation after written application if, in his opinion, there is reasonable evidence of attempt to comply and that reasonable conditions exist which prevent compliance by the specified date.

§ 71-9. Revocation of license.

A. Revocation of license. If the Building Inspector or Zoning Administrator finds and reports to the Town Board that a mobile home park for which a license has been issued is not being maintained in a clean and sanitary condition or it is not being operated in accordance with the provisions of this chapter, the Town Board may, by resolution, authorize the personal service upon the holder of the license of a written order which will require the holder of the license to correct the conditions specified in such order within 10 days after service. If the holder of such license shall fail to correct or refuse to correct the condition or conditions specified in such order, the Town Board may, by resolution, revoke such license, and the holder of the license shall thereupon terminate the operation of such mobile home park or trailer camp within 30 days of such resolution. However, if the owner or operator of such mobile home park shall thereafter correct such conditions and bring the mobile home park in compliance with this chapter, such owner may apply for the issuance of a new license, and, if the application is approved and a license granted, the applicant shall pay to the Town Clerk the required fee without any credit for the fee paid for the license which was revoked.

B. Revocation of license for mobile homes outside of parks. If the Building Inspector and/or Zoning Administrator finds and reports to the Town Board that any mobile home outside a licensed mobile home park is not being maintained in accordance with the provisions of this chapter, the Town Board may serve a

written order upon the holder of the license and/or owner or occupant of mobile home directing that the conditions therein specified be remedied within 30 days after date of service. If such condition or conditions are not corrected within 30 days, the Town Board may, after a hearing, revoke such license, and the mobile home shall be removed from the premises within 30 days of such revocation by the owner. If the owner fails to remove such mobile home, the Town may arrange for its removal and charge the owner for the expense, which shall be levied as a tax against the property if the owner declines to reimburse the Town.

§ 71-10. Penalties for offenses.

Building Inspector action and penalties are as follows:

A. In addition to other remedies, the Building Inspector may institute any appropriate action or proceedings to prevent such unlawful erection, placement, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate such violation, or to prevent the occupancy of said structure or land and to prevent any illegal act, conduct or business use in or about any noncompliant premises.

B. Unless otherwise specified elsewhere in this chapter, any person, firm or corporation violating any provision of this chapter shall be punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense. Conviction of an offense under this chapter committed within a period of five years after a first or prior conviction shall be punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both. Conviction of an offense under this chapter with two prior convictions within the previous five years shall be punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Any or all of the foregoing penalties may be modified or supplemented by such other penalties as the Town Board may prescribe in any schedule of penalties it may adopt.

C. In addition to the payment of any fine and/or imprisonment for any period which may be imposed as punishment for a violation, a violator shall be obligated to correct all violative conditions on his or her property.

D. For purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this section shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to violations hereunder unless otherwise specified. When a violation of any of the

provisions of this chapter is continuous, each week or portion thereof shall constitute a separate and distinct violation.

§ 71-11. Exceptions.

The following shall be exempt from the provisions of this chapter:

A. The business of mobile home or travel trailer sales, except where the units are used as living quarters.

B. The storage of mobile homes or travel trailers, not being used for living purposes, within a building.

C. A mobile home or trailer located on the site of a work project which is used solely as an office or storage facility (and not for any overnight occupancy) in connection with the work project, provided that it is removed within 30 days after completion of such project.

D. A sectional house (modular home) which is built or manufactured in sections, which are transported to the building site, then assembled and placed on a permanent and enclosed masonry foundation, and which conforms to the same codes, standards and requirements of the New York State Uniform Fire Prevention and Building Code that apply to site-built structures, and which contains a minimum of 720 feet of living space.

CHAPTER 76. PEDDLING AND SOLICITING

§ 76-1. License required; fees; duration of license.

§ 76-2. Time limitation for remaining in one location.

§ 76-3. Noise.

§ 76-4. Consent required for sale on private property.

§ 76-5. Penalties for offenses.

CHAPTER 76. PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 6-11-1984 by L.L. No. 1-1984. Amendments noted where applicable.]

§ 76-1. License required; fees; duration of license.

A. Any person or persons shall not sell goods, wares, merchandise or any other article whatsoever except milk, meat, farm produce, ice, foodstuffs and

newspapers in the Town of Fort Edward by hawking or peddling or at an auction without first obtaining a license to do so.

B. Licenses for such purposes will be granted upon application therefor to the Town Clerk and upon payment of a fee in the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

[Amended 6-13-2005 by L.L. No. 6-2005]

C. Such license will be good for a period of one (1) year from the date of issuance.

§ 76-2. Time limitation for remaining in one location.

Any person selling goods, wares, merchandise or any other articles whatsoever except milk, meat, farm produce, ice, foodstuffs and newspapers from a cart, wagon, trailer or other vehicle shall not cause or permit such cart, wagon, trailer or other vehicle to remain in one (1) place on any public street or lane or in any public place for a period longer than twenty (20) minutes.

§ 76-3. Noise.

The advertising of any performance, business or public transaction or the sale of goods, wares or merchandise by crying the same or by ringing of a bell, the beating of gongs or by any other loud or unseemly noise in the streets or public places of the town is hereby prohibited.

§ 76-4. Consent required for sale on private property.

[Added 6-20-1988 by L.L. No. 3-1998]

A licensed vendor, hawker, peddler or solicitor shall not hawk, peddle, vend or solicit orders for goods, wares or merchandise on private property without having obtained the prior written consent of the owner(s) thereof and without having presented such written consent to the Town Clerk.

§ 76-5. Penalties for offenses.

[Amended 6-20-1988 by L.L. No. 3-1998]

The violation of any of the provisions of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

CHAPTER 79. RECYCLING

§ 79-1. Declaration; intent, findings; purpose.

§ 79-2. Definitions.

§ 79-3. Source separation.

§ 79-4. Rules and regulations.

§ 79-5. Enforcement penalties for offenses.

§ 79-6. Advisory Committee.

CHAPTER 79. RECYCLING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 5-29-1990 as L.L. No. 5-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Hazardous waste - See Ch. 62.

Junkyards - See Ch. 66.

Solid waste disposal - See Ch. 82.

§ 79-1. Declaration; intent, findings; purpose.

A. It is declared that a reduction of solid waste through separation and removal of recyclable materials from the waste stream is of importance to the economic welfare of the residents of the Town of Fort Edward, County of Washington, and will help to promote the health and general welfare of its citizens.

B. It is the intent of this chapter to facilitate the disposal of solid waste generated within the Town of Fort Edward in the most environmentally acceptable manner possible and to facilitate and encourage the recovery of all recyclable materials which can be marketed or used for secondary purposes.

C. The town hereby determines, declares and finds that:

(1) Improper municipal waste practices create public health hazards, environmental pollution and economic loss, and cause irreparable harm to the public health, safety and welfare.

(2) Waste reduction and recycling are preferable to the processing or disposal of municipal waste.

(3) By purchasing products or materials made from recycled materials, public agencies in the town can help stimulate the market for such materials and

thereby foster recycling, and can also educate the public concerning the utility and availability of such materials.

(4) Removing certain materials from the municipal waste stream will decrease the flow of solid waste to municipal waste landfills, aid in the conservation and recovery of valuable resources, conserve energy in the manufacturing process, increase the supply of reusable materials for the town's industries, and will also reduce substantially the required capacity of proposed resource recovery facilities and contribute to their overall combustion efficiency, thereby resulting in significant cost savings in the planning, construction and operation of these facilities.

(5) It is in the public interest to promote the source separation of marketable materials on a townwide basis so that reusable materials may be returned to the economic mainstream in the form of raw materials or products rather than be disposed of or processed at the town's overburdened municipal waste processing or disposal facilities.

(6) The recycling of marketable materials by municipalities in the town and town agencies, and the development of public and private sector recycling activities on an orderly and incremental basis, will further demonstrate the town's long-term commitment to an effective and coherent solid waste management strategy.

(7) The town is responsible for the protection of the health, safety and welfare of its citizens concerning solid waste management.

D. It is the purpose of this chapter to:

(1) Encourage the development of waste reduction and recycling as a means of managing municipal waste, conserving resources.

(2) Protect the public health, safety and welfare from the short- and long-term dangers of transportation, processing, treatment, storage and disposal of municipal waste.

(3) Require the town to implement recycling programs to return valuable materials to productive use, to conserve energy and to protect capacity at municipal waste processing or disposal facilities.

E. Declaration of goals. The Town of Fort Edward hereby declares the following:

(1) Each person working or living in this town shall be taught the economic, environmental and energy value of recycling and waste reduction and shall be encouraged through a variety of means to participate in such activities.

(2) The town should, to the greatest extent practicable, procure and use products and materials with recycled content and procure and use materials that are recyclable.

§ 79-2. Definitions.

When used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL SECTOR

Those persons generating solid waste at businesses, including retail stores, banks and financial institutions, business and professional offices, personal services establishments, mortuaries and funeral homes, restaurants, pet shops and veterinary establishments, automobile sales establishments, gasoline stations, car washes and agricultural endeavors and such other business endeavors although not specifically defined herein.

DIRECTOR

The Supervisor of the Town Board of the Town of Fort Edward.

DROP-OFF AREA

Any area designated from time to time by the Director where persons can bring recyclables for aggregation and further transport to a solid waste management facility.

HOUSEHOLD COLLECTION

The practices whereby solid waste, including separated recyclables, generated by the residential sector is placed at or near the roadside, or other appropriate location at residential property, to be picked up by a hauler for transportation to a solid waste management facility.

INDUSTRIAL SECTOR

Those persons generating solid waste at establishments primarily concerned with manufacturing or other substantial physical/chemical processing of materials, which operations result in strong or offensive odors; vibrations; excessive noise; smoke; dirt; or heavy truck traffic, including manufacturing establishments; warehouses and wholesale distributors; freight and trucking terminals; and heavy machinery sale, service and repairs.

INSTITUTIONAL SECTOR

Those persons generating solid waste at public, eleemosynary and similar establishments, including schools, churches, hospitals, psychiatric centers, government offices and garages, and nursing homes.

RECYCLABLES

The following materials: newsprint; unbroken clear (flint), green and brown glass containers; tin cans; aluminum, copper, brass and stainless steel; corrugated cardboard; high density polyethylene (HDPE) containers; motor vehicle batteries; motor vehicle tires up to and including size 9.00/16.5 (metric 235/85R16); and scrap metal, including miscellaneous iron, steel and white metals (appliances).

RESIDENTIAL SECTOR

Those persons generating solid waste at single and multiple residences, boardinghouses, dormitories, mobile home parks, temporary residences and camps.

§ 79-3. Source separation.

A. Generally.

(1) The town shall require all persons engaged in the commercial sector to obtain licenses to collect and transport municipal waste, subject to the plan as outlined in this chapter, together with the imposition of any fees duly enacted by the Town Board.

(2) The Director may from time to time determine that certain materials contained in solid waste generated or brought within the town are recyclables or that certain materials included or hereafter included in this chapter's definition of "recyclables" are no longer recyclable. Upon any such determination, the Director shall submit a written report to the Town Board recommending that such materials be added to or deleted from the definition of "recyclables" and providing the reasons and data supporting such inclusion or deletion. The Director determination shall in all cases be based on an evaluation whether economic markets exist for alternate uses of such materials are equal to or greater than the cost to the Town of Fort Edward of collection, transportation and sale of said material less the amount received from the sale of said material by the Town of Fort Edward.

(3) In making recommendations pursuant to this subsection, the Director may recommend that a material be recyclable only for the residential sector, commercial sector, industrial sector or institutional sector or any combination thereof.

(4) All persons shall separate recyclables from other solid waste when preparing the same for transportation, collection, pickup or removal by placing recyclables in one (1) or more separate containers. It shall be a violation of this chapter for any person to place for collection any container

which contains recyclables mixed with other solid wastes. It shall be a violation of this chapter for any person to deliver to a drop-off area or a solid waste management facility any load which contains recyclables mixed with other solid waste.

(5) Recyclables delivered to a solid waste management facility shall be prepared in accordance with all rules and regulations which shall be filed with the Clerk of the Town Board. Such rules and regulations for preparation may include, but shall not be limited to:

- (a) Removal of glossy inserts or wet or damp materials from newsprint.
- (b) Washing of glass and/or metal containers.
- (c) Flattening of cans and plastic containers.
- (d) Removal of caps, lids and metal or plastic neck bands from glass containers.
- (e) Removal of broken glass.
- (f) Placement in designated or properly labeled containers, where practical.
- (g) Sorting into different categories of recyclables.

B. Procedures for residential sector. The following procedures shall apply to the residential sector:

(1) Wherever household collection of recyclables is available from a commercial or municipal hauler, persons choosing to use such collections service and persons wishing to dispose of recyclables must deliver or make arrangements to have them delivered, properly separated and prepared, to a solid waste management facility or to any drop-off area which the Director may from time to time designate. It shall be a violation of this chapter for any person without authority of the county to collect, pick up, remove or cause to be collected, picked up or removed any recyclables placed for collection at a drop-off area. Each such unauthorized collection, pickup or removal from a drop-off area shall constitute a separate and distinct violation of this chapter.

(2) It shall be a violation of this chapter for any person in the residential sector to dispose of recyclables within the Town of Fort Edward otherwise than as provided by this Subsection B.

C. Procedures for the commercial, industrial and institutional sectors. The following procedures shall apply to the commercial, industrial and institutional sectors:

(1) Persons wishing to dispose of recyclables shall deliver or make arrangements with a commercial or municipal hauler to deliver recyclables, properly separated and prepared, to a solid waste management facility duly designated pursuant to this chapter.

(2) Although all persons from the commercial, industrial or institutional sectors must separate recyclables from other solid waste in accordance with the general provisions of this chapter they need not deliver or make arrangements with a hauler to deliver said recyclables to a duly designated solid waste management facility in the following circumstances:

(a) They have access to markets for recyclables which provides a material economic benefit compared to disposal at the designated solid waste management facility, actually deliver or cause to be delivered recyclables to such markets on a regular basis, and can document access, material economic benefits and actual delivery with contracts, receipts, bills of lading, affidavits, letters of intention or other suitable records indicating the facts justifying exemption.

(b) They file on an annual basis an application for exemption with the Director, which application shall set forth on a prescribed form all information or facts justifying exemption from the operation of Subsection C(1) and (2) hereinabove. They shall include copies of all pertinent documentation with such application.

(c) They obtain written approval of the exemption from the Director, which approval shall not be unreasonably withheld or delayed.

(3) It shall be a violation of this chapter for any person in the commercial, industrial or institutional sectors to dispose of recyclables otherwise than as provided by this Subsection C.

D. Disposal of collected recyclables by haulers.

(1) Municipal or commercial haulers engaged in collecting recyclables generated within the town by the residential, commercial, industrial or institutional sectors shall keep recyclables separate from other solid wastes, shall handle recyclables in such a manner that they are not contaminated or

destroyed and shall deliver recyclables only to a solid waste management facility duly designated pursuant to this chapter.

(2) Haulers need not deliver collected recyclables to a duly designated solid waste management facility in the following circumstances:

(a) They have access to markets for recyclables which provide a material economic benefit compared to disposal at the designated solid waste management facility, actually deliver or cause to be delivered recyclables to such markets on a regular basis, and can document access, material economic benefit, and actual delivery with contracts, receipts, bills of lading, affidavits, letters of intention or other suitable records indicating the facts justifying exemption.

(b) They file on an annual basis an application for exemption with the Director, which application shall set forth on a prescribed form all information or facts justifying exemption from the operation of Subsection D(1) hereinabove. They shall include copies of all pertinent documentation with such application.

(c) They obtain written approval of the exemption from the Director, which approval shall not be unreasonably withheld or delayed.

(3) It shall be a violation of this chapter for any municipal or commercial hauler to collect, handle or dispose of recyclables otherwise than as provided by this Subsection D.

§ 79-4. Rules and regulations.

A. The Director of Solid Waste shall have the power to adopt and promulgate, amend and repeal such rules and regulations as in his discretion are necessary or desirable to carry out, interpret and enforce the intent and purposes of this chapter. Notwithstanding this power, any failure to adopt and promulgate such rules and regulations shall not impair the enforceability of this chapter in a court of competent jurisdiction.

B. The Director may also develop, subject to Town Board review, a comprehensive, innovative and effective public education program concerning the value of recycling and waste reduction, and of public opportunities to participate in such activities, in cooperation with area schools and other municipalities.

C. The Director may also develop and maintain a data base on recycling and waste reduction in the town, and make the information in that data base available to the public.

§ 79-5. Enforcement penalties for offenses.

A. The Superintendent of Highways, Director and any other person designated by the Board shall be authorized to inspect:

(1) Solid waste left for collection.

(2) Loads of solid waste being transported within the Town of Fort Edward.

(3) Solid waste being disposed of at the town's sanitary landfill for the purpose of determining if any person has failed to comply with provisions of any section of this chapter.

B. The Superintendent of Highways, Director and any other person designated by the Board shall be authorized to turn away and deny access to any person delivering a load of solid waste which includes or contains recyclable materials to the town's sanitary landfill.

C. Any violation of this chapter shall be punishable by imprisonment in the Washington County Jail for not more than fifteen (15) days or by a fine of not more than two hundred fifty dollars (\$250.), or by both such fine and imprisonment.

D. Each commission of a single act shall constitute a separate violation of this chapter, and each day of such violation shall constitute a separate offense, which may be punished and prosecuted as such.

E. In addition to the penalties herein set forth, any person or entity who is convicted of violating any portion of this chapter after having been convicted of a violation of any portion of this chapter within the preceding five (5) years shall be liable for payment to the Town of Fort Edward a civil penalty as follows:

(1) In the amount of one thousand dollars (\$1,000.) upon a third conviction within the preceding five (5) years; and

(2) In the amount of two thousand dollars (\$2,000.) upon a fourth or subsequent convictions within the preceding five (5) years.

§ 79-6. Advisory Committee.

An Advisory Committee, consisting of not more than seven (7) Town of Fort Edward residents, may be established to assist in the town's recycling efforts. The Town Supervisor shall be the appointing authority with members to serve at the pleasure of the Supervisor. The Committee would serve in an advisory capacity only.

CHAPTER 79A. RENTAL PROPERTY

§ 79A-1. Intent.

§ 79A-2. Definitions.

§ 79A-3. Applicability.

§ 79A-4. Rental permit requirement.

§ 79A-5. Inspection requirement necessary to permit issuance.

§ 79A-6. Application for permit (including notice requirements).

§ 79A-7. Review of permit application.

§ 79A-8. Fees.

§ 79A-9. Term of permit.

§ 79A-10. Register of permits.

§ 79A-11. Notice requirements.

§ 79A-12. Penalties and offenses.

CHAPTER 79A. RENTAL PROPERTY

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 3-10-2003 by L.L. No. 1-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 37.

Fire prevention and building code — See Ch. 51.

Zoning — See Ch. 108.

§ 79A-1. Intent.

Rental of dwelling units that are substandard or in violation of the Uniform Fire Prevention and Building Code pose a danger to life, health and property of residents of the Town. The Town Board finds that current provisions are inadequate to prevent such rentals and that the health, safety and welfare of the inhabitants of the Town will be protected and enhanced by enactment of rental property permit requirements and annual inspection requirements for all rental units within the corporate boundaries of the Town of Fort Edward.

§ 79A-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER

Includes the Building Inspector or his or her designated agent.

PREMISES

A structure or building in which a rental unit is located or, in the case of a rented single-family dwelling, the entire rental unit.

RENTAL PROPERTY

Includes "premises" and "rental unit."

RENTAL UNIT

All rental dwelling units in the Town of Fort Edward (outside the boundaries of the Village), including accessory apartments or rented rooms in owner-occupied premises, rented single-family dwellings, apartments within apartment buildings and any other building or portion of a building occupied by one or more persons, whether or not related to the owner of the premises, as a home or residence under an arrangement whereby the occupant(s) pay rent, whether in the form of money, goods or services, for occupancy and use of the unit.

RENTAL UNIT PERMIT

A permit issued pursuant to this chapter. Any dwelling unit or any other premises shall be deemed to be rented if they are occupied by any natural person, corporation, organization or entity other than the owner, regardless of whether actual rent is received.

§ 79A-3. Applicability.

The provisions of this chapter shall not be applicable to a room occupied by an immediate family member of the owner of the premises if the owner is also an occupant of the premises and there are no separate kitchen facilities. An "immediate family member" shall include children, stepchildren, parents, grandparents, grandchildren, or siblings of the owner and his or her spouse.

§ 79A-4. Rental permit requirement.

A. It shall be unlawful to:

- (1) List, solicit, advertise, offer, exhibit or show to any person a rental unit located within the Town of Fort Edward for the purpose of bringing about its rental, without a rental unit permit.
- (2) Accept a deposit of rent or security in connection with the rental of a rental unit located within the Town of Fort Edward, or use, establish, maintain, operate, lease, rent or let a rental unit, entirely or partially, for

residential occupancy in the Town of Fort Edward without a rental unit permit.

B. Owners of rental units which are currently occupied shall apply for a permit within 90 days after the effective date of this chapter. Owners of property which includes or is intended for use as a rental unit shall obtain a rental unit permit prior to advertising unit(s) for rent, accepting any rental deposits or allowing occupancy of any rental unit(s) by a tenant.

C. Immediately following the effective date of this chapter, all property owners will be notified of its enactment. Additionally, all owners of rental properties which have current rental unit permits will receive notice, 60 days prior to the expiration of those permits, to file an application for renewal (which will be enclosed with notice), within 30 days of receipt of the notice. Included on the application will be a proposed inspection date and time, which will be no sooner than 30 days from the time of notice and no later than 60 days after the notice (which will be the time of the current rental unit permit expiration).

§ 79A-5. Inspection requirement necessary to permit issuance.

A. No permit shall be granted without an inspection by the Code Enforcement Officer to determine if the premises and all rental units are in compliance with all of the provisions of the applicable State Uniform Fire Prevention and Building Code, the Code of the Town of Fort Edward and any other applicable Town, county, state and federal laws, rules and regulations. Once it is determined that the building is in compliance with the pertinent code(s), the permit will be granted.

(1) No rental permit shall be issued until the Code Enforcement Officer shall inspect the premises and rental units to determine that they are equipped with functioning smoke detector devices, approved as to design by the applicable Fire Prevention Code, if any, or conforming to standards of the New York State Board of Fire Underwriters, if any, or, if none, approved by the Code Enforcement Officer.

(2) No permit shall be issued if inspection results in a finding of noncompliance with building, fire, or other local codes and the Code Enforcement Officer shall notify the property owner, or his or her authorized agent, of the specific Code violations and permit denial, and shall proceed to enforce the provisions of the Uniform Fire Prevention and Building Code as provided therein.

(3) In the case of noncompliance with the permit requirement for rental property, rental premises will remain subject to annual inspection and the owner of such property will be subjected to the penalties outlined for violation of such permit requirement. In the case of a determination of noncompliance with pertinent building or fire codes following inspection (whether for permit purposes or due to a complaint investigation of a current permit holder), the landlord/owner will be given 30 days to correct the problem, unless an emergency exists which subjects the occupants or community to immediate risk of harm and warrants immediate correction of the problem.

(4) In the event of noncompliance with demand for corrective action within the applicable time frame, the landlord/owner will be subject to violations and penalties set forth in § 79A-12.

B. Authorization for inspections.

(1) The Code Enforcement Officer of the Town of Fort Edward is authorized to make or cause to be made inspections to determine the condition of premises and rental units in order to safeguard the health, safety, and welfare of the public. The Code Enforcement Officer or his designated representative is authorized to enter, upon adequate notice (three-day minimum) and consent of the owner, authorized managing agent, or occupant (as to their own rental unit and common areas of the premises), any rental unit or premises at any reasonable time during daylight business hours, or at such other time without consent of the owner as may be necessary in an emergency, for the purposes of performing his duties under this chapter.

(2) The Code Enforcement Officer must send a written request, giving at least a three-day notice to the owner (or authorized agent) and current occupant of the premises to make an inspection.

(3) The proposed inspection time must be during regular business hours. The Code Enforcement Officer will be responsible for arranging such inspections and for initiating any other appropriate action under these regulations. He or she will give special consideration to any requests for specific inspection times by the owner, including requests that the inspection be conducted during nonbusiness hours for the convenience of tenant(s) or owner(s). In the absence of such a specific request by the owner, his or her authorized agent, or tenant, the inspections will be conducted at a time designated by the Code Enforcement Officer, during normal daylight business hours.

C. Application for search warrant authorized.

(1) If the owner or tenant refuses to allow an inspection of the rental unit and premises and where there is a probable cause to believe that an inspection is needed or that a violation has occurred, the Code Enforcement Officer of the Town of Fort Edward or his designated representative is authorized to make an application to a court of competent jurisdiction for the issuance of a search warrant in order to conduct an inspection of any property covered by this chapter. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York, which include a less stringent standard of "probable cause" to inspect and do not require probable cause to believe a violation has taken place.

(2) Nothing in this chapter, except for provisions concerning emergency inspections, shall be deemed to authorize the Code Enforcement Officer of the Town of Fort Edward or his authorized representative to conduct an inspection, if denied access by the owner or occupying tenant, without a warrant duly issued by an appropriate court.

§ 79A-6. Application for permit (including notice requirements).

A. Application for a permit shall be made to the Code Enforcement Officer on a form provided by the Building Department for that purpose. The application shall include:

(1) The name, address and telephone number, if any, of the owner of the premises and a statement of whether the owner resides at the premises;

(2) The name, address and telephone number of the managing agent or operator, if any;

(3) The street address and Tax Map description (section, block and lot or lots) of the premises;

(4) A description of each rental unit in the premises intended, used or occupied for rental occupancy, including the number of units, the number of rooms in each unit and the number of persons intended to occupy each unit;

(5) The names and relationships, if any, to the owner of the premises, of each person residing in or occupying each rental unit.

(6) A statement by the owner that he or she fully understands that each rental unit for which a rental permit is issued shall comply with the Uniform

Fire and Building Codes (including all pertinent federal, state and local requirements, which require that all premises be kept in a safe, sanitary condition in accordance with the applicable codes).

(7) A statement that the owner is aware that all rental premises are subject to annual inspection by the Code Enforcement Officer upon a three-day written notice of proposed date and time for inspection to both landlord, or, if indicated, authorized managing agent, and occupant(s).

(8) A line indicating the preferred date and time of inspection, noting that the owner or authorized managing agent may change the time to suit his or her convenience. The Code Enforcement Officer will initially select the time for inspection only in the case of a mailed application for renewal.

(9) A statement that the owner and/or the tenant (as to his/her own private dwelling) has the right to require the Code Enforcement Officer to secure a search warrant for such inspection.

(10) A statement that the filing of the signed and sworn application for a permit pursuant to this chapter shall constitute a consent to inspection by the Code Enforcement Officer of all or any part of the property for which the permit is sought, unless the owner, agent or person in charge thereof, or tenant of rental unit to be inspected insists upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.

(11) A statement that fines and penalties may be applied to the owner for violation of this chapter.

(12) A statement that the owner will notify the Code Enforcement Officer as to any change in ownership or tenancy of the rental property.

B. The application must be signed by the owner of the premises.

C. Upon the Code Enforcement Officer's receipt of the application and a definitive time scheduled for inspection, a written notice (three-day minimum) of the date and time of inspection, which must be within reasonable business hours (unless otherwise agreed), must be delivered by certified mail to both owner and tenant.

§ 79A-7. Review of permit application.

The Code Enforcement Officer shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental unit(s). If satisfied that the proposed rental unit(s), as well as the premises in which the unit(s) are located, comply fully with all applicable laws, ordinances, rules and regulations and that such rental unit(s) would not create an unsafe or dangerous condition, or constitute an unsafe or substandard structure as defined in the applicable laws, ordinances, rules and regulations, the Code Enforcement Officer shall issue the rental permit applied for.

§ 79A-8. Fees.

[Amended 6-13-2005 by L.L. No. 6-2005]

A nonrefundable fee per rental unit in the amount adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. will be charged to the landlord/owner if, on initial inspection, the rental unit is found to be noncompliant with codes, requiring a second inspection by the Code Enforcement Officer.

§ 79A-9. Term of permit.

The rental unit permit shall be valid for a period of one year from the date of issuance.

§ 79A-10. Register of permits.

It shall be the duty of the Code Enforcement Officer to maintain a register of rental permits issued pursuant to this chapter. Such register shall be kept by street address, showing the name and address of the permittee, the number of rental units at such address, the number of rooms in each rental unit and the date of expiration of the rental unit permit for the premises. Such registry shall be kept available for public inspection during regular business hours at the office of the Building Department.

§ 79A-11. Notice requirements.

A. All residents of the Town of Fort Edward shall initially be notified of this chapter through publication of the notice of adoption in the Glens Falls Post Star.

B. All holders of rental unit permits will be notified 60 days prior to the expiration of their current rental permit(s) of the need to renew. They will also receive an enclosed permit application form, which will advise the owner of his

or her rights and responsibilities and will include a tentative inspection date, allowing the owner the option to select a different time. This notification will require the owner to return the application within 30 days of receipt by the owner and will advise him of the penalties for noncompliance with this chapter.

C. Upon receipt of the application by the Code Enforcement Officer, notification will be sent to both the owner and tenant confirming the date and time chosen for inspection. Official notification must always give at least a three-day notice prior to the inspection.

D. In lieu of response from the owner within the thirty-day time frame for application submission, or upon an owner's noncompliance in general, the Code Enforcement Officer shall send notice (minimum of three days) as to date and time of proposed annual inspection. Included in this notice will be an outline of the penalties for noncompliance with this chapter. If access is denied for the inspection, the Code Enforcement Officer must then secure a search warrant to conduct the inspection in the best interest of public health and welfare.

§ 79A-12. Penalties and offenses.

Any person who shall violate any provision of this chapter shall be subject to the applicable penalties under this chapter, in addition to those imposed by Article 18, § 382, and any other applicable code or ordinance, without limitation. The chapter penalties include:

A. Fines. The person who violates any provision of this chapter shall be liable to a civil penalty of not more than \$250 for each day or part thereof during which such violation shall be continued.

B. Alternatively, or in addition to an action to recover the civil penalties provided by Subsection "A," the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of or to enforce any provision of this chapter.

CHAPTER 80. RECORDS, PUBLIC ACCESS TO

§ 80-1. Applicability of Freedom of Information Law.

§ 80-2. Records access officers.

§ 80-3. Fees.

§ 80-4. Hours for inspection.

CHAPTER 80. RECORDS, PUBLIC ACCESS TO

[HISTORY: Adopted by the Town Board of the Town of Fort Edward during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

§ 80-1. Applicability of Freedom of Information Law.

The provisions of the Freedom of Information Law (Article 6 of the Public Officers Law), as amended, shall be applicable to the Town of Fort Edward, as shall also the rules and regulations thereunder adopted by the State Committee on Open Government, subject to the rules and regulations now or hereafter adopted by the Town Board of the Town of Fort Edward which are not more restrictive than those adopted by the State Committee.

§ 80-2. Records access officers.

The Town Clerk and Deputy Town Clerk are designated records access officers.

§ 80-3. Fees.

Fees for photocopies of records shall be twenty-five cents (\$0.25) per page.

§ 80-4. Hours for inspection.

Records may be inspected at the office of the Town Clerk on regular business days between the hours of 10:00 a.m. and 12:00 noon and 1:00 p.m. and 3:00 p.m.

CHAPTER 80A. SANITARY STANDARDS

§ 80A-1. Title.

§ 80A-2. Applicability.

§ 80A-3. Statutory authority.

§ 80A-4. Purpose.

§ 80A-5. Prohibited acts.

§ 80A-6. Preapplication procedure.

§ 80A-7. Determination of system type.

§ 80A-8. Disposal system permit applications.

§ 80A-9. Application information for conventional septic tank/soil absorption system.

§ 80A-10. Application information for alternative system.

§ 80A-11. Issuance of permit.

- § 80A-12. Permit disapproval; expiration.
- § 80A-13. Disposal system use certificate.
- § 80A-14. Site inspections.
- § 80A-15. Existing systems.
- § 80A-16. Design standards for convention systems.
- § 80A-17. Penalties for offenses.
- § 80A-18. Variances.
- § 80A-19. Waivers.
- § 80A-20. Most restrictive provisions to prevail.
- § 80A-21. Effect of regulations.
- § 80A-22. Appendix A, Procedures for Site Evaluation.

CHAPTER 80A. SANITARY STANDARDS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 3-27-1989 by L.L. No. 3-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes - See Ch. 71.
Site plan review - See Ch. 81.
Subdivision of land - See Ch. 87.
Zoning - See Ch. 108.

§ 80A-1. Title.

These regulations shall be known as the "Town of Fort Edward Sanitary Code."
The Town of Fort Edward is hereinafter referred to as the "town."

§ 80A-2. Applicability.

These regulations shall govern the disposal of sewage and the design and installation of all sewage disposal systems within the town, except that this chapter shall not govern the design or installation of, or disposal of sewage by means of, a community or public sewer or of those systems that come under the jurisdiction of the New York State Department of Health. The transportation and/or dumping of sewage off-site shall comply with all current New York State Department of Health and Department of Environmental Conservation regulations regarding such.

§ 80A-3. Statutory authority.

Enactment of these regulations is pursuant to Article 3 of the Public Health Law and Article 27 of the Executive Law of the State of New York.

§ 80A-4. Purpose.

The purpose of these regulations is to promote the health, safety and general welfare of town residents by providing, through the location, construction and use of properly designed facilities, that sewage and other wastes are disposed of in a manner that will not create a health hazard, adversely affect the environment or impair the enjoyment or use of property.

§ 80A-5. Prohibited acts.

A. It shall be unlawful for any person to construct, alter or extend any facility or part of such facility intended or used for the discharge of sewage without having first complied with requirements herein.

B. It shall be unlawful for any person to cause to be discharged, within the town, any sewage except by systems designed, installed and approved in accordance with the requirements of these regulations.

C. It shall be unlawful for any person to use or maintain any individual sewage disposal system that is unsafe, is a source of pollution to any surface waters of the town, permits the seepage of sewage to ground surface or interferes with the enjoyment or use of property.

§ 80A-6. Preapplication procedure.

A. Prior to making an application for a disposal system permit, the applicant shall make a preapplication to the Building Inspector/Zoning Administrator. The preapplication shall consist of a written report of a percolation test and soils analysis of the site of the proposed facility. The percolation test and soils analysis shall be determined by methods described in Appendix A Editor's Note: See § 80A-22. of these regulations and shall be conducted by a qualified person approved by the Building Inspector/Zoning Administrator. If the applicant so chooses, the Building Inspector/Zoning Administrator will arrange to have the percolation test and soils analysis done by a third party; however, the applicant shall bear all cost incurred.

B. The Building Inspector/Zoning Administrator may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in the preapplication for a sewage disposal permit, and the applicant or owner of land on which the system is proposed

shall grant the Building Inspector/Zoning Administrator or his agents permission to enter on his land for these purposes.

C. Site data which may affect the type, size and design of a disposal facility may include, but not be limited to, soil type, topography, depth to seasonal high groundwater, depth to impervious material, depth to bedrock and distance to wetlands or surface bodies of water.

D. The Building Inspector/Zoning Administrator shall have the authority to require certification or retesting to verify information submitted as part of the application.

§ 80A-7. Determination of system type.

Subsequent to the submission of the preapplication data, the Building Inspector/Zoning Administrator shall make a determination as to whether the site requires a conventional septic tank/soil absorption system or an alternative disposal system.

§ 80A-8. Disposal system permit applications.

[Amended 6-13-2005 by L.L. No. 6-2005]

Application for a disposal system permit may be made only by the owner or lessee of the lot for which the system is proposed, or his duly authorized agent or assigns, and shall be in writing, signed by the applicant, in such form as determined by the Building Inspector/Zoning Administrator. A fee shall accompany each application for a sewage disposal permit in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

§ 80A-9. Application information for conventional septic tank/soil absorption system.

The following information shall be provided, on forms provided by the Building Inspector/Zoning Administrator, for any proposed conventional system:

A. House location.

B. Location and details of the sewage disposal system, including septic tank, distribution box and leaching facility and must include a fifty-percent-expansion area.

C. Location of well or location of public water main and house connection.

D. Location of driveways, swimming pools or other structures.

E. Location of any watercourses, ponds, lakes or wetlands on or within one hundred (100) feet of the proposed system.

F. Location of all wells and sewage disposal systems within two hundred (200) feet of the proposed system.

G. Location of all deep test holes and percolation test holes. A minimum of one (1) deep test hole and two (2) percolation test holes are required.

H. Title box indicating owner of property, town, street address, date and scale.

I. Design criteria to include number of bedrooms, percolation rate, sewage application rate and leaching area.

J. Locating and discharge points for gutter, footing, storm and curtain drains.

§ 80A-10. Application information for alternative system.

The following information must be provided for any proposed alternative system:

A. Letter of authorization for engineer or architect.

B. One (1) set of plans bearing the seal and signature of a professional engineer, registered architect or land surveyor (with a pre-1971 7208N exemption from the New York State Education Department) licensed and registered to practice in New York State. These plans shall be scale showing the following:

(1) Plot plan, including major physical features drawn to scale on a Tax Map of the property.

(2) House location.

(3) Plan and cross section of the sewage disposal system, to include fifty-percent-expansion area, and construction details of system components, including septic tank distribution box and leaching facility.

(4) Location of driveways, garages, swimming pools or any other structures.

(5) Location of well or location of public water main and house connection.

- (6) Two-foot contours of the property. If ground is to be cut or filled, both existing and proposed contours must be shown.
- (7) Location of any watercourses, ponds, lakes or wetlands on or within one hundred (100) feet of property line. Stream index number and classification or wetland designation must be noted.
- (8) Accurate location of all deep test holes and percolation test holes. A minimum of one (1) deep hole and two (2) percolation test holes is required.
- (9) Location of all well and sewage disposal systems within two hundred (200) feet of the proposed system or a note stating that none exist within two hundred (200) feet.
- (10) Title box indicating owner of property; location, including street and municipality; name and address of design engineer or architect; date of drawing, including dates of revisions; and scale.
- (11) Location and discharge points for gutter, footing, storm and curtain drains.
- (12) Design criteria to include number of bedrooms, soil percolation rate, application rate, etc.
- (13) Site location sketch and North arrow.
- (14) Copy of house plans to verify bedroom count for design calculations.
- (15) If water service is to be from a community public water supply, a letter from the owner of the supply stating its willingness and ability to supply the water.
- (16) Certification by designer.

§ 80A-11. Issuance of permit.

Once all pertinent site data has been verified and certified, all permit fees have been paid and the Building Inspector/Zoning Administrator has determined that the proposed action in the application complies with all the specifications contained in these regulations, a disposal system permit will be issued to the applicant.

§ 80A-12. Permit disapproval; expiration.

A. The Building Inspector/Zoning Administrator may disapprove of an application for a disposal system permit if it determines that:

(1) The individual sewage disposal system, as proposed, will not conform to the requirements or specifications of these regulations or an order of the Consolidated Board of Health.

(2) The applicant has failed to supply all data necessary to make a determination as to whether or not such individual sewage disposal system conforms to the requirements or specifications of these regulations and has failed to supply such information for sixty (60) days after a written request for such additional information has been mailed.

B. The Building Inspector/Zoning Administrator may, by written notice, order all further work stopped on any individual sewage disposal system which is being constructed or installed in violation of these regulations.

C. Expiration of permits. Unless otherwise specified in the permit, all permits shall expire within one (1) year of issuance. In the event that a permit expires with the disposal system as yet incomplete, the applicant must obtain a permit renewal. There shall be no charge to renew a permit.

§ 80A-13. Disposal system use certificate.

A. It shall be unlawful for any unauthorized person to cover or utilize any individual sewage disposal system unless a disposal system use certificate has been issued therefor.

B. It shall be the duty of the holder of the disposal system permit to notify the Building Inspector/Zoning Administrator when the installation is ready for inspection. The inspection shall be made as soon thereafter as practical by the Building Inspector/Zoning Administrator. The Building Inspector/ Zoning Administrator may also make inspections during construction to ensure that the system is being installed in accordance with the application and these regulations. Any part of installation which has been covered prior to final approval shall be uncovered upon order of the Building Inspector/Zoning Administrator.

C. A disposal system use certificate shall not be granted until the Building Inspector/Zoning Administrator has determined that the individual sewage disposal system has been installed in compliance with the application and these regulations. The Building Inspector/Zoning Administrator may make such a determination only after he has made an on-site investigation of the system

or received a certification from the individual designing and installing the system that the system conforms to the specifications as set forth in the application and these regulations. The Building Inspector/Zoning Administrator may withhold a determination until after an on-site investigation has been completed, notwithstanding that the system has been certified as properly installed and designed.

D. The Building Inspector/Zoning Administrator may waive the required on-site inspections when the system has been installed by a person who has met the qualifications and been designated as a certified installer by the town.

§ 80A-14. Site inspections.

A. The filling of an application for a disposal system permit represents permission by the applicant for the Building Inspector/Zoning Administrator and/or other designated person to conduct such examinations of the disposal system site.

B. The Building Inspector/Zoning Administrator may inspect an individual sewage disposal system built before or after these regulations take effect to ensure that it is being maintained in proper working order. It shall be unlawful for the owner or occupant of the property to deny such official or his designee access to the property at reasonable times for the purpose of making such inspections. Where the Building Inspector/ Zoning Administrator determines that a system is not being maintained in compliance with these regulations, it may order that use of the system cease and/or that the defects be corrected and/or misuse abated. If the prescribed action is not taken within the time fixed by the Building Inspector/Zoning Administrator, it may revoke the use permit for the system and/or refer the matter to the Consolidated Board of Health for appropriate corrective action.

§ 80A-15. Existing systems.

A. Subject to the provisions of these regulations, the use or maintenance of a properly functioning preexisting individual sewage disposal system may be continued. This section shall not be construed to permit any unsafe use or structure or permit such structures or their use when such structure or use constitutes a threat to public health, safety, welfare or environmental quality; permits the seepage of sewage waters to ground surface; or interferes with the enjoyment or use of property.

B. Alteration, enlargement or extension of a system.

(1) It shall be unlawful to alter, enlarge or extend a preexisting individual sewage disposal system except in conformity with the provisions herein. However, emergency repairs may be made to a system without prior approval from the Building Inspector/Zoning Administrator, if they are done by a certified installer. In the event that such emergency repairs are made, the certified installers shall make a de facto report of such repairs to the Building Inspector/Zoning Administrator.

(2) It shall be unlawful to use any system that has been extended or undergone major alterations unless a disposal system use permit is issued pursuant to §§ 80A-6 to 80A-14 of this chapter.

C. Any existing system which is not functioning properly shall be subject to penalties as provided in this chapter.

[Added 3-14-2005 by L.L. No. 3-2005]

§ 80A-16. Design standards for convention systems.

Design standards for the construction, alteration or extension of any conventional sewage disposal system addressed in these regulations shall conform to the criteria and guidelines of the most recent issue of the Wastewater Treatment Handbook - Individual Household Systems, published by the New York State Health Department.

§ 80A-17. Penalties for offenses.

A. Any person owing, controlling or managing any building, structure, land or premises therein or whereon there shall be placed or there exists a structure or system in violation of these regulations; and any person who shall commit or assist in the commission of any violation of these regulations or who shall build, erect, construct or attempt the same any structure contrary to the plans or specifications submitted to the authorized official and by him certified as complying with these regulations; and any person who shall omit, neglect or refuse to do any act required by this chapter shall be subject to a civil penalty of not more than \$500 to be recovered by the Town Board of Fort Edward in any court of competent jurisdiction. Every such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purposes of this section.

B. In the case of a violation which creates a nuisance or condition potentially detrimental to public health, the Town Board shall also exercise the powers and duties provided in New York Public Health Law, Article 13. These powers and duties include, but are not limited to, entering upon, inspecting and examining any premises where such a nuisance or condition is known or believed to exist and ordering the suppression and removal of any nuisance or condition detrimental to life and health.

[Added 3-14-2005 by L.L. No. 3-2005]

§ 80A-18. Variances.

[Amended 3-14-2005 by L.L. No. 3-2005]

When the Town Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public health and safety secured, provided that such variations will not have the effect of nullifying the intent and purpose of these regulations.

§ 80A-19. Waivers.

[Amended 3-14-2005 by L.L. No. 3-2005]

Where the Building Inspector/Zoning Administrator finds that, due to special circumstances, certain preapplication procedures or application information requirements contained herein are not necessary in the general interest of the public health, safety and general welfare, he may waive such requirements.

§ 80A-20. Most restrictive provisions to prevail.

Where the conditions imposed by any provisions of these regulations are less restrictive than comparable conditions imposed by any other provisions of these regulations or of any other statute, ordinance, local law, order, rule or regulation, the provisions which are more restrictive shall govern.

§ 80A-21. Effect of regulations.

The adoption of these regulations shall not affect or impair any act done, offense committed or right accrued or required or liability, penalty, forfeiture or judgement incurred prior to the time these regulations take effect.

§ 80A-22. Appendix A, Procedures for Site Evaluation.

APPENDIX A

Procedures for Site Evaluation

A. Soil borings/visual analysis.

- (1) Soil borings shall be of any type of boring or excavation capable of revealing the characteristics of the soils penetrated in detail:
 - (a) Each boring or excavation shall be made to a depth at least two (2) feet deeper than the bottom of the proposed system.
 - (b) Each hole shall be numbered, and its location shall be plotted on a dimension sketch of the lot or building site.
 - (c) Soil texture and firmness of soil texture shall be recorded by depth and notations made where texture changes occur.
- (2) Particular effort shall be made to determine the highest known water table.
 - (a) Record the first occurrence of mottling in the hole.
 - (b) If mottling is not encountered, the open test holes may be backfilled immediately.

B. Percolation tests.

- (1) For standardizing test hole dimensions:
 - (a) Each test hole shall be a minimum of twelve (12) inches square, have vertical sides and be dug to one-half (1/2) the depth of the proposed individual sewage treatment system. If more than one (1) soil type is encountered in a test hole, a percolation test shall be done in each soil type.
 - (b) Each test hole shall be numbered, and its location shall be plotted on a scale map of the real property of building site.

APPENDIX A

Procedures for Site Evaluation

- (2) For proper preparation of the test hole:
 - (a) The bottom and sides of the hole shall be carefully scratched to remove any smearing and to provide a natural soil surface into which water may penetrate.
 - (b) All loose material shall be removed from the bottom of the test hole and two (2) inches of one-fourth- to three-fourths-inch stone shall be added to protect the bottom from scouring.
- (3) For proper soil saturation and swelling.
 - (a) Presoak the test hole by periodically filling the hole with water and allowing the water to seep away. This procedure shall be performed at least four (4) times and shall begin one (1) day before the test except for clean sand and gravel.
- (4) For proper percolation rate measurement:
 - (a) In sandy soils, adjust the water depth to eight (8) inches over the soil at the bottom of the test hole. From a fixed reference point, the drop in the water level shall be measured in inches to the nearest one-sixteenth ($1/16$) inch at approximately ten-minute intervals. A measurement can also be made by determining the time it takes for the water to drop one (1) inch from an eight-inch reference point. If eight (8) inches of water seeps away in less than ten (10) minutes, a shorter interval between measurements shall be used, but in no case shall the water depth exceed eight (8) inches. The test shall continue until three (3) consecutive percolation rate measurements vary by a range of no more than ten percent (10%).
 - (b) In other soils, adjust the water depth to eight (8) inches over the soil at the bottom of the test hole.

APPENDIX A

Procedures for Site Evaluation

From a fixed reference point, the drop in the water level shall be measured in inches to the nearest one-sixteenth (1/16) inch at approximately thirty-minute intervals, refilling between tests to maintain an eight-inch starting head. The test shall continue until three (3) consecutive percolation rate measurements vary by a range of no more than ten percent (10%). The percolation rate can also be made by observing the time it takes the water level to drop one (1) inch from an eight-inch reference point if a constant water depth of at least eight (8) inches has been maintained for at least four (4) hours prior to the measurement.

- (5) For calculating the percolation rate:
 - (a) Divide the time by the drop in water level to obtain the percolation rate in minutes per inch.
 - (b) Percolation rates determined for each test hole shall be averaged to determine the final soil treatment system design.
- (6) For reporting the percolation rate, worksheets showing all calculations and measurements shall be submitted to the Department of Code Enforcement.
- (7) A percolation test shall not be run where frost exists below the depth of the proposed soil treatment systems.

CHAPTER 81. SITE PLAN REVIEW

§ 81-1. Enactment; legislative authority.

§ 81-2. Title.

§ 81-3. Purpose.

§ 81-4. Planning Board authorization.

§ 81-5. Applicability; permit required.

§ 81-6. Sketch plan.

- § 81-7. Application.
- § 81-8. Fees for site plan approval.
- § 81-9. Additional information required by Planning Board.
- § 81-10. Notification.
- § 81-11. Review standards.
- § 81-12. Planning Board procedures.
- § 81-13. Modifications and waivers.
- § 81-14. Enforcement.
- § 81-15. Record keeping.
- § 81-16. Appeals.
- § 81-17. Forms.
- § 81-18. Additional fees.
- § 81-19. Building permits.
- § 81-20. Future regulations or amendments.
- § 81-21. Compliance.
- § 81-22. Penalties for offenses.

CHAPTER 81. SITE PLAN REVIEW

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 1-23-1989 by L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 87.
Zoning — See Ch. 108.

§ 81-1. Enactment; legislative authority.

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

§ 81-2. Title.

This chapter shall be known as the "Town of Fort Edward Site Plan Review Law." The Town of Fort Edward is hereinafter referred to as the "town."

§ 81-3. Purpose.

The Fort Edward Planning Board is hereby empowered to review, approve, approve with modification or disapprove all site plans as required by § 81-12 of

this chapter. The purpose of such site plan review and approval procedures is to ensure adequate adherence and conformity to the various provisions of this chapter and the Fort Edward Zoning Code Editor's Note: See Ch. 108, Zoning. ; to ensure that uses of land so affected by these provisions meet design, function and layout criteria established by this chapter that will culminate in development that will protect the health, safety and general welfare of Town residents and are compatible with the intent of the Master Plan and its proposals and recommendations; and to ensure the ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers and the protection of health, safety and welfare of the Town and its citizens.

§ 81-4. Planning Board authorization.

In accordance with § 274-a of the Town Law, the Planning Board is authorized to review and approve, approve with modifications or disapprove site plans, prepare to specification set forth in this chapter and in regulations of the Planning Board, showing the arrangement, layout and design of the proposed use of the land shown on such plan.

§ 81-5. Applicability; permit required.

A. Except for the following, the provisions of this chapter shall apply to all uses requiring special use permits, to all permitted and accessory uses and to applications to alter a nonconforming use:

- (1) Single-family residences in R-Ag, R-1, R-2 Districts and all associated permitted and accessory uses to such single-family residences.
- (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this chapter.
- (3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
- (4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25% and having a cost value of less than \$5,000.
- (5) Nonstructural agricultural or gardening uses not involving substantial timber cutting.

(6) The sale of agricultural produce and temporary structures related to sale of agricultural produce.

B. A land use or development involving these uses shall not be undertaken unless and until the Planning Board has approved such use and the Zoning Administrator/Building Inspector has issued a permit for such land use and development. No building permit shall be valid without site plan approval.

§ 81-6. Sketch plan.

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

A. A statement and rough sketch showing the location and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.

B. An area map (one inch equals 30 feet) showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel.

C. A topographic or contour map of adequate scale and detail to show site topography (one inch equals 30 feet).

§ 81-7. Application.

Application for project approval shall be made with the Planning Board using forms supplied by the Board. Applications shall include reasonably sufficient information for the Board to make its findings under § 81-10 of this chapter. In determining the content of these application forms, the Planning Board may provide for different informational requirements for different classes or type of projects, but with each certain class or type of project, the same information

required by these various application forms may include any or all of the following:

- A. Detailed description of the natural features of the project and its components, including all proposed roads and accesses, water supply and sewage disposal systems, and their relationship to natural features.
- B. An analysis with supporting data on the impact of the project on the environment, both during construction and thereafter.
- C. An analysis and supporting data of any benefits that might derive from the project.

§ 81-8. Fees for site plan approval.

[Amended 6-13-2005 by L.L. No. 6-2005]

In addition to the fee adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. , the Planning Board may charge a fee to developers of projects requiring legal and technical review in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

§ 81-9. Additional information required by Planning Board.

Upon receipt of the application for a zoning and building permit and related material from the Zoning Administrator/Building Inspector as required in § 81-7, the Planning Board may require that the developer submit additional information as follows, which shall be prepared by a licensed engineer, architect, surveyor, landscape architect or any combination thereof:

- A. A map of the applicant's entire holding at the scale of one inch equals 200 feet, unless the Planning Board determines a different scale more appropriate.
- B. An area map, at the scale of one inch equals 30 feet, showing all properties, subdivisions, streets, water courses and easements which, pass through the property or are known to abut the applicant's property.
- C. A topographic map, at the scale of one inch equals 30 feet, showing contours at two-foot intervals.
- D. A site plan, including the following information:

- (1) The title of the drawing, including the name(s) and address(es), of the applicant or owner of record.
- (2) North point, date, scale.
- (3) The name and address of the person, firm or organization preparing the map.
- (4) Boundaries of the property plotted to scale.
- (5) Existing watercourses and direction of drainage flow.
- (6) A site plan showing location of proposed use or uses, bulk and height of all building and location of all parking areas, with access drives thereto.
- (7) The location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; existing water and other utility facilities; description of method of sewerage disposal and location of such facilities; location and sizes of all permitted signs; location and design of lighting facilities; the amount(s) of building area(s) proposed for retail sales, if any; and existing areas of vegetation and trees (in general, five inches or more in diameter or, if in significant clusters, those less than five inches).
- (8) A tracing overlay showing areas, if any, with moderate-to-high susceptibility to flooding or ponding, moderate-to-high susceptibility to erosion and slopes in excess of 15%. For areas with potential erosion problems, the overlay shall also include an outline of existing vegetation.
- (9) A grading plan showing existing and proposed elevation of site.
- (10) Landscape plan and planting schedule.
- (11) Stormwater pollution prevention plan consistent with the requirements of Chapter 56 of the Town Code.

[Added 6-12-2006 by L.L. No. 4-2006]

§ 81-10. Notification.

Upon receipt of an application and all applicable material, the Planning Board shall notify the applicant, in writing, by mail, of the place, date and time of the meeting of the Planning Board at which the application is to be considered and request the presence of the applicant to discuss the application.

§ 81-11. Review standards.

A. In order to approve any site plan review use, the Planning Board shall consider the following:

- (1) Full conformance of the site plan with the regulations of the Fort Edward Zoning Ordinance Editor's Note: See Ch. 108, Zoning. and this chapter.
- (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls. Consideration will also be given to the project's impact on the overall circulation system as it relates to adjacent uses.
- (3) Adequacy and arrangement of pedestrian traffic access and circulation, including but not solely limited to: separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (4) Location, arrangement and setting of off-street parking and loading areas.
- (5) Location, arrangement, size and design of building, lighting and signs.
- (6) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a notice deterring buffer between these and adjoining properties.
- (7) In the case of multiple-family complexes, the adequacy of usable open space for controlled and informal recreation.
- (8) Adequacy of provisions for the disposal of stormwater, sanitary wastes, water supply for both fire protection and general consumption, solid waste disposal and snow removal storage areas.
- (9) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
- (10) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- (11) Retention of existing trees for protection and control of soil erosion, drainage and natural beauty.
- (12) In the case of multiple-family complexes, average density developments, planned unit developments and commercial developments,

excessive similarity and/or excessive dissimilarity or inappropriateness to any other structures existing or for which a permit has been issued or to any other structure included in the permit application.

(13) Full conformance with the stormwater management and erosion and sediment control provisions of Chapter 56 of the Town Code.

[Added 6-12-2006 by L.L. No. 4-2006]

B. In its review the Planning Board may consult with appropriate Town and county offices and agencies of the state and federal government. The Planning Board shall also conduct a public hearing in the case of applications involving special use permits and before site plan approval is granted for uses of land in connection with planned unit development.

§ 81-12. Planning Board procedures.

A. The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 45 days of the receipt of an application deemed complete by the Planning Board and shall be advertised in the Town's official newspaper, or if there is none, in the newspaper of general circulation in the Town at least five days before the public hearing.

[Amended 4-14-2003 by L.L. No. 2-2003]

B. For application within 500 feet of the Town boundary, proposed or existing state or county park or recreation area, right-of-way, parkway, thruway road or highway, stream drainage channel or easement, public building or institution, not later than 10 days following receipt of a complete application for said project, the Zoning Administrator/Building Inspector shall notify and furnish the County Planning Board in accordance with § 239-l and m of the General Municipal Law, with such pertinent information as the County Planning Board may deem necessary for review and comment.

C. Within 45 days of receipt of an application deemed complete by the Planning Board or if a public hearing is held within 45 days of public hearing, the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

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

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

(3) Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant, together with the Planning Board's reasons for disapproval.

D. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the imposition of a performance bond and/or letter of credit, restrictions of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines as to intensity or development as provided in this chapter shall be respected, and the imposition of reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project and to ensure that the project will be completed in accordance with the terms of the application and any permit and including, without limitation, the requirements and conditions authorized under § 81-11 of this chapter. In addition, the Planning Board may require that the Zoning Administrator/Building Inspector incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.

E. Unless otherwise specified or extended by the Planning Board, a decision on any site plan review shall expire if the applicant fails to undertake the proposed action or project, to obtain any necessary building permits to construct any proposed new building(s) or change any existing building(s) or to comply with the conditions of said authorization within one year from the filing date of such decision thereof.

§ 81-13. Modifications and waivers.

A. The Planning Board, in addition to the foregoing section, may require such additional provisions and conditions that appear to promote further understanding of the applicant's proposal and are necessary for the purpose of ultimately protecting the health, safety and general welfare of the town's residents.

B. The Planning Board may, at its discretion, judge that certain requirements of this chapter are not applicable in its approval of a site plan and may therefore allow the applicant to submit only those elements which it deems necessary to the review and approval of the particular application.

§ 81-14. Enforcement.

The Zoning Administrator/Building Inspector shall have the power and duty to administer and enforce the provisions of this chapter. An appeal from an action, omission, decision or rules by the Zoning Administrator/Building Inspector regarding a requirement of this chapter may be made only to the Zoning Board of Appeals.

§ 81-15. Record keeping.

The original or a certified copy of all decisions, approvals, rulings and findings of any Board under this chapter and of all permits and certificates issued under this chapter shall be promptly furnished by the Zoning Administrator/Building Inspector to the Town Clerk and retained as a permanent Town public record.

§ 81-16. Appeals.

An action, omission, decision or ruling of the Planning Board pursuant to this chapter may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made not later than 30 days from the effective date of the decision or ruling or the date when the action or omission occurred, whichever comes later.

§ 81-17. Forms.

Unless otherwise stated, all petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Planning Board. Completed forms shall be accompanied by whatever further information, plans or specifications as may be required by such forms.

§ 81-18. Additional fees.

A. Fees provided for by this chapter shall be paid upon the submission of application and appeals, in such amount or amounts as shall be adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. Said fees will be posted in the Building Department on the official Fee Schedule for the Town of Fort Edward.

[Amended 6-13-2005 by L.L. No. 6-2005]

B. All fees shall be paid at the time of application to Town Clerk.

C. No fee shall be allowed to be substituted for any other required fee.

§ 81-19. Building permits.

A. Permit required. No building, structure or sign shall be erected, added to or structurally altered until a permit therefor has been issued by the Zoning Administrator/ Building Inspector. No new use of a building or structure shall be undertaken until a permit therefor has been issued by the Zoning Administrator/Building Inspector. No building permit, or where applicable, certificate of occupancy shall be issued for any building, structure, use or sign where said construction, addition, alteration or use would be in violation of any of the provisions of this chapter or of any other local law for the Town of Fort Edward.

B. Submittal requirements. There shall be submitted with all applications for building permits three copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings or signs to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.

C. Permit certification. Upon receipt of all appropriate information and fees and after all requirements of this chapter have been met, the Zoning Administrator/Building Inspector shall issue a building permit. One copy of the submitted layout or plot plan certified by the Zoning Administrator/Building Inspector as to compliance with this chapter shall be returned to the applicant

§ 81-20. Future regulations or amendments.

A. Further regulation by Planning Board. The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this chapter.

B. Amendments.

(1) The Town Board may on its own motion, on petition or on recommendation of the Planning Board, after public notice and hearing, amend this chapter pursuant to all applicable requirements of the law.

(2) All proposed amendments originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

§ 81-21. Compliance.

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this chapter with the procedural and submission requirements for such other compliance.

§ 81-22. Penalties for offenses.

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than \$250 or by penalty of \$250 to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

CHAPTER 82. SOLID WASTE

ARTICLE I. Disposal in Landfill

§ 82-1. Findings; purpose; objectives.

§ 82-2. Definitions.

§ 82-3. Disposal restricted; effect on recycling.

§ 82-4. Penalties for offenses.

§ 82-5. Effect on solid waste contracts.

ARTICLE II. Collection and Disposal; Siting of Facilities

§ 82-6. Title.

§ 82-7. Definitions.

§ 82-8. Legislative intent.

§ 82-9. Purpose and application.
§ 82-10. Inconsistency and supersession.

CHAPTER 82. SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Fort Edward: Art. I, 7-25-1988 as L.L. No. 4-1988; Art. II, 3-25-1991 as L.L. No. 2-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Hazardous wastes — See Ch. 62.
Junkyards — See Ch. 66.
Abandoned vehicles — See Ch. 96.

ARTICLE I. Disposal in Landfill

[Adopted 7-25-1988 as L.L. No. 4-1988]

§ 82-1. Findings; purpose; objectives.

A. It is hereby determined by the Town Board of the Town of Fort Edward that the landfilling, treatment and/or incineration of solid, liquid or any other waste within the Town of Fort Edward is likely to constitute a hazard and menace to the health and safety of the residents of the Town of Fort Edward.

B. It is further determined that the citizens of the Town of Fort Edward have vested legislative authority in its Town Board and that said Board is entrusted, among other duties, with the protection of the order, conduct, safety, health and well-being of persons and property therein and the protection and enhancement of said town's physical and visual environment.

C. It is further determined that the town, by local law, may exercise its police power to regulate all aspects of solid, liquid or any other waste within the Town of Fort Edward and to make appropriate rules, regulations, resolutions and laws intended to promote the general well-being of the persons and property situated therein.

§ 82-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

PERSON

Includes any individual, firm, partnership, corporation, municipality, association of persons or governmental agency.

§ 82-3. Disposal restricted; effect on recycling.

A. It shall hereafter be unlawful for any person or entity to landfill, treat, incinerate and/or store solid, liquid or any other waste (including but not limited to garbage, refuse, industrial and commercial waste, rubbish, ashes, incinerator residue, demolition and construction debris and all hazardous wastes) within the Town of Fort Edward except in the Town of Fort Edward landfill.

B. Nothing herein shall be construed to restrict or impede any lawfully conducted recycling operations within the Town of Fort Edward that are authorized by the Town Board of the Town of Fort Edward.

§ 82-4. Penalties for offenses.

[Amended 3-11-1996 by L.L. No. 1-1996]

Any person violating the provision of this Article shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.) for each offense (each day of a violation of terms of this chapter constitutes a separate offense) and/or by imprisonment of not more than fifteen (15) days and/or requiring the signing of an agreement with either a private waste hauler or arranging for weekly municipal pickup of solid waste from premises.

§ 82-5. Effect on solid waste contracts.

This Article, as adopted, shall not invalidate any solid waste contract to which the Town of Fort Edward is a party.

ARTICLE II. Collection and Disposal; Siting of Facilities

[Adopted 3-25-1991 as L.L. No. 2-1991]

§ 82-6. Title.

This Article shall be entitled "Regulation of the Siting, Collection and Disposal of Solid Waste and Other Waste and Materials in the Town of Fort Edward (Outside the Village of Fort Edward), Washington County, New York, 1991."

§ 82-7. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AGRICULTURAL WASTE

That waste, disposed of in a disposal area located within the property boundary of a farm, generated from that farm, to include crop residuals, animal manure and animal carcasses and parts generated from that farm, and shall also include those waste pesticides generated by the farmer who used them, if the farmer complies with Parts 325.4 and 325.5 of the New York Codes, Rules and Regulations.

ASBESTOS WASTE

Friable solid waste that contains more than one percent (1%) asbestos by weight and can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. Asbestos waste also includes any asbestos-containing solid waste that is collected in a pollution-control device designed to remove asbestos.

ASH RESIDUE

All the solid residue and any entrained liquids resulting from the combustion of solid waste or solid waste in combination with fossil fuel at a solid waste incinerator, including bottom ash, boiler ash, fly ash and the solid residue of any air-pollution-control device used at a solid waste incinerator.

BOTTOM ASH

The ash residue remaining after combustion of solid waste or solid waste in combination with fossil fuel in a solid waste incinerator that is discharged through and from the grates, combustor or stoker.

COLLECTOR

Any individual, association, partnership, firm or corporation in the business of collecting solid waste, other than their own solid waste.

COMBINED ASH

The mixture of bottom ash and fly ash.

CONSTRUCTION AND DEMOLITION DEBRIS

Uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of structures and roads; and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components, containing no hazardous liquids, and metals that are incidental to any of the above. Solid waste that is not "construction and demolition debris" (even if resulting from the construction, remodeling, repair and demolition of structures and roads and land clearing) includes but is not limited to asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids (such as fluorescent light ballasts or transformers), carpeting, furniture,

appliances, tires, drums and containers and fuel tanks. Specifically excluded from the definition of "construction and demolition debris" is solid waste (including what otherwise would be 'construction and demolition debris') resulting from any processing technique, other than that employed at a construction and demolition processing facility, that renders individual waste components unrecognizable, such as pulverizing or shredding.

COUNTY

The County of Washington.

FLY ASH

The ash residue from the combustion of solid waste or solid waste in combination with fossil fuel that is entrained in the gas stream of the solid waste incinerator and removed by the air-pollution-control equipment.

HAZARDOUS WASTE

A waste or combination of wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics:

- A. May cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
- B. May pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed;
- C. Appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to § 26-0903 of the Environmental Conservation Law; or
- D. Any municipality or governmental agency having appropriate jurisdiction shall determine to be so harmful, toxic or dangerous such that the health, safety or welfare of the public is at risk, or the operation of solid waste management facilities may be adversely affected.

HIGH-LEVEL RADIOACTIVE WASTE

As defined by 42 U.S.C. § 10101(12).

INDUSTRIAL WASTE

Solid waste generated by manufacturing or industrial processes. Such waste may include but is not limited to the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/ foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This

term does not include oil or gas drilling, production and treatment wastes (such as brines, oil and frac fluids); overburden, spoil or tailings resulting from mining; or solution mining brine and insoluble component wastes.

INFECTIOUS WASTE

Includes the following:

- A. Surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- B. Obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- C. Pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures.
- D. Biological waste, which consists of discarded excretions, exudates, secretions, suctionings and disposable medical supplies which have come in contact with these substances that cannot be legally discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- E. Discarded materials soiled with human emanations from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- F. All waste being discarded from renal dialysis, including tubing and needles.
- G. Discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin.
- H. Discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered noninfectious by autoclaving or other sterilization techniques.
- I. Animal carcasses exposed to pathogens in research, their bedding and other waste from such animals that is discarded.
- J. Other articles that are being discarded that are potentially infectious and that might cause punctures or cuts, including hypodermic needles, intravenous needles and intravenous tubing with needles attached, that

have not been autoclaved or subjected to a similar decontamination technique and rendered incapable of causing punctures or cuts.

LICENSED RADIOACTIVE WASTE

As defined by Section 38.23 of Title 12, Section 16.8 of Title 10 and Sections 380.3 through 380.5 of Title 6 of the Codes, Rules and Regulations of the State of New York.

LOW-LEVEL RADIOACTIVE WASTE

Those low-level radioactive wastes that are acceptable for disposal in a land disposal facility pursuant to the provisions of this Article. For the purpose of this Article, "low-level radioactive waste" has the same meaning as in the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021b, et seq.

POLYCHLORINATE BIPHENYLS

As defined by the Toxic Substances Control Act (TSCA, Public Law 94-469).

PUTRESCIBLE

The tendency of organic matter to decompose with the formation of malodorous by-products.

RECOVER

Any act or process by which recyclables are separated from the solid waste stream.

RECYCLABLE MATERIALS

Scrap or other materials of value, including but not limited to newspapers, corrugated box board, paper, glass, metals and plastics.

RECYCLABLES

Solid waste that exhibits the potential to be used repeatedly in place of a virgin material.

RECYCLABLES HANDLING AND RECOVERY FACILITY

A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream or at which previously separated recyclables are collected.

RECYCLE

To use recyclables in place of virgin materials in manufacturing a product.

RECYCLING

Separating, segregating, processing and recovering recyclable materials from solid waste for the purpose of future use, sale or other disposition.

RECYCLING FACILITY

Any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed in the pursuit of and for the purpose of recycling and for the purpose of storage, processing, packaging, selling, marketing or otherwise utilizing recyclable materials.

REFUSE

Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

RESIDUALS

Sludge, sewage sludge, septage, air-pollution-control facility waste or any other such waste having similar characteristics or effects, and solid waste remaining after the processing of solid waste by composting methods that was not made into compost suitable for use.

RESOURCE RECOVERY

The extraction, production and recovery of energy from solid waste by means of combustion.

RESOURCE-RECOVERY FACILITY

Any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the purpose of resource recovery.

SANITARY LANDFILL

A facility which includes types of operations in which solid waste is deposited by plan on a specified portion of open land, is compacted by force applied by mechanical equipment and then is covered by a layer of earth, all in accordance with or intended to be in accordance with Part 360 of the New York State Environmental Conservation Law, Rules and Regulations.

SLUDGE

Any solid, semi-solid or liquid waste generated from a wastewater treatment plant, water supply treatment plant or air-pollution-control facility, but does not include the treated effluent from a wastewater treatment plan.

SOLID WASTE

All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air- or water-treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

SOLID WASTE MANAGEMENT FACILITY

Any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom, including but not limited to transfer stations; rail-haul or barge-haul facilities; resource-recovery facilities or other facilities for reducing solid waste volume; sanitary landfills; plants and facilities for compacting,

composting or pyrolyzation of solid wastes, incinerators; and other solid waste disposal, reduction or conversion facilities. A "solid waste management facility" shall exclude a recycling facility.

SOURCE SEPARATION

The segregation of recyclable materials from the solid waste stream at the point of generation or collection for separate collection, sale or other disposition.

TOWN

The Town of Fort Edward.

TRANSFER STATION

A facility where solid waste is transferred by a collector, contractor or individual hauler to a container for transport to a sanitary landfill or other solid waste management facility but shall exclude a recycling facility.

TRANSURANIC WASTE

Radioactive waste containing alpha-emitting radionuclides of atomic number 93 or higher with a half-life greater than five (5) years and in concentrations greater than one hundred (100) nanocuries per gram.

§ 82-8. Legislative intent.

A. The preservation and improvement of the quality of the environment within the Town of Fort Edward in the face of growth, urbanization and change, with the accompanying demands on natural resources, farm lands and open space, are found to be of increasing and vital importance to the health, welfare and economic well-being of present and future inhabitants of the Town of Fort Edward and requires action by the governing body of the Town of Fort Edward. It is recognized that the integrity of the town's environment is in the natural beauty and farmlands of our surrounding community, which cannot be protected without the full cooperation and participation of all people of the Town of Fort Edward working in partnership with local, county and state officials together with enactment of local control through adoption of this Article.

B. The establishment of a local law which will facilitate an orderly program for the siting of, collection of and disposal of solid waste and other waste and materials within the Town of Fort Edward (outside the Village of Fort Edward), Washington County, is a necessary step to promote the welfare, convenience, health and safety of the citizens of the Town of Fort Edward and is necessary in creating a unified response to critical environmental issues within the town.

C. The following waste and other materials are subject to regulation under this Article:

- (1) Agricultural waste.

- (2) Asbestos waste.
- (3) Ash residue.
- (4) Construction and demolition debris.
- (5) Hazardous waste.
- (6) Infectious waste.
- (7) Polychlorinate biphenyls.
- (8) Sludge.
- (9) Solid waste.
- (10) Radioactive waste.
- (11) High-level radioactive waste.
- (12) Low-level radioactive waste.
- (13) Transuranic waste.
- (14) Recyclable materials.

D. The following facilities are subject to regulations under this Article:

- (1) Solid waste management facility.
- (2) Sanitary landfill.
- (3) Resource recovery facility.
- (4) Construction and debris landfill.
- (5) Facilities disposing of items identified in Subsection C above.

E. Furthermore, upon analysis of Fort Edward's waste stream, potential exists for expansion of efforts to increase waste reduction with on-going composting and recycling efforts which will further reduce the dependency upon solid waste facilities within this regard.

F. The Town of Fort Edward Town Board recognizes that solid waste management is a continuous process, and the town must consider the development of on-going regulations and policies for the siting, collecting, transporting, treating and disposing of solid waste, hazardous waste, polychlorinate biphenyls and other materials.

G. If Fort Edward is to achieve long-term success in implementing waste reduction, recycling goals and protecting the environment from potential siting of solid waste and related facilities without local regulations, this Article must be enacted.

H. It is the intent of the Town Board to assert its rights to establish its own procedures, standards and programs for the Town of Fort Edward so as to protect the town's residents by ensuring that safe, proper and suitable solid waste management programs exist within the borders of the Town of Fort Edward (outside the Village of Fort Edward).

§ 82-9. Purpose and application.

A. The Town Board of the Town of Fort Edward, pursuant to the powers of Municipal Home Rule Law § 10, the Town Law, Article 27 of the Environmental Conservation Law, the General Municipal Law and the Statute of Local Governments, hereby enacts this Article, which shall preempt and supersede Chapter 681, an act in relation to solid waste treatment and disposal in Washington County (1987).

B. The Town Board of the Town of Fort Edward, pursuant to the powers of Municipal Home Rule Law, § 10, the Town Law, Article 27 of the Environmental Conservation Law, the General Municipal Law and the Statute of Local Governments, hereby enacts this Article, which shall preempt and supersede Local Law No. 1 of 1991 of Washington County.

C. The Town of Fort Edward hereby exercises and retains its rights and powers by this Article to regulate and implement within the Town of Fort Edward (outside the Village of Fort Edward) the siting of solid waste and other facilities collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste and other materials, as specified in § 82-8, or the recovery by any means of any materials or energy product or resources therefrom, including delivery in any recycling efforts.

D. Notwithstanding any other law, general, specific or local, by the County of Washington, the Town of Fort Edward (outside the Village of Fort Edward), by its governing Board under this Article, the General Municipal Law, the

Municipal Home Rule Law, the Town Law, the Statute of Local Government and Article 27 of the Environmental Conservation Law, shall have the power to adopt and amend local laws, ordinances or regulations to enforce its powers and rights under this Article with respect to the delivery of solid waste to a specific solid waste management resource-recovery facility.

E. The Town of Fort Edward (outside the Village of Fort Edward) by its governing Board is authorized and empowered by this Article, the General Municipal Law, the Municipal Home Rule Law, the Town Law, Article 27 of the Environmental Conservation Law and the Statute of Local Governments to assign to any agency, municipality or private sector, in whole or in part, by contract:

(1) Upon the town's adoption or amendment of local laws, ordinances and regulations, the administration, implementation and contractual powers and authority, rights and privileges of such laws, ordinances and regulations; and

(2) The powers, authorities, rights and privileges conferred on the town, including the administration and implementation thereof, all on such terms and conditions as the town and the agency may agree.

F. The Town of Fort Edward (outside the Village of Fort Edward) by its governing Board is authorized and empowered by this Article, the General Municipal Law, the Municipal Home Rule Law, the Town Law, the Statute of Local Governments and Article 27 of the Environmental Conservation Law to enter into agreements with said County of Washington or other municipal entities or the private sector regarding siting of solid waste and other facilities as specified in § 82-8, disposal of materials as specified in § 82-8, solid waste collection, receiving, transporting, delivering, storing and processing within the Town of Fort Edward (outside the Village of Fort Edward).

§ 82-10. Inconsistency and supersession.

A. Insofar as the provisions of this Article are inconsistent with the provisions of any other act, general or specific, or any local law, ordinance or resolution of the County of Washington or other municipality or any enabling legislation powers granted to the County of Washington by the New York State Legislature, the provisions of this Article shall be controlling. This Article, enacted pursuant to Municipal Home Rule Law § 10 of the State of New York, Article 27 of the Environmental Conservation Law, the Town Law, the General Municipal Law and the Statute of Local Government, specifically supersedes New York Chapter 681 of Washington County, Solid Waste Treatment and Disposal (1987), as it relates to the ability and powers of Washington County in

the siting of solid waste facilities and other facilities, the collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste, other waste and polychlorinate biphenyls or recovery within the Town of Fort Edward (outside the Village of Fort Edward).

B. This Article, enacted pursuant to Municipal Home Rule Law § 10 of the State of New York, Article 27 of the Environmental Conservation Law, the Town Law, the General Municipal Law and the Statute of Local Governments, specifically supersedes Local Law No. 1 of 1991 of Washington County in all respects.

C. This Article furthermore supersedes any other chapters of New York State law and local laws or ordinances of the County of Washington which purported to grant enabling powers and legislation to Washington County regarding siting, collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste, other waste and materials as specified in § 82-8 or recovery within the Town of Fort Edward (outside the Village of Fort Edward).

D. This Article specifically supersedes any future chapters of New York State law granting enabling powers to Washington County and any future local laws or ordinances of Washington County regarding the siting of solid waste facilities and other facilities as specified in § 82-8, collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste or other waste or polychlorinate biphenyls and other materials as specified in § 82-8, or recovery within the Town of Fort Edward (outside the Village of Fort Edward).

E. This Article hereby asserts the powers and rights of the Town of Fort Edward to adopt and amend local laws within its borders so that any local laws, ordinances, amendments and legislative enabling powers enacted by Washington County shall not take precedent over and shall not supersede this Article or amendments or future local laws by Fort Edward relating to the rights of the Town of Fort Edward in siting of solid waste facilities and other facilities as specified in § 82-8, collecting, receiving, transporting, delivering, storing, processing and disposing of solid waste, other waste and other materials as specified in § 82-8 or recovery within the Town of Fort Edward (outside the Village of Fort Edward).

CHAPTER 85. STREETS AND SIDEWALKS

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§ 85-17. Intent; purpose.

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CHAPTER 85. STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

ARTICLE I. Notification of Defects

[Adopted 9-8-1986 by L.L. No. 1-1986]

§ 85-1. Written notification required.

A. No civil action shall be maintained against the Town of Fort Edward for damages to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition was received by the Clerk of the Town of Fort Edward or the Town Highway Superintendent and there was a failure or neglect, within a reasonable time after the giving of such notice, to repair or remove the defect, danger or obstruction complained of.

B. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon

any highway, bridge or culvert unless written notice thereof, specifying the particular place, was actually received by the Clerk of the Town of Fort Edward or the Town Highway Superintendent and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

§ 85-2. Notices to be transmitted to Clerk.

The Highway Superintendent of the Town of Fort Edward shall transmit, in writing, to the Clerk of the Town of Fort Edward, within 10 days after the receipt thereof, all written notices received by said Highway Superintendent pursuant to § 85-1 of this chapter.

§ 85-3. Records.

The Clerk of the Town of Fort Edward shall keep an indexed record, in a separate book, of all written notices which said Clerk shall receive pursuant to such chapter of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any town highway, bridge or culvert, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of five years after the date it is received.

ARTICLE II. Opening, Closing or Other Alterations

[Adopted 7-9-1990 as L.L. No. 7-1990]

§ 85-4. Findings.

The Town Board of the Town of Fort Edward hereby finds that its existing ordinances which apply to street openings are inadequate and do not vest the Superintendent of Public Works with sufficient flexibility to ensure that work is done in a proper manner. The Board further finds that inadequacy also exists in regards to the installment of culverts and unrelated drainage which accompanies the street openings. The Board therefore finds that it is necessary to adopt this Article in order to establish general standards governing the issuance of permits for street openings' proper drainage.

§ 85-5. Permit required.

A. No person, firm, association, corporation, special improvements district, public utility or municipal, state or other public district shall open, dig up, cut,

remove, lower, raise or create new accessor egress to or from any street or portion thereof within the jurisdiction of the town without first obtaining a permit from the Superintendent of Public Works.

B. Any person, firm, association, corporation or special improvement district may alter a street or portion thereof without first obtaining a permit if a condition exists which creates an immediate danger of personal injury or property damage, provided that application for a permit is made at the earliest possible opportunity, and further provided that said work shall be governed by all requirements which would have applied had a permit been obtained in advance of said work's being initiated.

§ 85-6. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

CULVERT

A conduit for conveying water through an embankment.

PERSON

An individual, a partnership, a corporation, an association, a joint-stock company, a trust, any unincorporated organization or a government or political subdivision thereof.

SIDEWALK

The area on each side of the road from the property line to the gutter line or, if there is a curb, to the roadway side of the curb.

STREET

Includes but shall not be limited to roads, gutters, driveways which lead into roads and curbs and sidewalks adjacent to roads.

§ 85-7. Issuance of permit.

A. Every application for a permit to open, dig up, cut, remove, lower, raise or in any other way alter any street or entranceway or expansions thereof, and installments of any culverts or drainage swales within the jurisdiction of the town, shall be in writing and shall state the purpose, extent, location and nature of the proposed work.

B. A fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. shall accompany every application for a permit, and, in addition, the applicant shall deposit with the Town Clerk such sum of money as is required by the Superintendent of Public Works.

[Amended 6-13-2005 by L.L. No. 6-2005]

C. Each application for a permit shall also be accompanied by a certificate of insurance, in an amount and in form approved by the Superintendent of Public Works and issued by an insurance company authorized to do business within the State of New York, running to the town, which insurance shall in no event be less than two hundred fifty thousand dollars/five hundred thousand dollars (\$250,000./\$500,000.) for bodily injury liability and no less than \$100,000 for property damage liability, to save the town harmless from all claims, actions or proceedings brought by any person for injury to person or property resulting from or occasioned by any fault or default by the town, its employees or agents, or by the person to whom the permit was issued or anyone acting thereunder. The policy shall also protect the town in a sum fixed by the Superintendent of Public Works, which shall in no event be less than \$10,000, against any damage caused to any street or other public property by reason of the work done pursuant to any permit issued hereunder.

D. The Superintendent of Highways is hereby empowered and authorized to utilize the engineering services of the Town Engineer for assistance with any permit submittal.

§ 85-8. Adoption of specifications.

The Superintendent of Public Works shall additionally adopt specifications related to the installment of culverts and related drainage. Said permit approval does not in any way provide responsibility for the continued maintenance of said culverts, whose responsibility rests with the property owner. Such specifications shall be formulated in such a manner as to ensure that the materials used are suitable for the particular purpose and that the work is performed in a safe and workmanlike manner. The applicant shall be required to conform with these specifications as a condition of the issuance of said permits.

§ 85-9. Notice of proposed work.

No work may be commenced under any permit granted pursuant to this Article unless or until such notice as shall be directed by the Superintendent of Public Works shall have been given public service corporations and such other entities, persons, associations or corporations as have lines, mains or other property in the streets so as to permit them to protect their property.

§ 85-10. Possession of permit required.

Each permit issued pursuant to the terms of this Article shall be at all times in the possession of the parties actually performing the work.

§ 85-11. Responsibility of town.

The town of issuance of any such permits assumes no responsibility for supervising the work of any applicant or for the work actually performed by any applicant and shall not be liable for the negligence of any such applicant.

§ 85-12. Action by town; cancellation of permit.

A. In the event that an unsafe condition is created in connection with any work being performed pursuant to a permit issued hereunder, which condition creates an immediate danger of personal injury or property damage, the town shall have the right to take whatever action is necessary and perform such work as is required to restore the same to a proper and safe condition, and the cost thereof shall be charged against the applicant and may be deducted from the deposit made by him or paid by the surety, as the case may be.

B. In the event that an applicant fails to abide by the specifications issued by the Superintendent of Public Works, the town shall have the right, after 24 hours' written notice to the applicant, if said applicant has not made satisfactory arrangements to correct the situation, to cancel the permit or otherwise take whatever action is necessary to remedy the applicant's noncompliance, and the cost thereof may be charged against the applicant and deducted from the deposit made by him or paid by the surety, as the case may be.

§ 85-13. Penalties for offenses.

A. Any person, firm, association, corporation, special improvement district, public utility or municipal, state or other public district which performs work without obtaining the permit required hereunder shall be liable to pay a penalty not to exceed \$250 for each day that work is conducted without such permit. In addition, such violation shall constitute disorderly conduct, and any such person committing said violation shall be and hereby is declared to be a disorderly person.

B. The town may prohibit the continuation of work being performed pursuant to a permit in the event that such work is being performed in a manner inconsistent with the specifications adopted by the Superintendent of Public Works. If the town issues an order in writing which requires said work to terminate and if the applicant and/or the person performing said work for the applicant fails to obey such order, then both the applicant and the person performing such work shall be deemed to have violated this article and shall be liable for a fine up to \$250 for each day that said work continues. Said order may be served on the applicant or the person performing said work for the

applicant by personal delivery, by telegram or by certified mail, return receipt requested. In addition, any such person committing said violation shall be and hereby is declared to be a disorderly person.

§ 85-14. Variances and waivers; exceptions.

A. The Superintendent of Highways is hereby empowered to issue a variance and waiver under the proper circumstance, provided that the integrity and legislative intent of the findings of the article are adhered to.

B. This chapter shall not apply to agricultural-related drainage; however, should drainage and/or related culvert work be used for nonagricultural purposes, a permit must be sought at that time for approval.

§ 85-15. Conflict with other provisions.

This article shall supersede all other local laws, ordinances, resolutions, rules and regulations of the Town of Fort Edward to the extent that they are inconsistent with this article.

ARTICLE III. Clearing of Snow

[Adopted 2-14-1997 by L.L. No. 2-1997]

§ 85-16. Title.

This article shall be known as the "Clearing of Snow From Sidewalks Within the Town of Fort Edward."

§ 85-17. Intent; purpose.

A. It is the general purpose and intent of this article to establish a policy for the clearing of snow from the sidewalks within the Town of Fort Edward, outside the Village of Fort Edward.

B. Said policy is needed to protect the public health, safety and general welfare of the citizens of the Town of Fort Edward.

§ 85-18. Legislative authority.

This article is enacted pursuant to § 10 of the Municipal Home Rule Law of the State of New York and § 130 of the Town Law of the State of New York.

§ 85-19. Definitions.

As used in this article, the following terms shall have the meanings indicated:

SIDEWALK

The area on each side of the road from the property line to the gutter line or, if there is a curb, to the roadway side of the curb that has a prepared cement, asphalt or other similar hard surface for the purpose of pedestrian traffic.

§ 85-20. Responsibility for clearing of snow.

A. The Town of Fort Edward shall be responsible for the clearing and removal of snow from all the sidewalks within the Town of Fort Edward, outside the Village of Fort Edward, that run parallel to and border on State Route No. 4 (Broadway), Burgoyne Avenue and Schuyler Street.

B. The owner and occupant of premises and property abutting on any street within the Town of Fort Edward, outside the Village of Fort Edward, other than the previously stated State Route No. 4, Burgoyne Avenue and Schuyler Street, where a sidewalk is laid has the responsibility to keep the sidewalk in front of said premises or property free and clear from snow and ice, and upon default thereof, the Town of Fort Edward may provide for the removal thereof at the expense of the owner of the premises or property and that charge shall become a lien upon the premises or property benefited thereby, until paid.

CHAPTER 87. SUBDIVISION OF LAND

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§ 87-27. Subdivider to attend meeting.

§ 87-28. Planning Board review of plat.

§ 87-29. Time of official submission.

§ 87-30. Planning Board action.

§ 87-31. Hearing; notice.

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CHAPTER 87. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 12-6-1988 by L.L. No. 8-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 54.
Mobile homes — See Ch. 71.
Zoning — See Ch. 108.

ARTICLE I. General Provisions

§ 87-1. Legislative authority and intent.

By the authority of the resolution of the Town Board of the Town of Fort Edward adopted on December 6, 1988, pursuant to the provisions of Article 16 of the New York State Town Law, the Fort Edward Planning Board is authorized and

empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to conditionally approve the preliminary plats within the Town of Fort Edward. It is declared to be the policy of the Planning Board to consider land subdivision plats for residential, industrial and commercial use as part of a plan for the orderly, efficient and economical development of the town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if enacted, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate its fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open space for parks and playgrounds.

§ 87-2. Title; legislative enactment.

These regulations, which shall be known as and which may be cited as the "Town of Fort Edward Land Subdivision Regulations," have been adopted by the Planning Board on April 2, 1988, and approved by the Town Board on December 6, 1988.

§ 87-3. Applicability; exemptions.

A. No subdivision of any lot, tract or parcel of land shall be effected and no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use and travel or the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of these regulations.

B. All plans for subdivision shall be submitted to the Fort Edward Planning Board for review and recording in the Planning Board's minutes.

C. The provisions contained herein shall apply to all land within the limits of the Town of Fort Edward.

D. For the purposes of these regulations, all divisions of property or uses involving two or more parcels or dwelling units, including but not limited to condominiums, cooperatives, townhouse development groups, planned unit

developments, planned development groups and cluster developments, shall be reviewed as subdivisions.

E. The following exemptions shall apply:

(1) Any sale of a small amount of land to correct the boundary of a lot, if such sale or exchange does not create additional lots, shall not constitute a subdivision.

F. Site plan approval shall also be required as specified in the Site Plan Review Article.

G. Where possible, it shall be the intent of the Planning Board to consolidate procedures and applications to promote an efficient and timely review.

H. The Subdivision Regulations of the Town of Fort Edward, as originally adopted by the Town Board on December 6, 1988, are hereby intended to apply to any and all applications and projects which commenced subsequent to the date of adoption, and said Subdivision Regulations are hereby not applicable to applications and projects commenced prior to December 6, 1988. Said subdivisions so undertaken shall not be subject to the Subdivision Regulations, and said regulations shall not be applied retroactively.

[Added 8-14-1989 by L.L. No. 8-1989]

I. A special use permit shall also be required for planned development groups as specified in the Special Uses Article.

[Added 6-13-2005 by L.L. No. 6-2005]

J. Subdivisions shall also comply with the requirements of the stormwater management and erosion and sediment control provisions of Chapter 56 of the Town Code.

[Added 6-12-2006 by L.L. No. 4-2006]

§ 87-4. Policies; restrictions.

It is declared to the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town of Fort Edward. This means, among other things:

A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Proper provisions shall be made for water supply, drainage, sewerage and other needed public improvements and utilities.

C. Proposed streets shall compose a convenient system conforming to the Official Map, Comprehensive Plan and Master Plan (if enacted).

D. Streets shall be of such width, grade and location as to accommodate present and prospective traffic and shall comply with the town highway specifications as a minimum as shown in § 87-47, Streets and roads.

E. All development shall facilitate adequate fire protection and provide access for fire-fighting equipment and other emergency equipment.

F. Open space for parks, playgrounds and green areas of suitable location, size and character shall be provided as required by the Planning Board.

G. The proposed development shall be aesthetically compatible with the existing development and character of the town.

§ 87-5. Self-imposed restrictions.

Nothing in these regulations shall prohibit the subdivider from placing self-imposed restrictions, not in violation of these regulations, on the development. Such restrictions, however, shall be indicated on the plat.

§ 87-6. Inconsistency with statute.

Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

ARTICLE II. Definitions and Word Usage

§ 87-7. Word usage.

For the purpose of these Subdivision Regulations, words used in present tense include the future; the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; the word "occupied" includes the words "designed for occupancy" or "intended to be occupied"; the word "may" is discretionary.

§ 87-8. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURE

The raising of crops, animals or animal products; limited forestry; the selling of products grown on premises; and any other commonly accepted agricultural operations. Incidental mechanical processing and sale of products grown on the premises are included in the definition.

AREA REGULATIONS

The regulations of building size, setbacks on yards, parking and loading requirements or similar regulations as specified in the Fort Edward Zoning Code, Editor's Note: See Ch. 108, Zoning. but excluding performance standards.

ARTERIAL STREET

See "street."

BOND

A written agreement issued by a qualified agent that guarantees the performance of a certain agreed upon activity or an equivalent consideration if the activity is not completed as required.

BUFFER ZONE

An unpaved, natural area without buildings designed to reduce the possibility of adverse impact on land or water quality and/or conflicts of land use between two or more areas. No parking or storage of vehicles of any kind or objects associated with the use of the property is permitted. When not inhabited with natural woody plants (i.e., trees and shrubs) sufficient to visually screen adjoining uses or zones, such "buffer area" shall be planted, regraded and/or fenced as approved.

BUILDING

Any structure covered by a roof, supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.

BUILDING INSPECTOR and/or ZONING ADMINISTRATOR

An individual empowered by the town to administer the provisions of these regulations, except as specified otherwise herein.

CENTRAL PRIVATE UTILITY

A sewage or water system which serves a subdivision and which is paid for with nonpublic funds and without special district taxation.

CLERK OF THE PLANNING BOARD

That person who shall be designated to perform the duties of the Clerk of the Planning Board for the purposes of these regulations.

CLERK, TOWN

The duly elected Clerk of the town, who shall act as Clerk of the Planning Board for purpose of accepting applications to forward to the Planning Board.

CLUSTER DEVELOPMENT

A planned development in which lots are plotted with less than the minimum lot size and dimension requirements cited in the area regulations for each zone in Article IV of the Zoning Ordinance for the Town of Fort Edward, Editor's Note: See Ch. 108, Zoning. but that have access to common open space that is a part of the overall development plan approved by the Planning Board, and the overall average density meets the requirements of Article IV.

COMMON OPEN SPACE

A parcel or parcels of land or an area of water, or a combination of land and water designated and intended for the private or public use or enjoyment of the space, and that may include such appurtenant structures that are necessary to allow the enjoyment of the space.

CONDOMINIUM

A multifamily project of one-family dwelling units which may consist of one, a part or more than one building wherein the real property title and ownership are vested in an owner who has an undivided interest with others in the common usage areas and facilities that serve the development. The means of administration and maintenance of common areas are mutually entered into by the respective owners.

CONDOMINIUM DEVELOPMENT, DETACHED UNITS

A condominium that involves the use of detached units, single-family or two-family. The total available land for use of the entire project must equal the sum of the permitted lot sizes of the total number of units in the zone(s) within which the project is located.

CROSSWALK or SIDEWALK

An accessway designed for pedestrian traffic and dedicated to public use.

CUL-DE-SAC

Minor streets with one end open for public access and the other terminating in a vehicular turnaround or also a dead-end street.

EASEMENT

Deeded authorization by a property owner for the use by another of any part of his property for a specified purpose.

ENGINEER or LICENSED PROFESSIONAL ENGINEER

A person licensed as a professional engineer by the State of New York.

HOMEOWNERS' ASSOCIATION or CONDOMINIUM AGREEMENT

If the subdivision is to be managed by a homeowners' association or condominium agreement, copies of their regulations and agreements indicating any restrictions shall be required by the Planning Board. If the subdivision is to be sold fee simple, copies of deeds indicating any restrictions shall be required by the Planning Board.

LANDSCAPING

The act of changing or enhancing the natural features, a plot, buffer zone, public open space or other area or portion of a lot (often as a beautifying feature of a building or land use) so as to make said area more attractive, to add visual screening and/or to provide safety features to assist in protecting life and property. This may be accomplished by adding lawns, trees, shrubs, etc., or through the sculpturing of the terrain (i.e., earth berms, ponds, walkways, retaining walls, rock outcrops, etc.) and/or installing lights, light poles, flagpoles, fences and traffic malls for the direction of traffic. This does not include any man-made object that exceeds the maximum height requirement for a structure in the zone district in which it is located.

LOT

A parcel of land having a distinct and defined boundary as described in a deed, occupied or capable of being occupied by a building or buildings and for accessory buildings and/or uses, including such open spaces as are required by these regulations, and having frontage on an existing or proposed road.

LOT, CORNER (DOUBLE-FRONTAGE)

A lot with two sides abutting existing or proposed streets.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision.

MARINA

Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

- A. The sale of marine products or services;
- B. The sale, lease, rental or charter of vessels of any type; or
- C. The sale, lease, rental or any other provision of storage, wharf space or mooring for vessels not registered to the owner of said facility, a member of the owner's immediate family, the owner or lessee of the immediately adjoining upland property, members of their immediate families or an overnight guest on said property.

MINOR SUBDIVISION

Any subdivision containing not more than three lots each fronting on an existing public street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining properties and not in conflict with any provision or portion of the Comprehensive Plan and/or Master Plan (if enacted).

MOORING

Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one point.

OFFICIAL MAP

The map established by the Town Board pursuant to § 270 of the New York State Town Law.

OPEN SPACE

Land not covered by buildings, pavement, open storage, mining operations or any other use that visually obscures the natural or improved landscape, except for recreation facilities.

OPEN SPACE RECREATION USE

Any recreation use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile, trail bike, jeep or all-terrain vehicle trail, cross-country ski trail, hiking and backpacking trail, bicycle trail, horse trail, playground, picnic area, public park, public beach or similar use.

PLANNED DEVELOPMENT GROUP

A structure or a group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative group and which has certain facilities in common, such as yards and open spaces, recreation areas, garages and parking areas.

[Added 6-13-2005 by L.L. No. 6-2005]

PLANNING BOARD or BOARD

The Planning Board of the town.

PLAT, FINAL, or SUBDIVISION PLAT

A drawing in final form, showing a proposed subdivision, containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

PLAT, PRELIMINARY

A drawing or drawings clearly marked "preliminary plat," showing the salient features of a proposed subdivision, as specified in these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PLAT, SKETCH, or SKETCH PLAN

A sketch of a proposed subdivision showing the information specified in these regulations to enable the subdivider to reach general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

REQUIRED IMPROVEMENTS

Any activities or improvements required by these regulations, except as may be waived by the Planning Board, including but not limited to streets and roads, utility installations, road ditches, drainage facilities and culverts, monuments and revegetation operations.

SERVICE DISTRICT

Any private or public entity which provides a public service to residents or all or any part of the town to include, among others, fire departments, water districts and sewer districts.

STREET

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, cul-de-sac, place or however otherwise designated, and includes the entire area within the right-of-way.

A. ARTERIAL STREETS AND HIGHWAYS — Those used or designed to be used primarily for fast or heavy traffic, whether existing or proposed.

B. COLLECTOR STREETS — Those that carry traffic from minor streets to the major system of arterial streets and highways." Collectors" may also serve as secondary arteries to carry some through traffic. A street which is the outlet toward an arterial street for more than 100 acres or is a main entrance to a residential development shall be considered a "collector street."

C. LOCAL STREETS — Those streets that are used primarily for access to the abutting properties.

D. MARGINAL ACCESS STREETS — Minor streets parallel to and adjacent to arterial streets and highways and that provide access to abutting properties and protection from through traffic.

E. DEAD-END STREET or CUL-DE-SAC — A street or a portion of a street with only one vehicular traffic outlet.

STREET PAVEMENT/CARRIAGEWAY

The wearing or exposed surface of the roadway used by vehicular traffic.

SUBDIVIDER or DEVELOPER

Any person, firm, corporation, partnership or association, or successors in interest to any such parties, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SURVEY

The determination of the location of land boundaries and natural and man-made objects by means of surveying instruments.

SURVEY MAP

A drawing made to scale, based upon survey measurements, showing land boundaries and natural and man-made objects, made by or under the direction of a New York State licensed land surveyor.

SURVEYOR

A person licensed to act as a land surveyor by the State of New York.

TOWN

The Town of Fort Edward in New York State.

TOWNHOUSE

A dwelling unit which is one of a series of units, having a common party wall between each adjacent unit, each with private outside entrance.

TOWNHOUSE DEVELOPMENT

A multiple-family dwelling project of individual single-family units arranged in a row of at least three such units each on its own separate lot of record and wherein each unit has its own front and rear access to the outside, no unit located over another unit, and each unit is separated from any other unit by one or more common walls.

TOWNHOUSE UNIT

An individual single-family dwelling unit within a townhouse development.

TOWN PLAN (COMPREHENSIVE PLAN)

A Comprehensive Plan, prepared by the Planning Board pursuant to § 272-a of the New York State Town Law, which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the town, and includes any unit or part of such plan separately prepared and an amendment to such plan or parts therein.

ZONING ORDINANCE

The duly enacted Zoning Ordinance of the Town of Fort Edward. Editor's Note: See Ch. 108, Zoning.

ARTICLE III. Application Procedure; Sketch Plans

§ 87-9. Approval required.

Wherever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

§ 87-10. Sketch plan.

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Clerk of the Planning Board at least 10 days prior to the regular meeting of the Board six copies of a sketch plan of the proposed subdivision, which shall comply with requirements of Article VII, for the purpose of classification (major or minor) and preliminary discussion.

§ 87-11. Approval of governmental agencies.

The owner of land shall determine the requirements of the appropriate governmental agencies whose approvals are required by these regulations and that must eventually approve any subdivision plat coming within their jurisdiction and shall so inform the Planning Board, in writing, as part of the sketch plan. Approval shall also be secured for intersection design and construction within state rights-of-way from the New York State Department of Transportation pursuant to Highway Law § 52.

§ 87-12. Purpose of sketch plan.

The purpose of the sketch plan review submittal is to provide a review of the proposed subdivision to:

A. Determine the extent of the proposed subdivision to determine the requirements, if any, of the State Environmental Quality Review Act. Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

B. Determine the requirements of the State Department of Health, the Department of Environmental Conservation and other state agencies whose approvals may be required by these regulations.

C. Determine the application of clustering as required under Article VII of these regulations.

D. Determine the requirements of local county and town agencies whose review and/or approvals may be required by these regulations.

E. Discuss the appropriateness of the proposed subdivision layout to the goals and objectives of Town Master Plan (if enacted) and other Articles of these regulations.

§ 87-13. Planning Board meeting; classification of subdivision.

A. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations of street improvements, drainage, sewerage, water supply, fire protection and similar

aspects as well as the availability of existing services and other pertinent information made on the sketch plan.

B. Classifications of the sketch plan may be made at this time by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. When the subdivision is classified by the Planning Board as a major or minor subdivision, a motion to that effect shall be made on the sketch plan. The Board may require, however, when it deems it necessary for protection of the public health, safety, welfare, SEQR review and environment, that a minor subdivision comply with all or some of the requirements as specified for major subdivisions. If the Sketch Plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in § 87-61 of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in § 87-62 of these regulations.

§ 87-14. Farming/agricultural classification.

Any division of land to be used for farming/agricultural purposes shall be a factor in determining the classification of a subdivision to be major or minor. If, upon review by the Planning Board, the Planning Board determines that the overall purpose of the proposed subdivision is agricultural, the classification shall be considered a minor subdivision.

§ 87-15. Planning Board determination and recommendations.

The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

§ 87-16. Fee for filing sketch plan.

[Amended 6-13-2005 by L.L. No. 6-2005]

The fee for filing a sketch plan shall be in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1.

ARTICLE IV. Minor Subdivisions

§ 87-17. Application.

Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so may require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article VII.

§ 87-18. Fees.

[Amended 6-13-2005 by L.L. No. 6-2005]

All applications for plat approval for a minor subdivision shall be accompanied by a fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule posted in the office of the Town Clerk. Additional fees in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule may be charged for review of revisions to the plat.

§ 87-19. Copies of plat.

Six copies of the subdivision plat shall be presented to the Clerk of the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.

§ 87-20. Subdivider to attend meeting.

The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plat.

§ 87-21. Time of official submission.

The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to which the complete application for plat approval accompanied by the required fee and all data required by Article VIII of these regulations has been filed with the Clerk of the Planning Board.

§ 87-22. Hearing; notice.

A public hearing shall be held by the Planning Board within 45 days from the time of submission of the subdivision plat for approval, provided that the plat meets all the requirements of this chapter. Said hearing shall be advertised in a newspaper of general circulation in the town at least 10 days before such hearing.

§ 87-23. Planning Board action.

The Planning Board shall, within 45 days from the date of the public hearing, approve, modify and approve or disapprove the subdivision plat.

ARTICLE V. Major Subdivision Preliminary Plat

§ 87-24. Application.

Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Article VIII, § 87-62, hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law, and Article VIII, § 87-62, of these regulations, except where a waiver may be specifically authorized by the Planning Board.

§ 87-25. Fees.

[Amended 6-13-2005 by L.L. No. 6-2005]

The application for conditional approval of the preliminary plat shall be accompanied by a fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule posted in the Town Clerk's office. An additional fee as shown on the Fee Schedule shall be charged for applications for planned development groups.

§ 87-26. Copies of plat.

Six copies of the preliminary plat shall be presented to the Clerk of the Planning Board at least 10 days prior to a regular monthly meeting of the Planning Board.

§ 87-27. Subdivider to attend meeting.

The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

§ 87-28. Planning Board review of plat.

The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets; their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangements; the future

development of adjoining land as yet unsubdivided; and the requirements of the Master Plan (if enacted), the Official Map and zoning regulations. Editor's Note: See Ch. 108, Zoning.

§ 87-29. Time of official submission.

The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by the required fee and all data required by Article VIII, § 87-62 of these regulations, has been filed with the Clerk of the Planning Board.

§ 87-30. Planning Board action.

Within 45 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat, and the grounds of a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions of the subdivision, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as granted preliminary approval and a copy filed in his office and a certified copy mailed to the owner.

§ 87-31. Hearing; notice.

Within 45 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the town at least 10 days before such hearing.

§ 87-32. Conditional approval of plats.

When granting conditional approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds or letters of credit that it will require as prerequisite to the approval of the subdivision plat. The action of the Planning Board and any conditions shall be

noted on three copies of the preliminary plat. One copy shall be returned to the subdivider, one retained by the Planning Board and one forwarded to the Town Board. Conditional approval of the preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any, prior to approval of the subdivision plat. The Planning Board may require additional changes and/or bond amounts as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

ARTICLE VI. Major Subdivision Final Plat

§ 87-33. Application; fee; resubmission.

[Amended 6-13-2005 by L.L. No. 6-2005]

The subdivider shall, within six months after the conditional approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision in final form using the approved application blank available from the Clerk of the Planning Board. All applications for plat approval for major subdivisions shall be accompanied by a fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. An additional fee as shown on the Fee Schedule shall be charged for applications for planned development groups. If the final plat is not submitted within six months after the conditional approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the preliminary plat.

§ 87-34. Copies of plat.

A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Clerk of the Planning Board with a copy of the application and three copies of the plat, the original and one true copy of all offers of concessions, covenants and agreements and two prints of all construction drawings at least 10 days in advance of the regular monthly Planning Board meeting at which it is to be officially submitted.

§ 87-35. Time of official submission.

The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least 10 days prior to

which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article VIII of these regulations, has been filed with the Clerk of the Planning Board.

§ 87-36. Endorsement of governmental agencies.

Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the New York State Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, county, state and federal agencies. Endorsement and approval by all government agencies shall be secured by the subdivider before official submission of the subdivision plat.

§ 87-37. Hearing; notice.

[Amended 4-14-2003 by L.L. No. 2-2003]

A public hearing may be held by the Planning Board, at the discretion of the Planning Board, within 45 days after the time of the submission of the subdivision plat for approval. This hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing.

§ 87-38. Planning Board action.

The Planning Board shall, within 45 days from the date of the public hearing on the subdivision plat, approve, modify and approve or disapprove the subdivision plat. However, the subdivision plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has completed with the provisions of Article V of these regulations.

§ 87-39. Approval and filing.

Upon completion of the requirements in Articles IV and V above and notation to that effect upon the subdivision plat, it shall be deemed to have the final approval and shall be properly signed by the Planning Board Chairman or Acting Chairman and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 90 days of the date upon which such plat is approved or by reasons of the failure of the Planning Board to act shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of 90 days.

§ 87-40. Revision after approval.

No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 87-41. Approval not to constitute acceptance of land.

The approval of the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or open space shown on such subdivision plat.

ARTICLE VII. General Requirements and Design Standards

§ 87-42. Standards to be minimum requirements.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article X herein.

§ 87-43. Character of land.

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

§ 87-44. Conformity to map and plan.

Subdivisions shall conform to the Official Map of the town and shall be in harmony with the Comprehensive Plan.

§ 87-45. Conformity to town specifications.

All required improvements shall be constructed or installed to conform to the town specifications, which may be obtained from the Town Engineer.

§ 87-46. Preservation of existing features; topsoil removal.

Existing features which would add value to residential development, such as large trees, watercourses, historic spots and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision.

Development shall cause minimum disturbance to existing landscaping. Topsoil shall not be removed from the site except with the approval of the Planning Board.

§ 87-47. Streets and roads.

A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire-fighting, snow removal and other road-maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

B. Relation to topography. Streets shall be logically related and conform insofar as possible to original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.

C. Block size. Block dimensions shall be at least twice the minimum lot depth and generally not more than 12 times the minimum lot width. In long blocks, the Planning Board may require the dedication through the block of a twenty-five-foot-wide easement to accommodate utilities or pedestrian traffic.

D. Intersections. Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at important traffic intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles, but in no instance shall the angle be less than seventy degrees (70°), and grades shall be limited to 1%. All street intersection corners shall be rounded by curves of at least 25 feet in radius at the property line.

E. Visibility at intersections. Within the triangular area formed at corners by the intersecting street lines, for a distance of 40 feet from their intersection and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Nothing in the way of fences, walls, hedges or other landscaping shall be permitted to obstruct such visibility.

F. Design and construction standards. Streets shall meet standards which will be established by Town Highway Superintendent and Town Engineer, unless otherwise indicated on the Master Plan (if enacted).

G. Dedication. The Town Board shall, in consideration of an offer of dedication of roadway, have the right to reject the same if all other municipal improvements concerning the lots fronting on the said roadway are not also complete. No street shall be accepted between November 1 and May 1. In making said offer of dedication, the subdivider shall submit the following documents to the Town Attorney:

(1) An abstract of title continued to recent date showing marketable title to the premises offered for dedication or, in the alternate, a policy of title insurance insuring the fee interest of said roadway to the Town of Fort Edward in an amount to be determined by the Town Board.

(2) A copy of the survey of the subject roadway, certified to the Town of Fort Edward by the person preparing the same, acceptable to the Town Engineer.

(3) A continued tax search of subject premises.

(4) A written review by the Highway Superintendent and Town Engineer.

(5) If surfacing material has not been applied, then a certified check, bond or letter of credit in an amount recommended by the Town Highway Superintendent and Town Engineer to cover the cost of satisfactorily completing construction of said roadway.

(6) An affidavit signed by the subdivider agreeing to complete surfacing of the roadway within two years or when 90% of the units are completed, whichever is less. Said subdivider shall bear the expense of any paving cost overruns if the certified check, bond or letter of credit on deposit with the town, with accrued interest, should be an insufficient amount. The letter of credit shall be an irrevocable letter of credit, and the town shall require that the letter of credit be presented to a local confirming bank. The draft demand for payment shall be accompanied by a sworn statement, signed by the appropriate official of the town (Town Supervisor), stating the developer is in default. In addition, should any amount of moneys remain after surfacing is satisfactorily completed, said moneys, plus accrued interest, shall be refunded to the subdivider.

H. Continuation of streets into adjacent property. Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and particularly where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street

temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround, a minimum of 50 feet in radius, shall be provided on all temporary dead-end streets with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.

I. Inspection of improvements. If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board and the Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on the previously approved plat.

J. Permanent dead-end streets (culs-de-sac). Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary a distance of not less than 100 feet. Reserve strips of land shall not be left between the end of a proposed street and adjacent pieces of property. However, the Planning Board may require the dedication of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. A circular turnaround with a minimum right-of-way radius of 65 feet shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets should, in general, be limited in length to 800 feet.

K. Street names. All streets shall be named, and such names shall be subject to the approval of the Town Board. Names shall be sufficiently different in sound and spelling from other street names in the town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.

L. Improvements. Streets shall be graded and improved with pavement, street signs, sidewalks, streetlighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains and fire hydrants and underground electric cable television and telephone services, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite to the interest of public health, safety and general welfare.

M. Underground utilities. Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location

and repair of the lines, and the subdivider shall install underground service connections to the property line of each lot before the street is paved.

N. Grading and improvements shall conform to the town minimum road specifications and other town standards and shall be approved as to design and specifications by the Town Engineer or other duly designated Town Official.

§ 87-48. Lots.

A. Arrangement. The arrangement of lots shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions in locating a building on each lot and in providing access to buildings on such lots from an approved street. All lots shall be numbered by the system used by the Assessor of the Town of Fort Edward.

B. Access across watercourses. Where a watercourse separates the buildable area of a lot from the access street, provisions shall be made for the installation of a culvert or other structure, of a design approved by the Town Engineer or a duly designated town official. Nothing in this section shall conflict or supersede provisions of the New York State Freshwater Wetlands Act, Editor's Note: See § 24-0101 et seq. of the Environmental Conservation Law. if applicable.

C. Side lot lines. Side lot lines shall be at right angles or radial to the street lines unless a variation from this rule will give a better street or lot plan.

D. Access from major streets. Lots shall not, in general, derive access exclusively from a major street Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street.

§ 87-49. Parks and playgrounds.

A. Purpose. The purpose of this section is to provide an equitable and effective development standard for securing adequate land for parks, playgrounds and open space recreation uses in subdivisions throughout the town.

B. Land dedication. The subdivider proposing land dedication shall file with the Town Board a plat detailing the sites for the development of a park, playground or other recreational facility. Recreation space shall be provided by the subdivision on the basis of at least 1,000 square feet per lot but in no case shall the amount be more than 10% of the total area of the subdivision. Such

area or areas may be dedicated to the town by the developer if the Town Board approves such dedication. All lands designated on the plat as park, playground or other recreation area not in town ownership shall be subject to such conditions as the Planning Board may establish, such as hours of operation, access to the general public, use and maintenance of such lands as deemed necessary to assure the preservation of such land for their intended purposes. Such conditions shall be shown on the plat prior to plat approval and recording. The Planning Board shall consider the following in determining the suitability of the served land for recreational purposes:

- (1) The size and shape of the reserved land.
- (2) Whether the land is usable land, which, for purposes of these regulations, shall be taken to mean land that is relatively level and dry.
- (3) The location of the reserved land, i.e., whether the land is:
 - (a) Located in an area which is heavily populated.
 - (b) Near other recreation areas.
 - (c) Near other recreation areas providing the same type of recreation.
 - (d) In a location which will provide a safe and accessible recreation area for town residents.

C. Fee in lieu of land. When requested by the subdivider, or in cases where the Board finds that, due to the size, shape, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, the Town Board may waive the requirement that the plat show land for such purposes. The Board shall then require as a condition of approval of the plat a payment of recreation fees in lieu of land, such amount shall be in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. Such amount shall be paid to the Town Board at the time of final plat approval, and no plat shall be approved by the authorized officer of the Planning Board until such payment is made. Such payments shall be held in a special fund for acquisition and development of recreation land, All money in this fund is to be used only for:

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(1) The purchase of land that is suitable for new or enlarged parks, playgrounds or open spaces and located so as to serve the inhabitants of the town's residential neighborhoods; and

(2) The improvement of new or existing park, playground and open space lands which serve the Town's residential neighborhoods.

D. In any case, the Planning Board shall be satisfied that required recreation land will be maintained and will not be used for other than recreation purposes.

E. Nothing in this section will be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

F. The Planning Board shall not at any time authorize the waiver of both the land dedication and fee-in-lieu-thereof requirements.

§ 87-50. Reservation for street alignment.

Where the subdivision borders an existing street and the Official Map or Comprehensive Plan or Master Plan (if enacted) indicates plans for realignment or widening of the streets that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plan "reserved for street alignment (or widening) purposes."

§ 87-51. Utility and drainage easements.

Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

§ 87-52. Pedestrianway easements.

The Planning Board may require, in order to facilitate pedestrian access from street to schools, parks, playground or other nearby streets, perpetual unobstructed easements at least eight feet in width.

§ 87-53. Water systems.

A. All components of the water system shall meet the requirements of the Water Department and the Rural Water Supply Manual of the New York State

Department of Health and the New York State Department of Health Regulations for Realty Subdivisions. Hydrants shall meet town standards.

B. Supply. A source of supply shall be developed which yield 100 gallons per resident in approximately 16 hours over a prolonged period of time without disturbing the normal groundwater reserve.

C. Quality. Water supplies for community water systems shall meet all requirements of the New York State Public Drinking Water Standards.

§ 87-54. Sanitary sewers.

A. Where an existing sanitary sewer is within 500 feet of the subdivision and within the sewer district, the developer shall extend it to accommodate the proposed subdivision. All elements of the system must be approved by the sewer districts of Washington County and the Town of Fort Edward, the State Department of Environmental Conservation and the State Department of Health.

B. Individual septic systems. Where the daily discharge of sanitary sewage into an individual system for an individual residential structure is less than 1,000 gallons per day per structure, the waste treatment (septic) system shall be designed and constructed according to the provisions and standards of the Waste Treatment Handbook, Individual Household Systems (bluebook), New York State Department of Health, Division of Sanitary Engineering, as amended.

C. Combined septic systems. Where the daily discharge from a structure, group of structures or units into a single sewage treatment system exceeds 1,000 gallons per day, the standard and approval of the New York State Department of Environmental Conservation will be required.

§ 87-55. Drainage.

Drainage shall meet a ten-year- or twenty-five-year-storm maximum velocity of water; maximum runoff cannot exceed predevelopment stage.

A. General. A storm drainage plan must be approved by the Planning Board encompassing all drainage elements for the drainage of the subdivision, areas feeding the subdivision and areas downstream from the subdivision. In designing for storm drainage, the Water Pollution Control Federation Manual of Practice on Design and Construction of Sanitary and Storm Sewers (MOP-9) shall be used as a guide. The procedures of the manual are not binding, and

other good engineering practices may be accepted as approved by the Town Engineer.

B. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.

C. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Ordinance Editor's Note: See Ch. 108, Zoning. in the watershed.

D. Responsibility from drainage downstream. The subdivider's engineer may also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

E. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

§ 87-56. Board to issue permit.

When the Planning Board renders final approval of a subdivision, the Board shall issue a permit authorizing the subdivision to undertake terms and conditions for control therein.

§ 87-57. Landscape plan.

A landscape plan shall be prepared by a licensed landscape architect for subdivisions of 20 lots or more. Such landscape plan shall include:

- A. The location and species of street trees, if retained within the right-of-way or proposed to be planted by the subdivider.
- B. Details of methods of tree protection and tree planting.
- C. Plans and details of any site improvements related to park or recreation planning, including layout, grading, planting and details of any improvements.
- D. Plans and details of any other public amenities provided in the subdivision.
- E. The date and scale.
- F. The title under which the proposed subdivision is to be recorded with the names of the owner and landscape architect who prepared the landscape plan; the license number and seal of the landscape architect shall be affixed to the drawing.

§ 87-58. Cluster developments.

In order to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the standards and procedures:

A. Standards.

- (1) No such modification by the Planning Board shall result in a greater overall density of lots or dwelling units than is permitted in the zoning district wherein such lands lie, as specified in the Zoning Ordinance. Editor's Note: See Ch. 108, Zoning.
- (2) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Zoning Ordinance. Editor's Note: See Ch. 108, Zoning.
- (3) The minimum acreage to which this section may be applicable shall be five times the minimum lot area for the zoning district involved.
- (4) In the event that the utilization of this section results in a plat showing lands available for park, recreation or other municipal purposes directly

related to the plat or in a plat showing lands to be retained in open space in order to comply with the average density of lots, the Planning Board may establish, in the case of lands for park, recreation or other municipal purposes, such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the reservation of such lands for their intended purposes, and, further, in the case of lands to be retained in open space, it may require that such lands be restricted by deed restriction, restrictive covenant, conveyance of a scenic easement or other conservation restriction to the town, or other appropriate means against development of land use inconsistent with their retention.

§ 87-59. Ownership to be labeled.

Ownership shall be clearly marked on the plat for all reservations.

ARTICLE VIII. Required Data and Plat Information

§ 87-60. Sketch plan.

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted, showing the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers.
- E. All utilities available and all streets which are either proposed, mapped or built.
- F. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.

G. All existing restrictions on the use of land, including easements, covenants or zoning lines.

§ 87-61. Minor subdivision plat.

In the case of minor subdivision only, the subdivision plat application shall include the following information:

A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer and shall be referenced and shown on the plat.

C. The proposed subdivision name and the name of the town and county in which it is located.

D. The date, North point, map scale and name and address of record owner and subdivider.

§ 87-62. Major subdivision preliminary plat.

The following documents shall be submitted for preliminary or conditional approval.

A. Five copies of the preliminary plat, prepared at a scale of 50 feet to the inch, showing:

(1) The proposed subdivision name, name of town and county in which it is located, date, true North point, scale and name and address of record owners, subdivider and engineer or surveyor, including license number and seal.

(2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.

(3) The zoning district, including exact boundary lines of the district, if more than one district, and any proposed changes in the zoning district lines and/or the Zoning Ordinance text applicable to the area to be subdivided.

(4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

(5) The location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas and other significant existing features for the proposed subdivisions and adjacent property.

(6) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.

(7) Contours, with intervals of two feet or less, as required by the Board, including elevations on existing roads. A grading plan shall be prepared to show approximate finished grades of all areas of grading.

(8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.

(9) Waterlines.

(a) The location and size of all proposed water lines, valves, hydrants and sewer lines and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; and profiles of all proposed water and sewer lines.

(b) Specifications for the above are to be furnished by the Town Board.

(10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles.

(11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase and the location of manholes, basins and underground conduits.

(12) Designs of any bridges or culverts which may be required.

(13) The proposed lot lines with dimensions and area of each lot.

(14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under

private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision of the Official Map.

(15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer and shall be referenced and shown on the plat.

(16) If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract, shall be submitted. The part of subdivider's entire holding submitted shall be considered in the light of the entire holdings.

(17) A copy of such covenants of deed restrictions as are intended to cover all or part of the tract.

§ 87-63. Major subdivision final plat.

A. The following documents shall be submitted for plat approval:

(1) The plat to be filed with the County Clerk shall be printed upon linen or mylar or be clearly drawn in India ink upon tracing cloth. The sheets shall include a margin for binding of two inches, outside the border, along the left side and a margin of one-half (1/2) inch outside of the border along the remaining sides. The plat shall be drawn at a scale of 50 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

B. The plat shall show:

(1) The proposed subdivision name or identifying title and the name of the town and county in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor and/or licensed engineer.

(2) Street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.

(3) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the New York State Plane Coordinates System East Zone and, in any event, should be tied to reference points previously established by a public authority.

(4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All bearings and distances of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundary of the property location, graphic scale and true North point.

(5) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Town Engineer. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.

(6) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least 3/4 inch (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.

(7) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Authorized Engineer.

C. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities, shall be included.

ARTICLE IX. Improvements and Agreements

§ 87-64. Improvement and bond procedure.

Before the Planning Board enacts final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A or B below:

A. In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Said subdivider may also provide a letter of credit. The letter of credit shall be an irrevocable letter of credit, and the town shall require that the letter of credit be presented to a local confirming bank. The draft demand for payment shall be accompanied by a sworn statement, signed by the appropriate official of the town (Town Supervisor), stating that the developer is in default. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

B. The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety.

C. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and an as-built plan map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection B, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer.

§ 87-65. Consultants; fees and deposits.

A. The Planning Board may employ consultants, legal counsel, professional engineers and/or inspection services for their assistance and advice in the review of any application before it and for such purposes as the Planning Board may require therefor, including on-site investigation, evaluation and inspection; verification of the accuracy of information submitted; evaluation of the adequacy of plans, of the sufficiency of submitted reports, flood hazard evaluation; and study of the impact of proposals upon the resources and environment of the town; preparation and/or review of environmental impact

statements; review of the design and layout of improvements; inspection of installed improvements; and such other services or technical assistance as the Planning Board shall deem necessary for its review of such application and for the administration of these regulations in relation thereto.

B. All costs incurred for such services shall be borne by the subdivider; as further provided below, deposits shall be required in advance to cover the estimated costs of said services. Such deposits shall be in the amounts adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule. Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. Fees for the preparation of, or review of, environmental impact statements shall be as determined by 6 NYCRR, Part 617, adopted pursuant to Article 8 of the Environmental Conservation Law.

[Amended 6-13-2005 by L.L. No. 6-2005]

C. Deposits due for such said services as are deemed by the Planning Board to be required for its appropriate review of any particular application shall be filed by the subdivider, or his duly authorized agent, with the Town Clerk by certified check endorsed to the Town of Fort Edward. An application shall not be complete until all such aforementioned deposits have been received; no application shall be deemed complete by the Planning Board until the requirements of this section have been complied with.

D. In like manner, deposits required for such services as are related to the development of a plat and the installation of improvements therein shall be filed in the Town Clerk's office before final plat approval (signing of the plat by the duly authorized officer of the Planning Board).

E. The balance of such deposits, if any, remaining in excess of such incurred costs shall be returned by the Town Board to the depositor, or paid to the order of the depositor, without payment of interest.

F. Any deficiency in the amount of such deposits to cover such incurred costs in full shall be submitted to the Town Clerk on or before the specified due date; building permits and/or certificates of occupancy may be withheld for construction within a plat for which any balance of such an amount due remains unpaid until said balance has been duly submitted in full.

§ 87-66. Modification of designs.

If at any time before or during construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions

make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waive or substantial alteration of the function of any improvements required by the Board. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

§ 87-67. Inspections; report.

A. At least seven days prior to commencing construction of required improvements, the subdivider shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

B. If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board and the Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 87-68. Utilities.

The Planning Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved subdivision plat.

§ 87-69. Monuments.

Permanent monuments shall be set at block corners and at the beginning and end of all curves and at such other points are necessary to establish definitely all lines of the plat, except those outlining individual lots. In general, permanent monuments shall be placed at all critical points necessary to correctly lay out any lot in the subdivision.

ARTICLE X. Variances and Waivers

§ 87-70. Variances.

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Ordinance, Editor's Note: See Ch. 108, Zoning. if such exists.

§ 87-71. Waivers.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not necessary in the interest of the public health, safety, general planning and welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

§ 87-72. Planning Board objectives.

In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

ARTICLE XI. Environmental Quality Review

§ 87-73. Coordination with statute.

To the greatest extent possible, the procedures prescribed in Article 617 of the State Environmental Quality Review Act Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law. have been incorporated into the procedures described in these regulations. Time periods for the conduct of public hearings in order to coordinate the state environmental quality review process with other procedures relating to the review and approval of actions may affect the subdivision review process. When this occurs, applicants may be requested to extend the scheduled review period to accommodate the state environmental quality review process.

A. Sketch plan review.

- (1) The subdivider shall, as part of the sketch plan submittal, include the short form EAF (environmental assessment form).

(2) The Planning Board shall, as part of their review of the sketch plan submittal, determine whether the action is subject to state environmental quality review. If the action is exempt, an excluded action or a Type II action, the subdivider shall not be required to submit further information. If the action is Type I or unlisted, the subdivider will be required to submit further environmental information in accordance with state environmental quality review requirements as part of the preliminary subdivision review application.

(3) If the project is a Type I action, the Planning Board shall mail a copy of the sketch plan and short form EAF to all other agencies involved in the review of approvals required for construction of the subdivision, notifying such agencies that, within 30 days of the date the sketch plan and short form EAF was mailed, a lead agency must be designated.

(4) If the town has been designated the lead agency, the town shall schedule a scoping meeting. Such meeting will identify all issues to be addressed in the EAF form to be submitted for preliminary plat review.

B. Preliminary plat review.

(1) If the action is determined to be Type I or unlisted, the subdivider shall submit the long form EAF (environmental assessment form) as part of the preliminary plat submission.

(2) The Planning Board shall mail a copy of the completed EAF and application for preliminary plat review to all other involved agencies.

(3) Within 45 days of mailing or within 15 days of its receipt of any information, it may need to make the determination of significance, whichever occurs later, the Planning Board (if lead agency) shall determine the significance of the action and immediately notify all other involved agencies of its determination.

(4) If the Planning Board determines that an environmental impact statement (EIS) is required, it shall immediately notify the subdivider and all other agencies involved.

(5) Because of the extended time required to prepare, submit, review and approve an EIS, the Planning Board, with approval of the subdivider, shall extend the time required for approval of the preliminary plat in accordance with preliminary plat review.

CHAPTER 89. SWIMMING POOLS

§ 89-1. Use restricted to residents.

§ 89-2. Guests.

§ 89-3. Schedule.

§ 89-4. Food and drink.

§ 89-5. Lifeguard.

§ 89-6. Showers.

§ 89-7. Effect of restrictions.

§ 89-8. Posting of regulations.

§ 89-9. Penalties for offenses.

CHAPTER 89. SWIMMING POOLS

[HISTORY: Adopted by the Town Board of the Town of Fort Edward at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 89-1. Use restricted to residents.

The pool and its use shall be restricted to the residents of the Village of Fort Edward and the Town of Fort Edward.

§ 89-2. Guests.

It is acknowledged that families in the village and town shall have guests during the summer, and these guests shall be allowed the use of the pool at the discretion of the Pool Director.

§ 89-3. Schedule.

The Pool Director will establish a schedule for its use by children of different ages and by adults.

§ 89-4. Food and drink.

There shall be absolutely no food or drink consumed within the enclosed area of the pool.

§ 89-5. Lifeguard.

There shall be at least one (1) lifeguard on duty during the period the pool is open.

§ 89-6. Showers.

All users of the pool shall be compelled to take a shower before entering the pool area.

§ 89-7. Effect of restrictions.

The restrictions regarding the use of the pool by residents shall remain in effect until such time as the Recreation Commission and the Town Board shall determine that the restriction shall be removed.

§ 89-8. Posting of regulations.

The Recreation Commission shall post within the swimming pool area a notice incorporating these regulations and rules of the Town Board.

§ 89-9. Penalties for offenses.

Any person violating this chapter subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both, for each offense.

CHAPTER 92. TAXATION

ARTICLE I. Senior Citizens Real Property Exemption

§ 92-1. Purpose.

§ 92-2. Exemption granted; graduated schedule of income eligibility.

ARTICLE II. Industrial and Commercial Tax Exemption

§ 92-3. Establishment of Industrial and Commercial Incentive Board.

§ 92-4. Exemption granted.

ARTICLE III. Exemption for Persons With Disabilities

§ 92-5. Purpose.

§ 92-6. Exemption granted; graduated schedule of income eligibility.

ARTICLE IV. Alternative Veterans Exemption From Real Property Taxation

§ 92-7. Purpose.

§ 92-8. Exemption granted.

ARTICLE V. Cold War Veterans Exemption

§ 92-9. Purpose.

§ 92-10. Definitions.

§ 92-11. Amount of exemption.

§ 92-12. Limitations; application for exemption.

§ 92-13. When effective.

CHAPTER 92. TAXATION

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

ARTICLE I. Senior Citizens Real Property Exemption

[Amended in its entirety 1-8-2007 by L.L. No. 1-2007]

§ 92-1. Purpose.

The purpose of this article is to grant a partial exemption from taxation to a maximum extent of 50% of the assessed valuation of real property which is owned by one or more persons 65 years of age or over who meet the requirements set forth in § 467 of the Real Property Tax Law.

§ 92-2. Exemption granted; graduated schedule of income eligibility.

Real property which qualifies for exemption pursuant to the provisions of Real Property Tax Law § 467 is hereby exempted from taxation by the Town pursuant to the following schedule:

Annual Combined Income	Percentage of Assessed Valuation Exempt From Taxation
Up to \$16,000	50%
\$16,001 to \$17,000	45%
\$17,001 to \$18,000	40%
\$18,001 to \$19,000	35%
\$19,001 to \$19,900	30%
\$19,901 to \$20,800	25%
\$20,801 to \$21,700	20%
\$21,701 to \$22,600	15%
\$22,601 to \$23,500	10%
\$23,501 to \$24,400	5%

ARTICLE II. Industrial and Commercial Tax Exemption

[Adopted 1-10-1977 by L.L. No. 1-1977]

§ 92-3. Establishment of Industrial and Commercial Incentive Board.

Editor's Note: Original Section 1, which provided that no exemption would be allowed without the recommendation of the Board and which section immediately preceded this section, was repealed 6-27-1988 by L.L. No. 3-1988. An Industrial and Commercial Incentive Board may be established in the Town of Fort Edward consisting of not more than five members nor less than three members, to be appointed by the Supervisor and to serve for a term of three years.

§ 92-4. Exemption granted.

[Amended 6-27-1988 by L.L. No. 3-1988]

Any real property tax exemption shall in no event exceed the maximum exemption granted by § 485-b of the Real Property Tax Law of the increase in assessed valuation thereof attributable to such construction, alteration, installation or improvement; provided, however, that the extent of such exemption shall be decreased by 5% each year. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the State Board of Equalization and Assessment.

ARTICLE III. Exemption for Persons With Disabilities

[Added 1-8-2007 by L.L. No. 1-2007]

§ 92-5. Purpose.

The purpose of this article is to grant a partial exemption from taxation to a maximum extent of 50% of the assessed valuation of real property which is owned by one or more persons with disabilities who meet the requirements set forth in § 459-c of the Real Property Tax Law.

§ 92-6. Exemption granted; graduated schedule of income eligibility.

Real property which qualifies for exemption pursuant to the provisions of Real Property Tax Law § 459-c is hereby exempted from taxation by the Town pursuant to the following schedule:

Annual Combined Income	Percentage of Assessed Valuation Exempt From Taxation
Up to \$16,000	50%

Annual Combined Income	Percentage of Assessed Valuation Exempt From Taxation
\$16,001 to \$17,000	45%
\$17,001 to \$18,000	40%
\$18,001 to \$19,000	35%
\$19,001 to \$19,900	30%
\$19,901 to \$20,800	25%
\$20,801 to \$21,700	20%
\$21,701 to \$22,600	15%
\$22,601 to \$23,500	10%
\$23,501 to \$24,400	5%

ARTICLE IV. Alternative Veterans Exemption From Real Property Taxation

[Added 1-8-2007 by L.L. No. 1-2007]

§ 92-7. Purpose.

The purpose of this article is to provide for the maximum veterans exemption allowable pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 92-8. Exemption granted.

Pursuant to the provisions of Subdivision 2(d) of § 458-a of the Real Property Tax Law of the State of New York, the maximum veterans exemption allowable from Town real property taxes is established as follows:

A. Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$27,000 or the product of \$27,000 multiplied by the latest state equalization rate for the Town.

B. In addition to the exemption provided by Subsection A of this section, where the veteran served in a combat theater or combat zone of operations, as

documented by the award of a United States campaign ribbon or service medal or the Armed Forces Expeditionary Medal, Navy Expeditionary Medal, Marine Corps Expeditionary Medal, or Global War on Terrorism Expeditionary Medal, qualifying residential real property also shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$18,000 or the product of \$18,000 multiplied by the latest state equalization rate for the Town.

C. In addition to the exemptions provided by Subsections A and B of this section, where the veteran received a compensation rating from the United States Veterans Administration or the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veteran's disability rating; provided, however, that such exemption shall not exceed the lesser of \$90,000 or the product of \$90,000 multiplied by the latest state equalization rate for the Town. For purposes of this subsection, where a person who has served in the active military, naval or air service during a period of war died in service of a service-connected disability, such person shall be deemed to have been assigned a compensation rating of 100%.

ARTICLE V. Cold War Veterans Exemption

[Adopted 2-11-2008 by L.L. No. 1-2008]

§ 92-9. Purpose.

The purpose of this article is to allow for a tax exemption for Town of Fort Edward Cold War veterans allowable pursuant to § 458-b of the Real Property Tax Law of the State of New York, which was created by Chapter 655 of the Laws of the State of New York for the year 2007.

§ 92-10. Definitions.

Definitions as used in this article follow:

ACTIVE DUTY

Full-time duty in the United States Armed Forces, other than active duty for training.

ARMED FORCES

The United States Army, Navy, Marine Corps, Air Force and Coast Guard.

COLD WAR VETERAN

A person, male or female, who served on active duty for a period of more than 365 days in the United States Armed Forces during the time period

from September 2, 1945 to December 26, 1991, was discharged or released there from under honorable conditions and has been awarded the Cold War Recognition Certificate as authorized under Public Law 105-85, the 1998 National Defense Authorization Act.

LATEST STATE EQUALIZATION RATE

The latest final equalization rate established by the State Board pursuant to Article 12 of the Real Property Tax Law.

QUALIFIED OWNER

A Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY

Property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this article. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran; unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization for up to five years.

SERVICE CONNECTED

With respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval, or air service.

§ 92-11. Amount of exemption.

Pursuant to the provisions of Chapter 655 of the 2007 Laws of the State of New York amending the Real Property Tax Law of the State of New York, the maximum veteran's exemption from real property taxes allowable pursuant to § 458-b of the Real Property Tax Law is established as follows:

A. Qualifying residential real property shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$8,000 or \$8,000 multiplied by the latest state equalization rate for the Town of Fort Edward.

B. In addition to the exemption provided by Subsection A of this section, where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$40,000, or the product of \$40,000 multiplied by the latest state equalization rate for the Town of Fort Edward, whichever is less.

§ 92-12. Limitations; application for exemption.

A. The exemption from taxation provided by this article shall not be applicable to taxes levied for school purposes.

B. If the Cold War veteran receives the exemption under § 458 or 458-a of the Real Property Tax Law, the Cold War veteran shall not be eligible to receive the exemption under this article.

C. The exemption provided by under this article shall be granted for a period of 10 years. Where a qualified owner owns qualifying residential real property on the effective date of this article, such ten-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this article. Where a qualified owner does not own qualifying residential real property on the effective date of this article, such ten-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least 60 days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within 60 days after the date of purchase of residential real property, such ten-year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten-year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this article for the unexpired portion of the ten-year exemption.

D. Application for exemption shall be made by the owner, or all of the owners of the property on a form prescribed by the State Board. The owner or owners shall file the completed form in the Assessor's Office on or before the first appropriate taxable status date. The owner or owners of the property shall be required to refile each year. Applicants shall refile on or before the appropriate taxable status date. Any applicant convicted of willfully making any false

statements in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

§ 92-13. When effective.

This article shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

CHAPTER 96. VEHICLES, ABANDONED

§ 96-1. Purpose.

§ 96-2. Definitions.

§ 96-3. Storage on private property.

§ 96-4. (Reserved)

§ 96-5. (Reserved)

§ 96-6. Penalties for offenses.

§ 96-7. Appearance tickets.

CHAPTER 96. VEHICLES, ABANDONED

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 6-12-68. Sections 96-3 and 96-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 66.

Vehicles and traffic — See Ch. 99.

Off-road vehicles — See Ch. 103.

§ 96-1. Purpose.

The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the Town of Fort Edward is dangerous, unsightly and a detriment to the preservation of public health, the protection of property and the safety and welfare of the residents of the Town of Fort Edward. The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the Town of Fort Edward constitutes an attractive nuisance to children and a peril to their safety. Such storage constitutes a threat to the safety and welfare of the residents of the Town of Fort Edward since the fuel tanks frequently contain gasoline or gasoline fumes and may be subject to explosion in case of fire. Such storage depreciates the value of neighboring properties and is unsightly and

discourages the orderly progressive development of the Town of Fort Edward. The control of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the Town of Fort Edward is therefore regulated for the preservation of the public health, safety and welfare of the residents of the Town of Fort Edward.

§ 96-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED

With regard to a motor vehicle, the intent of the owner of the motor vehicle not to use the motor vehicle on the public highways. The intent of the owner of the motor vehicle may be determined by the physical condition of the motor vehicle, the statements of the owner of the motor vehicle, the length of time since the motor vehicle has last been used on the public highway and whether the motor vehicle is licensed or unlicensed. With respect to motor vehicles not required to be licensed or motor vehicles not customarily used on the public highway, the intent of the owner may be determined by the physical condition of the motor vehicle, the length of time it was last used for the purposes intended and the statements of the owner.

DISCARDED

Any motor vehicle which the owner thereof does not intend to recover possession thereof, or any motor vehicle to which ownership cannot be reasonably determined with due inquiry.

JUNKED

Any motor vehicle in such condition as to cost more to repair in order to place such motor vehicle in operating condition than the value of the motor vehicle at any given time.

MOTOR VEHICLE

Every vehicle operated, driven or capable of being driven or operated upon a public highway by any power other than muscular power, which includes electric power obtained from overhead trolley wires, and includes vehicles operated upon rails and such vehicles as are run only upon rails or tracks. For the purposes of this chapter, "motor vehicles" shall include tractors used exclusively for agricultural purposes, self-propelled combines, self-propelled corn- and hay-harvesting machines and self-propelled caterpillar or crawler-type equipment. For the purposes of this chapter, the term "motor vehicle" shall include motorcycles, omnibuses and house trailers.

OWNER OF MOTOR VEHICLE

A person having the property in or title to a motor vehicle. The term "owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any

lessee or bailee of a motor vehicle having the use thereof, under lease or otherwise.

OWNER OF PRIVATE PROPERTY

Includes the legal owner, contract purchaser, a tenant, lessee, occupant, undertenant or receiver or assignee of premises or property located within the Town of Fort Edward.

PREMISES

Includes all parcels of real property situate in the Town of Fort Edward, whether occupied or vacant, irrespective of size or topography.

UNLICENSED MOTOR VEHICLE

Any motor vehicle which has not been licensed with the proper authorities for a period of at least thirty (30) days from the expiration of the last valid licensing, with the exception of those motor vehicles in the possession of authorized used-car dealers or garagemen for the purpose of sale or repair.

§ 96-3. Storage on private property.

[Amended 6-27-88 by L.L. No. 3-1988]

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any private property within the Town of Fort Edward, to store or deposit or cause or permit to be stored or deposited abandoned, junked or discarded motor vehicles or more than one (1) unlicensed but operable motor vehicle upon any private land within the corporate limits of the Town of Fort Edward.

§ 96-4. (Reserved)

Editor's Note: Former § 96-4, Notice, was repealed 5-31-88 by L.L. No. 2-1988.

§ 96-5. (Reserved)

Editor's Note: Former § 96-5, Hearing, was repealed 5-31-88 by L.L. No. 2-1988.

§ 96-6. Penalties for offenses.

[Amended 8-8-1983; 5-31-1988 by L.L. No. 2-1988; 3-26-1990 by L.L. No. 2-1990]

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove an abandoned, junked, discarded and/or unlicensed motor vehicle as directed by this chapter or who shall violate any of the provisions of this chapter or who shall resist or obstruct the duly authorized agents, servants, officers and

employees of the Town of Fort Edward in the removal and destruction of a motor vehicle as described herein shall be punishable, upon conviction thereof, by a fine not exceeding one hundred dollars (\$100.) for each violation thereof or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. Each separate occurrence may constitute a separate additional violation. For the purpose of jurisdiction, a violation of this chapter shall be a misdemeanor. Nothing herein shall prevent, in addition to the penalties herein prescribed, the Town of Fort Edward Justice Court from ordering the removal of a motor vehicle in accordance with the terms and provisions of this chapter, and the removal of such motor vehicle shall be in addition to the penalties herein stated.

§ 96-7. Appearance tickets.

[Added 8-10-87 by L.L. No. 3-1987]

The Building Inspector and/or Zoning Administrator of the Town of Fort Edward may serve an appearance ticket on any violator of this chapter of the Code of the Town of Fort Edward to force said violator's appearance in the Justice Court of the Town of Fort Edward.

CHAPTER 99. VEHICLES AND TRAFFIC

ARTICLE I. Speed Regulations

§ 99-1. Speed limit established.

§ 99-2. Exceptions.

§ 99-3. Penalties for offenses.

ARTICLE II. Emergency Removal of Vehicles

§ 99-4. Construal of terms.

§ 99-5. Removal authorized.

§ 99-6. Storage; redemption.

§ 99-7. Report to State Police.

ARTICLE III. Truck Exclusions

§ 99-8. Trucks over 15 tons excluded from certain streets.

ARTICLE IV. Additional Weight Limits

§ 99-9. Limited load streets (12 tons).

§ 99-10. Word usage; term defined.

§ 99-11. Penalties for offenses.

ARTICLE V. Parking Regulations

§ 99-12. Title.

§ 99-13. Intent; purpose.

§ 99-14. Legislative authority.

§ 99-15. Parking restrictions.

§ 99-16. Penalties for offenses.

ARTICLE VI. Parking Restrictions

§ 99-17. Purpose.

§ 99-18. Parking prohibited on certain streets.

§ 99-19. Penalties for offenses.

CHAPTER 99. VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Town Board of the Town of Fort Edward as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. 96.

Off-road vehicles — See Ch. 103.

ARTICLE I. Speed Regulations

[Adopted 11-23-1959]

§ 99-1. Speed limit established.

[Amended 6-27-1988 by L.L. No. 3-1988]

No person shall operate a motor vehicle or motorcycle upon any public highway within the corporate limits of the Town of Fort Edward and outside the corporate limits of the Village of Fort Edward, New York, at a rate of speed in excess of 30 miles per hour. This section shall not apply to ambulances, fire vehicles or public vehicles when on emergency trips.

§ 99-2. Exceptions.

The foregoing limitation of speed is expressly declared not to apply to any highways, roadways or streets which are under the control, jurisdiction and maintenance of either the State of New York or the County of Washington. Editor's Note: Former § 23-2B, which established a school speed zone and which immediately followed this section, was deleted 6-27-1988 by L.L. No. 3-1988.

§ 99-3. Penalties for offenses.

[Amended 6-27-1988 by L.L. No. 3-1988]

Every person convicted of a traffic infraction for a violation of any provision of this article which is not a violation of any provision of the Vehicle and Traffic Law of

the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

ARTICLE II. Emergency Removal of Vehicles

[Adopted 1-17-1973]

§ 99-4. Construal of terms.

For the purposes of this article, the words "vehicle," "owner" and "parked" shall have the meanings as defined in the Vehicle and Traffic Law of the State of New York.

§ 99-5. Removal authorized.

When any vehicle is parked or abandoned on any public highway within the Town of Fort Edward during a snowstorm, serious fire or other extreme public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the authority of the Superintendent of Highways.

§ 99-6. Storage; redemption.

A. After such removal, the Superintendent of Highways may cause such vehicle to be stored in a suitable place at the expense of the owner.

B. Such owner or person in charge of the vehicle may redeem the same upon payment to the Town Clerk of the amount of all expenses actually and necessarily incurred in effecting such removal, together with any charges for storage.

§ 99-7. Report to State Police.

The Superintendent of Highways shall, without delay, report the removal and the disposition of such vehicle to the State Police.

ARTICLE III. Truck Exclusions

[Adopted 3-8-1982]

§ 99-8. Trucks over 15 tons excluded from certain streets.

[Amended 6-27-1988 by L.L. No. 3-1988; 1-12-2009 by L.L. No. 1-2009]

The Superintendent of Highways is herewith authorized to post the following roads in the Town of Fort Edward to temporarily exclude vehicles with a gross weight of over 15 tons, pursuant to § 1660, Subdivision (a) 11, of the New York State Vehicle and Traffic Law, effective from the time of the erection of signs designating the exclusions until the removal of the signs as directed by the Town Board of the Town of Fort Edward:

Blackhouse Road

Cary Road

Duer Road (formerly East Road, Fort Miller)

Hunter Road

Patterson Road

Williams Road

ARTICLE IV. Additional Weight Limits

[Adopted 4-8-1996 by L.L. No. 2-1996]

§ 99-9. Limited load streets (12 tons).

It shall be unlawful to operate any vehicle on the following streets in the Town of Fort Edward when the gross weight on the surface of the road of any such vehicle exceeds 24,000 pounds, where the weight of vehicles permitted on such street is limited by local law and signs indicating such limitations are posted, except for the purpose of making delivery or picking up a load on such street, in which case such vehicle may be driven on such street for not more than the minimum distance necessary for such purpose:

Ethan Allen

Putnam Avenue

Gates Avenue

§ 99-10. Word usage; term defined.

As used in this article, the following terms shall have the meanings indicated:

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a road, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 99-11. Penalties for offenses.

This article shall be a part of Chapter 99, Vehicles and Traffic, of the Town of Fort Edward Code, and the penalties of said chapter shall apply. Editor's Note: See § 99-3.

ARTICLE V. Parking Regulations

[Adopted 2-14-1997 by L.L. No. 1-1997]

§ 99-12. Title.

This article shall be known as "Parking Prohibitions During Certain Hours and Dates."

§ 99-13. Intent; purpose.

It is the general purpose and intent of this article to establish a policy for the parking of motor vehicles during the season in which there is a possibility of snow accumulation upon the public highways of the Town of Fort Edward and that said Local Law is needed to protect the public health, safety and general welfare of the citizens of the Town of Fort Edward.

§ 99-14. Legislative authority.

This article is enacted pursuant to § 10 of the Municipal Home Rule Law of the State of New York and § 130 of the Town Law of the State of New York.

§ 99-15. Parking restrictions.

No person shall park a motor vehicle, wagon or trailer between the hours of 2:00 a.m. and 6:00 a.m. on any public highway within the Town of Fort Edward from the 15th day of November until the 15th day of April.

§ 99-16. Penalties for offenses.

This article shall be a part of Chapter 99, Vehicles and Traffic, of the Town of Fort Edward Code, and the penalties of said chapter shall apply. Editor's Note: See § 99-3.

ARTICLE VI. Parking Restrictions

[Adopted 1-8-2001 by L.L. No. 1-2001]

§ 99-17. Purpose.

The purpose of this article is to provide for the public safety by prohibiting parking of any vehicle in certain locations that are likely to interfere with public safety. It is adopted pursuant to Municipal Home Rule Law § 10.

§ 99-18. Parking prohibited on certain streets.

It shall be unlawful to park any vehicle on the following streets in the Town of Fort Edward:

Name of Street	Side	Location
Parry Street	North	Entire length

§ 99-19. Penalties for offenses.

Failure to comply with the provisions of this article shall be deemed a violation and shall be punishable as such.

CHAPTER 103. VEHICLES, OFF-ROAD

§ 103-1. Legislative intent.

§ 103-2. Definitions.

§ 103-3. Operation on public property.

§ 103-4. Operation on private property.

§ 103-5. Careless or reckless operation.

§ 103-6. Exceptions.

§ 103-7. Responsibility of parent or guardian.

§ 103-8. Notification of parent or guardian.

§ 103-9. Impoundment.

§ 103-10. Penalties for offenses.

§ 103-11. Conflicts with state law.

CHAPTER 103. VEHICLES, OFF-ROAD

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 10-9-85 as L.L. No. 2-1985. Section 103-10 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. 96.

Vehicles and traffic — See Ch. 99.

§ 103-1. Legislative intent.

The Town Board recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Town of Fort Edward and to property within the town by the use of unlicensed motor-driven vehicles and, therefore, deems it appropriate to control the use of said vehicles.

§ 103-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

PUBLIC PROPERTY

All streets, sidewalks, easements or any other areas dedicated or commonly used for vehicular or pedestrian traffic.

TOWN-OWNED LAND

All parks, recreation areas, ballparks, lake and river areas, storage facilities, garage areas, parking areas and any and all other town-owned land and premises.

UNLICENSED MOTOR-DRIVEN VEHICLE

Any type of unlicensed motor-driven vehicle or conveyance, including but not necessarily limited to snowmobiles, two-wheeled motor vehicles known as "trail bikes" and "motor scooters" and four-wheeled or three-wheeled motor vehicles commonly known as "go-carts" or "all-terrain vehicles," but not including mopeds or any vehicles used for agricultural, landscaping or lawn-maintenance purposes.

§ 103-3. Operation on public property.

It shall be unlawful for any person to operate any unlicensed motor driven vehicle upon any public property or town-owned land in the Town of Fort Edward.

§ 103-4. Operation on private property.

A. The operation of an unlicensed motor-driven vehicle is prohibited upon private property unless the operator of said unlicensed motor-driven vehicle has the express permission of the owner of said private property to operate said vehicle on said property.

B. Any driver or operator of any unlicensed motor-driven vehicle who enters or remains upon private property which is either fenced or otherwise enclosed in a manner designed to exclude intruders, to where notice against trespassers is given by posting in a conspicuous manner or where notice against trespassing has been personally communicated to such person by the owner of such land or other authorized person. shall be presumed to be operating without the permission of the owner of said property.

§ 103-5. Careless or reckless operation.

It shall be unlawful to operate any unlicensed motor-driven vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any person.

§ 103-6. Exceptions.

A. It shall not be unlawful for any employee of the Town of Fort Edward to operate unlicensed motor-driven vehicles for the purpose of maintaining, repairing or doing any public work within the scope of his employment.

B. Nothing herein shall prohibit the use or operation of unlicensed motor-driven vehicles on premises duly approved for such use by the appropriate officials or municipal regulatory bodies of the Town of Fort Edward.

§ 103-7. Responsibility of parent or guardian.

It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of sixteen (16) years knowingly to permit such child to operate an unlicensed motor-driven vehicle in violation of the terms of this chapter.

§ 103-8. Notification of parent or guardian.

Whenever any child under the age of sixteen (16) years is alleged to have violated this chapter, his parent, guardian or any person having the care, custody or control of the child shall be notified.

§ 103-9. Impoundment.

The law enforcement agency shall immediately impound any unlicensed motor-driven vehicle operated in violation of this chapter. The unlicensed motor-driven vehicle shall be returned upon payment of the fine or upon the direction of the court.

§ 103-10. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any operator or parent, as defined in § 103-8, who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

§ 103-11. Conflicts with state law.

Should any section or portion of this chapter be in conflict with the laws of the State of New York applicable to the operation, registration, ownership or control of unlicensed motor vehicles, then, in that instance, said laws of the State of New York shall prevail.

CHAPTER 106. WIRELESS TELECOMMUNICATIONS FACILITIES

§ 106-1. Purpose and legislative intent.

§ 106-2. Title.

§ 106-3. Severability.

§ 106-4. Definitions; word usage.

§ 106-5. Policies and goals for special use permits.

§ 106-6. Special use permit application; other requirements.

§ 106-7. Location of facilities.

§ 106-8. Shared use of facilities and structures.

§ 106-9. Height.

§ 106-10. Visibility.

§ 106-11. Security.

§ 106-12. Signage.

§ 106-13. Lot size and setbacks.

§ 106-14. Retention of expert assistance; reimbursement by applicant.

§ 106-15. Exceptions from special use permit.

§ 106-16. Public hearing required.

§ 106-17. Action on application for special use permit.

§ 106-18. Recertification of special use permit.

§ 106-19. Extent and parameters of special use permit.

§ 106-20. Application fee.

§ 106-21. Performance security.

- § 106-22. Reservation of authority to inspect facilities.
- § 106-23. Annual NIER certification.
- § 106-24. Liability insurance.
- § 106-25. Indemnification.
- § 106-26. Penalties for offenses.
- § 106-27. Default and/or revocation.
- § 106-28. Removal of facilities.
- § 106-29. Waiver or exemption.
- § 106-30. Periodic review by Board.
- § 106-31. Adherence to state and/or federal rules and regulations.
- § 106-32. Conflict with other laws.
- § 106-33. Authority.

CHAPTER 106. WIRELESS TELECOMMUNICATIONS FACILITIES

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 9-13-1999 by L.L. No. 4-1999. Amendments noted where applicable.]

§ 106-1. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the Town of Fort Edward's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Town Board of the Town of Fort Edward finds that wireless telecommunications facilities may pose a unique hazard to the health, safety, public welfare and environment of the Town of Fort Edward and its inhabitants. The town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the town and of significant benefit to the town and its residents. In order to ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the town's land use policies, the town is adopting a single, comprehensive wireless telecommunications facilities application and permit process. The intent of this chapter is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities and protect the health, safety and welfare of the Town of Fort Edward.

§ 106-2. Title.

This chapter may be known and cited as the "Wireless Telecommunications Facilities Siting Law for the Town of Fort Edward."

§ 106-3. Severability.

A. If any word, phrase, sentence, part, section, subsection or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid shall remain in full force and effect.

B. Any special use permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Board.

§ 106-4. Definitions; word usage.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ACCESSORY FACILITY or STRUCTURE

An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment, storage sheds or cabinets.

APPLICANT

Any individual, corporation, estate, trust partnership, joint-stock company, association of two or more persons, limited liability company or entity submitting an application to the Town of Fort Edward for a special use permit for wireless telecommunications facilities.

APPLICATION

The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

ANTENNA

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

BOARD

The Planning Board of the Town of Fort Edward.

COLLOCATION

The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE

Shall have the meaning in this chapter and any special use permit granted hereunder as is defined and applied under the New York Uniform Commercial Code (UCC).

COMPLETED APPLICATION

An application that contains all information and/or data necessary to enable the Board to evaluate the merits of the application and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the town in the context of the permitted land use for the particular location requested.

EAF

The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

EPA

The State and/or Federal Environmental Protection Agency or its duly assigned successor agency.

FAA

The Federal Aviation Administration or its duly designated and authorized successor agency.

FCC

The Federal Communications Commission or its duly designated and authorized successor agency.

FREESTANDING TOWER

A tower that is not supported by guy wires and ground anchors or other means of attached or external support.

HEIGHT

When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

NIER

Nonionizing electromagnetic radiation.

PERSON

Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest or governmental entity.

PERSONAL WIRELESS FACILITY

See definition for "wireless telecommunications facilities."

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS

Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

TELECOMMUNICATIONS SITE

See definition for "wireless telecommunications facilities."

SPECIAL USE PERMIT

The official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the Board.

STATE

The State of New York.

TELECOMMUNICATIONS

The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

TELECOMMUNICATIONS STRUCTURE

A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

TEMPORARY

In relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than 90 days.

TOWN

The Town of Fort Edward, New York.

WIRELESS TELECOMMUNICATIONS FACILITIES or TELECOMMUNICATIONS TOWER or TOWER or TELECOMMUNICATIONS SITE or PERSONAL WIRELESS FACILITY

A structure or location designed, or intended to be used or used to support antennas. It includes without limit freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology, including but not limited to structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications, but excluding those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.

§ 106-5. Policies and goals for special use permits.

In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the town's health, safety, public welfare, environmental features and other aspects of the quality of life specifically listed elsewhere in this chapter, the Board adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- A. Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities.
- B. Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.
- C. Establishing reasonable time frames for granting or not granting a special use permit for wireless telecommunications facilities, or recertifying or not recertifying or revoking the special use permit granted under this chapter.
- D. Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless telecommunications facilities among service providers.
- E. Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner as to minimize adverse aesthetic impacts to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities.

§ 106-6. Special use permit application; other requirements.

A. All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Board is the officially designated agency or body of the community to whom applications for a special use permit for wireless telecommunications facilities must be made and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities. The Board may, at its discretion, delegate or designate other official agencies of the town to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

B. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. The applicant shall include a statement in writing:

(1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Board, in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations.

(2) That the construction of the wireless telecommunications facilities is legally permissible, including but not limited to the fact that the applicant is authorized to do business in New York State.

E. No wireless telecommunications facilities shall be installed or constructed until the site plan is reviewed and approved by the Board, and the special use permit has been issued.

F. All applications for the construction or installation of new wireless telecommunications facilities shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the state. Where this section calls for certification, such certification shall be by a qualified New York State licensed professional engineer approved by the Board, unless otherwise noted. The application shall include, in addition to the other requirements for the special use permit, the following information:

(1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily within the town.

(2) Name, address and phone number of the person preparing the report.

- (3) Name, address and phone number of the property owner, operator and applicant, to include the legal form of the applicant.
- (4) Postal address and Tax Map parcel number of the property.
- (5) Zoning district or designation in which the property is situated.
- (6) Size of the property, stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines.
- (7) Location of nearest residential structure.
- (8) Location of nearest habitable structure.
- (9) Location, size and height of all structures on the property which is the subject of the application.
- (10) Location, size and height of all proposed and existing antennas and all appurtenant structures.
- (11) Type, size and location of all proposed and existing landscaping, including fencing.
- (12) The number, type and design of the telecommunications tower(s) antenna(s) proposed and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users.
- (13) The make, model and manufacturer of the tower and antenna(s).
- (14) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.
- (15) The frequency, modulation and class of service of radio or other transmitting equipment.
- (16) Transmission and maximum effective radiated power of the antenna(s).
- (17) Direction of maximum lobes and associated radiation of the antenna(s).
- (18) Applicant's proposed tower maintenance and inspection procedures and related system of records.

(19) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC.

(20) Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices, though the certifying engineer need not be approved by the Board.

(21) A copy of the FCC license applicable for the use of wireless telecommunications facilities.

(22) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site, though the certifying engineer need not be approved by the Board.

(23) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites.

(24) The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunications tower that it constructs.

G. In the case of a new telecommunications tower, the applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing telecommunications tower(s) or use of existing buildings or other structures within the town. Copies of written requests and responses for shared use shall be provided to the Board.

H. The applicant shall furnish written certification that the telecommunications facility, foundation and attachments are designed and will be constructed "as built" to meet all local, county, state and federal structural requirements for loads, including wind and ice loads.

I. After construction and prior to utilization of the site, the applicant shall furnish written certification that the wireless telecommunications facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

J. The applicant shall submit a completed long-form EAF and a completed visual EAF addendum. The Board may require submission of a more detailed visual analysis based on the results of the visual EAF addendum. Applicants

are encouraged to seek preapplication meetings with the Town Board to address the scope of the required visual assessment.

K. If requested by the Board, the applicant shall furnish a visual impact assessment which shall include:

(1) A zone of visibility map which shall be provided in order to determine locations where the tower may be seen.

(2) Pictorial representations of before and after views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Board, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a preapplication meeting.

(3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

L. Any and all representations made by the applicant to the Board, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Board.

M. The applicant shall, in a manner approved by the Board, demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed wireless telecommunications facilities base and all related facilities and structures.

N. All utilities from wireless telecommunications facilities sites shall be installed underground and in compliance with all laws, rules and regulations of the town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Board may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Board, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

O. All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to have the least adverse visual effect on the

environment and its character and the residences in the area of the wireless telecommunications facilities sites.

P. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings.

Q. At a telecommunications site, an access road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

R. A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current technical, safety and safety-related codes adopted by the town, county, state or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include but are not limited to construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

S. A holder of a special use permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by applicable rule, regulation or law and must maintain the same, in full force and effect, for as long as required by the town or other governmental entity or agency having jurisdiction over the applicant.

T. With respect to this application process, the Board will normally seek to have lead agency status, pursuant to the State Environmental Quality Review Act (SEQRA). The Board shall conduct an environmental review of the proposed project in combination with its review of the application under this chapter.

U. An applicant shall submit to the Town Clerk the number of completed applications determined to be needed at the preapplication meeting. A copy of the application shall be provided to the legislative body of all adjacent municipalities and to the County Planning Agency.

V. The applicant shall examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for at least two additional commercial applications, for example, future collocations. The scope of this examination shall be determined by the Board. The telecommunications tower shall be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the telecommunications tower is not technologically feasible or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:

- (1) The number of FCC licenses foreseeably available for the area.
- (2) The kind of wireless telecommunications facilities site and structure proposed.
- (3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites.
- (4) Available space on existing and approved telecommunications towers.

W. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower and his/her successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Board. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and his/her successors in interest to:

- (1) Respond within 60 days to a request for information from a potential shared-use applicant.
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

X. Unless waived by the Board, there shall be a preapplication meeting. The purpose of the preapplication meeting will be to address issues which will help to expedite the review and permitting process. A preapplication meeting may also include a site visit if, required. Where the application is for the shared use of an existing telecommunications tower(s) or other high structure, the applicant should seek to waive any section or subsection of this chapter that may not be required. At the preapplication meeting, the waiver requests, if appropriate, will be decided by the Board. Costs of the town's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.

Y. The holder of a special use permit shall notify the Town of Fort Edward of any intended modification of a Wireless telecommunications facility and shall apply to the town to modify, relocate or rebuild a wireless telecommunications facility.

§ 106-7. Location of facilities.

A. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one being the highest priority and four being the lowest priority.

- (1) On existing telecommunications towers.
- (2) Collocation on a site with existing wireless telecommunications facilities or structures.
- (3) On municipally owned properties.
- (4) On power line transmission towers.
- (5) On other property in the town in the following order:
 - (a) Industrial.
 - (b) Commercial.
 - (c) Agricultural.
 - (d) Residential.

B. If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was

not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

C. An applicant may not bypass sites of higher priority by stating the site presented is the only site leased or selected. An application shall address collocation as an option and, if such option is not proposed, the applicant must explain why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of commercial impracticability or hardship.

D. Notwithstanding the above, the Board may approve any site located within an area in the above list of priorities, provided that the Board finds that the proposed site is in the best interest of the health, safety and welfare of the town and its inhabitants.

E. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

F. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has been, is or will be considering, reviewing or planning for wireless telecommunications facilities in the town, and all municipalities adjoining the town, for a two-year period following the date of the application.

G. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Board may disapprove an application for any of the following reasons.

- (1) Conflict with safety and safety-related codes and requirements.
- (2) Conflict with traffic needs or traffic laws or definitive plans for changes in traffic flow or traffic laws.
- (3) Conflict with the historic nature of a neighborhood or historical district.
- (4) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation.

(5) The placement and location of wireless telecommunications facilities which would create an unacceptable risk or the probability of such to residents, the public, employees and agents of the town or employees of the service provider or other service providers.

(6) Conflicts with the provisions of this chapter.

§ 106-8. Shared use of facilities and structures.

A. Shared use of existing wireless telecommunications facilities shall be preferred by the town, as opposed to the proposed construction of a new telecommunications tower. Where such shared use is unavailable, location of antennas on other preexisting structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four miles of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.

B. An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use. In the event of an application to share the use of an existing telecommunications tower does not increase the height of the telecommunications tower, the Board shall waive such requirements of the application required by this chapter as may be for good cause shown.

C. Such shared use shall consist only of the minimum antenna array technologically required to provide service within the town, to the extent practicable, unless good cause is shown.

§ 106-9. Height.

A. The applicant must submit documentation justifying to the Board the total height of any telecommunications tower, facility and/or antenna and the basis therefor. Such justification shall be to provide service within the town, to the extent practicable, unless good cause is shown.

B. Telecommunications towers shall be no higher than the minimum height necessary. Unless waived by the Board upon good cause shown, the maximum height shall be 100 feet, based on three collocated antenna arrays and ambient tree height of 80 feet.

§ 106-10. Visibility.

A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required bylaw.

B. Telecommunications towers shall be of a galvanized finish or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings, as approved by the Board, and shall be maintained in accordance with the requirements of this chapter.

C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facilities are located.

§ 106-11. Security.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access and to prevent tampering, specifically as follows:

A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

B. Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

§ 106-12. Signage.

Wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. The sign shall not be lighted unless the Board shall have allowed such lighting or unless such lighting is required by applicable provisions of law. The sign shall be approved by the Board before installation. No other signage, including advertising, shall be permitted on any facilities,

antennas, antenna supporting structures or antenna towers, unless required by law.

§ 106-13. Lot size and setbacks.

Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

§ 106-14. Retention of expert assistance; reimbursement by applicant.

A. The Board may hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating the application and any requests for recertification.

B. An applicant shall deposit with the town funds sufficient to reimburse the town for all reasonable costs of consultant and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be \$7,500. These funds shall accompany the filing of an application and the town will maintain a separate escrow account for all such funds. The town's consultants/experts shall bill or invoice the town no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance less than \$4,000, the applicant shall immediately, upon notification by the town, replenish said escrow account so that it has a balance of at least \$4,000. Such additional escrow funds must be deposited with the town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the town is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant.

C. The total amount of the funds set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Board or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as required and requested by the town, shall be paid by the applicant.

§ 106-15. Exceptions from special use permit.

A. No person shall be permitted to site, place, build, construct or modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those exceptions noted in the definition of "wireless telecommunications facilities," such as those used exclusively for fire, police and other dispatch telecommunications or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.

B. New construction, including routine maintenance on existing wireless telecommunications facilities, shall comply with the requirements of this chapter.

C. All wireless telecommunications facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist; provided, however, that any modification to existing wireless telecommunications facilities must comply with this chapter.

§ 106-16. Public hearing required.

A. Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the Board, notice of which shall be published in the official newspaper of the town no less than five calendar days prior to the scheduled date of the public hearing. In order that the town may notify nearby landowners, the applicant, at least three weeks prior to the date of said public hearing, shall be required to provide names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot on which the proposed new wireless telecommunications facilities are proposed to be located.

B. The Board shall schedule the public hearing referred to in Subsection A of this section once it finds the application is complete. The Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

C. It is the intent of this section to conform to § 274-b of the New York State Town Law.

§ 106-17. Action on application for special use permit.

A. The Board will undertake a review of an application pursuant to this chapter in a timely fashion, consistent with its responsibilities with SEQRA, and shall

act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

B. The Board may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.

C. Except for necessary building permits, no additional permits or approvals from the town, shall be required for wireless telecommunications facilities covered by this chapter.

D. After the public hearing and after formally considering the application, the Board may approve, approve with conditions or disapprove an application for a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

E. If the Board approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval, in writing, within 10 calendar days of the Board's action, and the special use permit shall be issued within 30 days after such approval.

F. If the Board denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial, in writing, within 10 calendar days of the Board's action.

§ 106-18. Recertification of special use permit.

A. At any time between 12 months and six months prior to the five-year anniversary date after the effective date of the special use permit and all subsequent fifth anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunications facilities shall submit a signed written request to the Board for recertification. In the written request for recertification, the holder of such special use permit shall note the following:

(1) The name of the holder of the special use permit for the wireless telecommunications facilities.

(2) If applicable, the number or title of the special use permit.

(3) The date of the original granting of the special use permit.

(4) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt or otherwise modified since the issuance of the special use permit and if so, in what manner.

(5) If the wireless telecommunications facilities have been moved, relocated, rebuilt or otherwise modified, then whether the Board approved such action, and under what terms and conditions, and whether those terms and conditions were met.

(6) Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a special use permit.

(7) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations.

(8) Recertification that the telecommunications tower and attachments both are designed and constructed "as built" and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified New York State licensed professional engineer acceptable to the town, the cost of which shall be borne by the applicant.

B. If, after such review, the Board determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Board shall issue a recertification special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon or required by applicable statutes, laws, local laws, ordinances, codes, rules and regulations. If, after such review, the Board determines that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, local laws, ordinances, codes, rules and regulations, then the Board may refuse to issue a recertification special use permit for the wireless telecommunications facilities, and, in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of such decision by the Board. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

C. If the applicant has submitted all of the information requested by the Board and required by this chapter, and if the Board does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of

the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six months in order for the Board to complete its review.

D. If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the time frame noted in Subsection A of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Board that extenuating circumstances prevented a timely recertification request. If the Board agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

§ 106-19. Extent and parameters of special use permit.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

A. Such special use permit shall not be assigned, transferred or conveyed without the express prior written consent of the Board, and such consent shall not be unreasonably withheld or delayed.

B. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled or terminated for a violation of the conditions and provisions of the special use permit for wireless telecommunications facilities or for a material violation of this chapter after prior written notice to the applicant and the holder of the special use permit.

§ 106-20. Application fee.

A. At the time that a person submits an application for a special use permit for a new telecommunications tower, such person shall pay an application fee in the amount listed on the Schedule of Fees Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. to the Town. If the application is for a special use permit for collocating on an existing telecommunications tower or high structure, where no increase in height of the tower or structure is required, the fee shall be in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule.

[Amended 6-13-2005 by L.L. No. 6-2005]

B. No application fee is required in order to recertify a special use permit for wireless telecommunications facilities unless there has been a modification of the wireless telecommunications facilities since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in Subsection A shall apply.

§ 106-21. Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at their cost and expense, be jointly required to execute and file with the town a bond or other form of security acceptable to the town as to type of security and the form and manner of execution in an amount of at least \$75,000 and with such sureties as are deemed sufficient by the Board to assure the full performance of the terms and conditions of this chapter and conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facilities and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the special use permit and shall entitle the Board to revoke the special use permit after prior written notice to the applicant and holder of the permit and after a hearing upon due prior notice to the applicant and holder of the special use permit.

§ 106-22. Reservation of authority to inspect facilities.

A. In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

B. The town shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas and appurtenant or associated facilities, or refusal

to otherwise cooperate with the town with respect to an inspection, or if violations of this chapter are found to exist, in which case the holder, lessee or licensee shall reimburse the town for the cost of the inspection.

C. Payment of such costs shall be made to the town within 30 days from the date of the invoice or other demand for reimbursement. Nonpayment of said costs for violations shall be treated as a violation of this chapter and punishable under § 106-26 herein.

§ 106-23. Annual NIER certification.

The holder of the special use permit shall, annually, certify in writing to the town that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the town.

§ 106-24. Liability insurance.

A. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the special use permit in amounts as set forth below:

(1) Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.

(2) Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.

(3) Workers compensation and disability: statutory amounts.

B. The commercial general liability insurance policy shall specifically include the town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A."

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the town with at least 30 days prior written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the town at least 15 days before the expiration of the insurance which such policies are to renew or replace.

F. Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the town a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 106-25. Indemnification.

Any application for wireless telecommunications facilities that is proposed for town property, pursuant to this chapter, shall contain a provision with respect to indemnification of the town. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the town, officials of the town, its officers, agents, servants and employees from any and all penalties, damage or charges arising out of any and all claims, suits, demands, causes of action or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of or are caused by the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of said wireless telecommunications facilities. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the town.

§ 106-26. Penalties for offenses.

A. In the event of a violation of this chapter or any special use permit issued pursuant to this chapter, the Board may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the town, fines or penalties asset forth below.

B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or of such ordinance or regulation shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall

apply to such violations. Each week's continued violation shall constitute a separate additional violation.

C. Notwithstanding anything in this chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The town may also seek injunctive relief to prevent the continued violation of this chapter without limiting other remedies available to the town.

§ 106-27. Default and/or revocation.

A. If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the Board shall notify the holder of the special use permit, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Board may, at its sole discretion, order the violation remedied within 24 hours.

B. If within the period set forth in Subsection A above the wireless telecommunications facilities are not brought into compliance with the provisions of this chapter or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the Board may revoke such special use permit for wireless telecommunications facilities and shall notify the holder of the special use permit within 48 hours of such action.

§ 106-28. Removal of facilities.

A. Under the following circumstances, the Board may determine that the health, safety and welfare interests of the town warrant and require the removal of wireless telecommunications facilities:

(1) Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 days or a total of 180 days in any three-hundred-sixty-

five-day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days.

(2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard.

(3) Wireless telecommunications facilities have been located, constructed or modified without first obtaining, or in a manner not authorized by, the required special use permit or any other necessary authorization.

B. If the Board makes such a determination as noted in Subsection A of this section, then the Board shall notify the holder of the special use permit and the property owner for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed. The Board may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

C. The holder of the special use permit or its successors or assigns shall dismantle and remove such wireless telecommunications facilities and all associated structures and facilities from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Board. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Board.

D. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Board may order officials or representatives of the town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

E. If the town removes or causes to be removed wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim the property and remove it from the site to a lawful location within 10 days, then the town may take steps to declare the wireless telecommunications facilities abandoned and sell it and its components.

F. Notwithstanding anything in this section to the contrary, the Board may approve a temporary use permit/agreement for the wireless telecommunications facilities for no more than 90 days, during which time a

suitable plan for removal, conversion or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Board, and an agreement to such plan shall be executed by the holder of the special use permit and the town. If such a plan is not developed, approved and executed within the ninety-day time period, then the town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

G. Notwithstanding anything in this section to the contrary, remedies provided in this section are in addition to any other remedies provided by law.

§ 106-29. Waiver or exemption.

Any applicant desiring a waiver or exemption from any aspect or requirement of this chapter may request such from the Board at a preapplication meeting, provided that the waiver or exemption is contained in the original application for either a special use permit or, in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such waiver may be temporary or permanent, partial or complete, at the sole discretion of the Board. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the Board. The applicant shall bear all costs of the Board or the town in considering the request, and the waiver or exemption shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the Board. Such permission shall not be unreasonably withheld or delayed. No such waiver or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the waiver or exemption will have no significant affect on the health, safety and welfare of the town, its residents and other service providers.

§ 106-30. Periodic review by Board.

A. The Town Board may at any time conduct a review and examination of this entire chapter.

B. If after such a periodic review and examination of this chapter the town Board determines that one or more provisions of this chapter should be amended, repealed, revised, clarified or deleted, then the Town Board may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the town, the Town Board may repeal this entire chapter at any time.

C. Notwithstanding the provisions of Subsections A and B of this section, the Town Board may at any time, and in any manner (to the extent permitted by federal, state or local Law), amend, add, repeal and/or delete one or more provisions of this chapter.

§ 106-31. Adherence to state and/or federal rules and regulations.

A. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including, but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical, radio frequency (RF) emission standards and NIER emissions.

B. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, security and NIER emissions are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by the issuing state or federal agency.

§ 106-32. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the town and the public shall apply.

§ 106-33. Authority.

This chapter is enacted pursuant to the Municipal Home Rule Law of the State of New York.

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CHAPTER 108. ZONING

[HISTORY: Adopted by the Town Board of the Town of Fort Edward 8-7-1963. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Flood damage prevention — See Ch. 54.
Junkyards — See Ch. 66.
Mobile homes — See Ch. 71.
Swimming pools — See Ch. 89.

ARTICLE I. Purposes

§ 108-1. Purpose.

For the purpose of promoting the health, safety, morals or the general welfare of the Town of Fort Edward and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements, under and pursuant to Article 16 of Chapter 62 of the Consolidated Laws, Editor's Note: See Article 16 of the Town Law. the height, number of stories and size of buildings and other structures, the percentage of the lot that may be occupied, the size of yards and other open spaces, the density of population and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

ARTICLE II. Definitions and Word Usage

§ 108-2. Definitions and word usage.

A. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building," the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used;" and the word "shall" is mandatory and not optional.

B. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter:

ACCESSORY USE OR STRUCTURE

A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

AREA VARIANCE

Authorization by the Zoning Board for use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

[Added 3-14-2005 by L.L. No. 4-2005]

AUTOMOBILE OR TRAILER SALES AREA

An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

BERTH

The place where a vessel lies when at anchor or at wharf.

[Added 8-14-1989 by L.L. No. 6-1989]

BOATHOUSE

A structure which has direct access to a body of navigable water and is used for the storage of vessels and associated equipment and does not have bathroom or kitchen facilities and is not designed or used for lodging or residency.

[Added 8-14-1989 by L.L. No. 6-1989]

BOAT STORAGE, PRIVATE

A place, site or structure used to park, house or store on any one lot three or fewer vessels, excepting canoes, rowboats and sailboats.

[Added 8-14-1989 by L.L. No. 6-1989]

BUFFER ZONE

An unpaved natural area designed to reduce the possibility of adverse impact land use on water quality and/or conflicts of land use between two or more areas.

[Added 8-14-1989 by L.L. No. 6-1989]

BUILDING

A structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING HEIGHT

The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, tanks and similar projections.

BUILDING, PRINCIPAL

A structure in which is conducted the principal use of the site on which it is situated. In any residential district, any dwelling shall be deemed to be a "principal building" on the lot on which the same is located.

DWELLING

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, except a mobile home.

[Amended 6-27-1988 by L.L. No. 3-1988]

DWELLING, MULTIPLE

A building or portion thereof used or designed as a residence for three or more apartment or dwelling units.

DWELLING, SINGLE-FAMILY

A detached building designated for or occupied exclusively by one family and containing not more than one dwelling unit.

DWELLING, TWO-FAMILY

A detached or semidetached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

FENCES

Includes wire, wood, stone, brick or any other kind of ordinary fence material, and also includes hedgerows and bushes, shrubs or evergreen trees planted or growing so as to form a continuous line which is capable of obstructing the view.

HOME OCCUPATION

Any use customarily conducted entirely within the principal structure and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the principal structure and does not change the character thereof. (See § 108-43.)

JUNKYARD

A place of storage or deposit, whether in connection with another business or not, where motor vehicles, engines, bulldozers, cranes and other construction equipment, airplanes, boats, major household appliances, furniture, farm machinery or other large equipment or the parts thereof, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials thereof, whether

metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. By the open storage or deposit of any two such items, or of the parts thereof, such that the recombination of such parts would be substantially similar to two such items, a rebuttable presumption is created that such open storage or deposit is a "junkyard." The presumption may be rebutted by such evidence as a currently valid motor vehicle registration, together with proof of insurance coverage, and a current inspection with respect to motor vehicles or, with respect to such other items, evidence demonstrating current fitness for the original intended purpose, as well as evidence that such storage or deposit is less than 90 days; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap, for sale, for remelting purposes only.

[Amended 6-27-1988 by L.L. No. 3-1988]

LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter, and having frontage on a public street.

LOT AREA

The computed area contained within the lot lines.

LOT, CORNER

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°. The point of intersection of the street lot lines is the "corner."

LOT DEPTH

The mean horizontal distance between the front and rear lot lines.

LOT LINE, FRONT

The line separating the lot from a street.

LOT LINE, REAR

The lot line opposite and most distant from the front lot line.

LOT LINES

The property lines bounding the lot.

LOT LINE, SIDE

Any lot line other than a front or rear lot line. A "side lot line" separating a lot from a street is called a "side-street lot line."

LOT LINE, STREET OR ALLEY

A lot line separating the lot from a street or alley.

LOT WIDTH

The distance between the two side lot lines measured at the required setback line.

MARINA

Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

[Added 8-14-1989 by L.L. No. 6-1989]

- (1) The sale of marine products or service.
- (2) The sale, lease, rental or charter of vessels of any type.
- (3) The sale, lease, rental or any other provisions of storage, wharf space or mooring for vessels not registered to the owner of said facility, a member of the owner's family, the owner or lessee of the immediate families or an overnight guest on said property.

MOBILE HOME

Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle, which is used or capable of being used as living or sleeping quarters for permanent residence.

[Amended 6-27-1988 by L.L. No. 3-1988]

MOBILE HOME PARK

Any parcel of land which is planned and improved for the placement of two or more mobile homes which are used as dwellings.

[Amended 6-27-1988 by L.L. No. 3-1988; 1-10-2005 by L.L. No. 2-2005]

MOORING

Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one point.

[Added 8-14-1989 by L.L. No. 6-1989]

NONCONFORMING USE

A use of land lawfully existing at the time of enactment of this chapter or any amendment thereto, which does not conform to the regulations of the district or zone in which it is situated.

[Amended 6-27-1988 by L.L. No. 3-1988]

OPEN AMUSEMENT USE

Temporary amusement apparatus associated with carnivals, circuses and like uses.

[Added 6-27-1988 by L.L. No. 3-1988]

PLANNED DEVELOPMENT GROUP

A structure or a group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative group and which has certain facilities in common, such as yards and open spaces, recreation areas, garages and parking areas.

PLANNING BOARD

The Planning Board of the Town of Fort Edward.

SEASONAL MOORING

Any vessel that is secured at a mooring that is owned, leased or rented by one entity for more than a period of seven consecutive days.

[Added 8-14-1989 by L.L. No. 6-1989]

SIGN

A name, identification, description, display or illustration or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a "sign" shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group. A "sign" shall not include a sign located completely within an enclosed building, except that illuminated or animated signs within show windows shall be considered "signs." Each display surface of a sign shall be considered to be a "sign."

[Amended 6-27-1988 by L.L. No. 3-1988]

SIGN, ADVERTISING

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.

STRUCTURE

Anything constructed, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, including stationary and portable carports.

TOWN BOARD

The governing body of the Town of Fort Edward.

USE VARIANCE

Authorization by the Zoning Board for use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

[Added 3-14-2005 by L.L. No. 4-2005]

VEHICLE SALES AND SERVICE BUSINESS

Any business engaged in the sales, service, leasing or rental of any type of motorized vehicle, including, but not limited to, automobiles, trucks, buses, motor homes, motorcycles, all-terrain vehicles, tractors, bulldozers, snowmobiles, boats, jet skis, personal watercraft, and motorized scooters.

[Added 1-10-2005 by L.L. No. 1-2005]

YARD

An open space which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as herein permitted.

YARD, FRONT

An open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward.

YARD, REAR

An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

YARD, SIDE

An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING BOARD

The Zoning Board of Appeals of the Town of Fort Edward.

ARTICLE III. Establishment of Districts

§ 108-3. Designation of districts.

[Amended 8-14-1989 by L.L. No. 6-1989; 1-10-2005 by L.L. No. 1-2005]

For the purposes of this chapter, the Town of Fort Edward is hereby divided into seven zones, differentiated according to use and building regulations and to be designated as follows:

R-Ag	Agriculture-Residential Zone
R-1	Low-Density Residential Zone
R-2	Moderate-Density Residential Zone
C-1	Commercial Zone
M-1	Industrial Zone
N-1	Marina Zone
CP	Commercial Plaza

§ 108-4. Mobile Home Overlay District.

[Added 1-10-2005 by L.L. No. 2-2005 This local law also redesignated former § 108-4, Zoning Map, as § 108-4.1.]

A. Purpose. The purpose of the Mobile Home Overlay District is to promote the health, safety and general welfare of the inhabitants the Town of Fort Edward by identifying areas within the Town where mobile home parks may be located in order to provide alternative housing types and affordable housing.

B. Designated areas. The areas designated for mobile home parks are shown on the Zoning Map and designated as the "Mobile Home Park Overlay District" and described as follows:

(1) Area A. Beginning a point approximately 4,500 feet east of the intersection of NYS Route 4 and County Route 46, at the intersection of the prolongation of the easterly boundary line of the Village of Fort Edward with the center line of County Route 46, thence, northerly to the boundary with the Village of Fort Edward, thence, westerly along the Village boundary line to the easterly boundary line of the Village of Fort Edward, thence, southerly and southwesterly along the Village boundary line to County Route 46, thence, easterly along County Route 46 to the point of beginning.

(2) Area B. Beginning at a point in the easterly shoreline of the Hudson River at the intersection of the shoreline with the boundary line between the Town of Kingsbury to the north and the Town of Fort Edward to the south, thence, easterly along said boundary line approximately 1,000 feet to the center line

of Lower Allen Street, thence, southerly along Lower Allen Street, continuing southerly on Charles Street from Lower Allen Street, continuing southerly along the prolongation of Charles Street to the northerly boundary of the Village of Fort Edward, thence, westerly to the easterly boundary of the Hudson River, thence, northerly along the eastern shoreline of the Hudson River to the point of beginning.

(3) Area C. Beginning at a point where the northwesterly boundary line of the M-1 Zone intersects with the boundary line between the Town of Fort Edward and the Village of Fort Edward, thence, northerly along the northwesterly boundary line of the M-1 Zone for a distance of approximately 3,000 feet, thence, westerly parallel with the northerly line of the Village of Fort Edward for approximately 1,500 feet, thence, southwesterly and parallel with Burgoyne Avenue to a point in the boundary line between the Town of Fort Edward and the Village of Fort Edward, thence, easterly along said line approximately 1,500 feet to the point of beginning.

C. Regulations. Mobile home parks may be located only within the Mobile Home Park Overlay District. The location, density, siting and overall development of mobile home parks shall conform with all other sections of this chapter and Chapter 71, Mobile Homes. Any mobile home park in existence and operating outside the Mobile Home Overlay District prior to the effective date of this section shall be considered a nonconforming use and shall be subject to the provisions, among others, of § 71-4C, as well as the provisions of Article IX of Chapter 108 of the Town Code to the extent the provisions of that article are not inconsistent with those of this chapter. In the event of any inconsistency, the provisions of § 71-4C shall govern.

§ 108-4.1. Zoning Map.

[Amended 1-10-2005 by L.L. No. 1-2005]

The location and boundaries of said zones are hereby established as shown on the Zoning Map of the Town of Fort Edward, dated August 7, 1963, which is attached hereto and is hereby made a part of this chapter. Editor's Note: The Zoning Map is on file in the office of the Town Clerk. Said map or maps and all notations, references and designations shown thereon, as modified or amended by certain provisions of the Town Code adopted after the date of the Zoning Map, shall be a part of this chapter as if the same were all fully described and set forth herein.

§ 108-5. Interpretation of boundaries.

A. The zone boundary lines are intended generally to follow the boundary lines of streets, the center lines of railroad rights-of-way, existing lot lines, the mean water level of rivers, streams and other waterways or Town boundary lines, all as shown on the Zoning Map; but where a zone boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.

B. In case of uncertainty as to the true location of a zone boundary line in a particular instance, the Zoning Administrator and/or Building Inspector shall request the Zoning Board of Appeals to render its determination with respect thereto.

[Amended 6-27-1988 by L.L. No. 3-1988]

ARTICLE IV. District Regulations

§ 108-6. General provisions.

The restrictions and controls intended to regulate development in each zone district are set forth in this Article, which is supplemented by other sections of this chapter.

§ 108-7. Regulations applicable to all districts.

Except as hereinafter otherwise provided:

A. No building shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner, other than as specified among the uses hereinafter listed as permitted in the district in which such building or land is located.

B. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.

C. No building shall be erected, no existing buildings shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot area and building location regulations hereinafter designated for the district in which such building or open space is located.

D. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

§ 108-8. R-Ag District.

A. Principal permitted uses in the R-Ag District shall be as follows:

- (1) All agricultural land uses, buildings and activities, including the growing of field, truck and tree crops, dairying, livestock raising, poultry raising and similar agricultural uses.
- (2) Nurseries and greenhouses.
- (3) Agricultural industries required by local agricultural production.
- (4) Single-family detached dwellings.
- (5) Churches and parish houses.
- (6) Public parks and playgrounds.
- (7) Governmental buildings and uses, including police and fire stations.
- (8) Public schools and private schools offering general instruction.
- (9) Signs, advertising. (See § 108-44B.)

B. Permitted accessory uses in the R-Ag District shall be as follows:

- (1) Home occupations, professions and trades.
- (2) Private garages and parking areas.
- (3) Signs.
- (4) Off-street parking and loading.
- (5) Roadside stands for the sale of products produced on the premises.
- (6) Accessory farm buildings.

(7) Other accessory uses and structures customarily appurtenant to a principal permitted use.

C. Special uses in the R-Ag District shall be as follows:

(1) Automobile service and filling stations.

(2) Golf courses and other outdoor recreational facilities.

(3) Eating and drinking places.

(4) Retail business or service establishments.

(5) Community buildings, country clubs, social halls, clubs, lodges and fraternal organizations.

(6) Hospitals and sanatoriums.

(7) Cemeteries.

(8) Planned development groups.

(9) Motels, motor courts, inns, tourist cabins.

(10) Outdoor storage, junk, automobile salvage and wrecking yards.

(11) Mobile home parks.

(12) Public utility structures.

§ 108-9. R-1 District.

A. Principal permitted uses in the R-1 District shall be as follows:

(1) One-family detached dwellings.

(2) Churches and parish houses.

(3) Libraries.

(4) Public parks and playgrounds.

(5) Governmental buildings and uses, including police and fire stations.

(6) Public schools, private schools offering general instruction.

(7) The practice of the professions of medicine, dentistry and law.

[Added 9-15-1971]

B. Permitted accessory uses in the R-1 District shall be as follows:

(1) Signs.

(2) Private garages and parking areas.

(3) Home occupation, professions and trades.

(4) Home gardening, but not the raising of poultry, livestock and other similar activities.

(5) Other accessory uses and structures customarily appurtenant to a principal permitted use.

C. Special uses in the R-1 District shall be as follows:

(1) Cemeteries.

(2) Golf courses and other outdoor recreational facilities.

(3) Community buildings, country clubs, social halls, lodges and fraternal organizations.

(4) Planned development groups.

(5) Mobile home courts, parks and camps.

[Amended 6-27-1988 by L.L. No. 3-1988]

(6) Public utility structures.

§ 108-10. R-2 District.

[Amended 6-27-1988 by L.L. No. 3-1988]

A. Principal permitted uses in the R-2 District shall be as follows:

(1) One-family detached dwellings.

- (2) Churches and parish houses.
- (3) Libraries.
- (4) Public parks and playgrounds.
- (5) Governmental buildings and uses, including police and fire stations.
- (6) Public schools, private schools offering general instruction.
- (7) The practice of the professions of medicine, dentistry and law.
- (8) Two-family dwellings.
- (9) Multiple dwellings.
- (10) Colleges and universities.

B. Permitted accessory uses in the R-2 District shall be as follows:

- (1) Signs.
- (2) Private garages and parking areas.
- (3) Home occupations, professions and trades.
- (4) Home gardening, but not the raising of poultry, livestock and other similar activities.
- (5) Other accessory uses and structures customarily appurtenant to a principal permitted use.

C. Special uses in the R-2 District shall be as follows:

- (1) Cemeteries.
- (2) Golf courses and other outdoor recreational facilities.
- (3) Community buildings, country clubs, social halls, lodges and fraternal organizations.
- (4) Planned development groups.
- (5) Mobile home courts, parks and camps.

(6) Public utility structures.

§ 108-11. C-1 District.

A. Principal permitted uses in the C-1 District shall be as follows:

(1) Local retail business or personal service establishments, such as grocery, drug- and hardware stores, meat or food markets, barber- and beauty shops, shoe repair shops and the like, where such uses are necessary to supply the daily living needs of the community.

(2) Offices and banks.

(3) Eating and drinking establishments.

(4) Governmental buildings and uses, including police and fire stations.

B. Permitted accessory uses in the C-1 District shall be as follows:

(1) Public and private parking and loading.

(2) Signs.

(3) Other accessory uses customarily appurtenant to a permitted use.

C. Special uses in the C-1 District shall be as follows:

(1) Automobile service, repair and filling stations.

(2) Planned development groups, not including residential development groups.

(3) Commercial trucking and taxi stands.

§ 108-12. M-1 District.

A. Principal permitted uses in the M-1 District shall be as follows:

(1) Industrial or business of a kindred nature engaged in manufacture, assemblage, treatment or packaging of products and warehousing of products, when conducted without public hazard, except those which, by reason of odor, noise, dust or smoke, constitute a nuisance to or endanger the safety of neighboring property.

[Amended 6-11-1990 by L.L. No. 6-1990]

(2) Research and related laboratory uses.

(3) Distribution plants.

B. Principal accessory uses in the M-1 District shall be as follows:

(1) Public and private parking and loading.

(2) Signs.

(3) Other accessory uses customarily appurtenant to a permitted use.

C. Special uses in the M-1 District shall be as follows:

(1) Outdoor storage, junk, automobile-salvage and wrecking yards.

(2) Planned development groups, not including residential development groups.

§ 108-12.1. N-1 District.

[Added 8-14-1989 by L.L. No. 6-1989]

A. Principal permitted uses in the N-1 District shall be as follows:

(1) Marinas.

(2) Offices and banks.

(3) Eating establishments.

(4) Governmental buildings and uses, including police and fire stations.

B. Principal accessory uses in the N-1 District shall be as follows:

(1) Public and private parking and loading.

(2) Signs.

(3) Marine services; repair and filling stations.

(4) Other accessory uses customarily appurtenant to a permitted use.

C. Special uses in an N-1 District shall be as follows:

- (1) Planned development groups, not including residential development groups.

§ 108-12.2. Commercial Plaza Zone.

[Added 9-13-1993 by L.L. No. 1-1993]

A. Purpose and intent. The purpose of this Commercial Plaza District is to accommodate existing commercial activity and to provide for areas within Fort Edward where commercial land uses can be promoted and developed to meet the needs of the town.

B. Permitted uses.

(1) Permitted uses include:

- (a) Retail stores or services (i.e., hardware, meat or food, clothing apparel/department store, sporting equipment store, jewelry store, shopping center, building and garden supplies, convenience stores, florists).
- (b) Personal service shops (i.e., drugstore, barber store, beauty parlor, shoe repair, travel agency, bakery, crafts, banks/including drive-in banks).
- (c) Offices, professional and general, including architect, artists, chiropractor, dentist, engineer, insurance broker, lawyer, musician, ophthalmologist, physician, public account, real estate broker, teacher, medical facilities.
- (d) Restaurants, theater.
- (e) Nursing home, child-care facilities, health-care facilities.
- (f) Motel, inn, lodge, hotel, bed-and-breakfast.
- (g) Parking.

(2) Owner-occupied uses are permitted under Subsection B(1)(b).

C. Uses not permitted within this zone.

- (1) Massage parlors.

- (2) Tattoo parlors.
- (3) Adult bookstores.
- (4) Amusement businesses and/or arcades.
- (5) Businesses which principally sell gasoline, gasoline service stations.
- (6) Billiard parlors.
- (7) Car maintenance facilities, car wash.
- (8) Funeral homes.
- (9) Vehicle sales and service businesses.

[Added 1-10-2005 by L.L. No. 1-2005]

D. The Commercial Plaza Zone shall include all areas designated C-1 on the official Zoning Map of the Town of Fort Edward dated August 7, 1963, and all areas subsequently designated C-1 by the Town Board and the area bounded on the north by the boundary line between the Town of Fort Edward and the Village of Hudson Falls, on the east by Elizabeth Street, on the south by Schuyler Street and on the west by Broadway (sometimes referred to as "Lower Main Street").

[Amended 1-10-2005 by L.L. No. 1-2005]

E. A special use permit under Zoning § 108-28 shall be required for a planned unit development of commercial uses within this zone.

F. Site plan review under Chapter 81 of the Fort Edward Code shall be applicable to all development uses within this zone.

G. Application of commercial plaza except as herein provided:

- (1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulation herein set forth.
- (2) Any lot held in single and separate ownership prior to the adoption of this section, whose area and/or width and/or depth are less than the specified minimum lot requirements of this section for that district, may be considered

as complying with such minimum lot requirements, and no variance shall be required, provided that:

(a) Such lot does not adjoin other undersized lot or lots held by the same owner, whose aggregate area is equal to or greater than the minimum lot area required for that district.

(b) Such lot has an area of at least 15,000 square feet and a minimum width of at least 100 feet at the required setback line.

(c) The following minimum yard setbacks are maintained in a district where yards are required:

[1] Side yards: 10 feet.

[2] Front yard: 20 feet.

[3] Rear yards: 10 feet.

(d) All other requirements of this section have been met.

H. Nonconforming uses.

(1) Continuation of nonconforming uses. The lawful use of any land use existing at the time of the adoption of this section may be continued, although such land use does not conform with the provisions of this section except as hereinafter provided.

(2) Extension or enlargement.

(a) No building permit shall be issued and no nonconforming use shall hereafter be extended or enlarged. In order not to unnecessarily deprive anyone of value, the following will be allowed:

[1] The maintenance and repair of a nonconforming use.

[2] The replacement of a nonconforming use if it is damaged by fire or natural disaster, upon approval of the Planning Board.

[3] The rebuilding or modernization of a nonconforming use if not expanding by volume or change use.

(b) A nonconforming use shall not increase or expand the nonconformity of the building.

(3) Abandonment and discontinuance.

(a) Any nonconforming use which lies abandoned or discontinued for a period of 12 consecutive months shall not be permitted to be re-established as a nonconforming use and any future use of the property shall be in conformity with the provisions of this section.

(b) Any nonconforming use which has been abandoned or discontinued for less than 12 consecutive months may be re-established as a nonconforming use if such restoration is completed within 12 months from the date of the abandonment or discontinuance.

(4) Completion. Nothing in this section shall prohibit the completion of any lawful structure for which the excavation has been prepared and the foundation walls constructed at the date this section takes effect, provided however, that the construction must be completed within a period of one year from that date.

I. General Commercial Plaza regulations.

(1) The following regulations apply to all uses permitted by right:

(a) Minimum lot area: 20,000 square feet.

(b) Minimum lot area without public sewer and water: 40,000 square feet.

(c) Minimum lot area without public sewer: 30,000 square feet.

(d) Minimum lot width: 125 feet.

(e) Minimum lot depth: 150 feet.

(f) Maximum building coverage: 45%.

(g) Minimum green space: 20%.

(h) Minimum front yard: 20 feet.

(i) Minimum rear yard: 10 feet.

(j) Minimum side yard: 10 feet.

(k) Maximum height: three stories or 35 feet.

(2) Where a proposed commercial use adjoins an existing residence, the applicant shall provide a solid wall fence or appropriate screening as required by the Planning Board under Chapter 81, Site Plan Review.

J. Signs within Commercial Plaza Zone.

(1) "Signs" shall mean any material, structure or device, or part thereof, composed of lettered or pictorial matter, which, when used and located out of doors, displays any advertisement, announcement notice, directional matter or name, and includes sign frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, projecting or ground signs, and includes any announcement, declaration, demonstration, display sign, illustration or insignia used to advertise or promote the interest of any person, activity or business when the same is placed in view of the public.

(2) Signs are limited to one that identifies the business use, and such sign shall be affixed to and connected with the building and shall not exceed 50 square feet in size.

(3) Freestanding signs.

(a) One freestanding sign shall be permitted for each principle business structure, and such sign may be used to identify any and all businesses in such structure.

(b) A freestanding business sign shall not exceed 48 square feet in size, including both sign faces, if illuminated.

(c) A freestanding business sign shall not exceed 80 square feet in size, including both sign faces, if nonilluminated or undertaken pursuant to indirect lighting.

(d) The height of the freestanding sign shall be no more than 20 feet above the proposed grade at its location.

(4) Setback.

(a) Front line setback: 15 feet.

(b) Side and rear setback: 15 feet.

(5) Requirements.

(a) After the effective date of this section, no person shall erect any sign within this district without first obtaining a permit from the Building Inspector.

(b) No sign, whether new or existing, shall hereafter be erected or altered except in conforming with provisions of this section. However, notwithstanding any provision contained herein, the sign must be kept clean, neatly painted and free from all hazards such as but not limited to faulty wiring, loose fastenings that must be maintained at all times and such safe conditions so as not to be detrimental to the public health or safety.

(c) Signs shall be nonflashing, nonanimated and nonrevolving and illumination shall not cause excessive glare to adversely affect abutting properties. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination thereof to be directed or beamed upon a public street, highway or sidewalk so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(d) Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.

(e) A sign shall be permitted only in connection with the permitted use of premises.

(f) Directional signs, such as entrance, exit, etc., shall be of a size not to exceed three square feet and not to exceed four feet in height above the existing grade of the street and shall not interfere with sight distances. Fifty percent of the directional sign must be devoted to direction and not to a trademark or logo.

(g) Signs shall not project beyond property lines or over public sidewalk areas, except as expressly permitted in commercial districts. In those cases where a sign is permitted to project beyond property lines or over public sidewalks, the owner of the sign or his authorized agent shall file with the Town Clerk a bond in the amount of \$5,000 prior to erection of the sign. Such bond shall be kept in effect at all times until the sign is removed. In the event of the abandonment of the sign by the owner, such bond may be used to defray the cost of removal by the town.

(h) Signs shall be accessory to the principal use where they are erected.

(i) A sign permit shall be required for the erection, alteration or reconstruction of any business or advertising sign within this Commercial Plaza Zone.

(j) One temporary nonilluminated sign advertising the sale, lease or construction of or on the premises shall be permitted for a period not to exceed 12 months. Such sign shall not exceed 16 square feet in area on both faces.

(k) Signs associated with legally nonconforming uses located in this Commercial Plaza District must comply with the sign regulations.

(l) No sign shall be erected or painted on the roof of any building and no sign shall in any event project above the roofline of the building to which it is attached.

(m) Window signs. No signs erected or maintained in the window of a building visible from any public or private street or highway shall occupy in aggregate no more than 15% of the area of said window.

(n) Wall signs. No sign or graphic description of any nature shall be permitted to be painted on exterior walls.

(o) At the end of the third year, said sign shall be replaced and all signs shall be erected in conformance with the sign requirements pursuant to application approval by the Building Inspector.

(p) No sign shall be permitted and no permit issued unless the construction or erection shall comply with the safe and existing methods of construction or erection and shall not endanger the users of the public streets or sidewalks of the town. Electric signs must display an Underwriters' Laboratories seal of approval, or the owner must furnish a Board of Fire Underwriters' certificate within 30 days. A fee shall be charged.

(q) Any nonconforming signs at the time of the adoption of this section shall be permitted to be maintained as said sign for three years. At the end of the third year from the effective date of this chapter, said sign shall be replaced and all signs shall be erected in conformance with this sign requirement pursuant to application and approval by the Building Inspector. The Building Inspector shall notify the owner of the premises in writing to remove said sign at the expiration of the three years upon a sixty-day notice. Upon failure to comply with this notice, the Building

Inspector shall remove or cause to be removed said sign and shall cause to be assessed against the property all costs and expenses incurred.

(r) A nonconforming sign which is destroyed or damaged to an extent in excess of 50% shall not be replaced except by a sign which conforms to the requirements for signs in this Zone. Replacement or repair of this nonconforming sign destroyed or damaged of less than 50% does not extend the three-year limitation use of its nonconforming use.

(s) Any nonconforming sign existing as of this effective date cannot be enlarged, rebuilt, structurally altered or relocated except as to make such sign conform.

(t) Any sign existing on or after this date, or at any time thereafter, which the Building Inspector shall find to be immediate danger to the public, may be summarily removed by Building Inspector.

(u) Any sign which exists and which advertises a business or operation no longer conducted or a product no longer sold on the premise shall be removed by the owner of the premise along upon which said sign is located. If the sign is not removed, the Building Inspector shall notify the owner of the premise, in writing, to remove said sign within 60 days. Upon failure to comply with the notice, the Building Inspector shall remove or cause to be removed said sign and shall cause to be assessed against the property all costs and expenses.

(6) Temporary signs. No signs of temporary nature, such as political and election notices, advertisement for sporting events and shows, promotional devices and other signs of similar nature shall be displayed until 60 days prior to the event and must be removed within 10 days after the event. The Building Inspector, after 10 days written notice to remove such sign and after the failure to remove such sign, shall remove said sign at the town's cost and shall charge the owner of the premise where the temporary sign was displayed. Candidates or their organization shall be responsible for the removal of their signs. Upon failure to remove said signs, and upon written notice, said candidate and/or organization shall be responsible for the cost of removal.

(7) Posting prohibitions. No signs, printed bills or other advertising material shall be affixed to any tree, fence, electric, light, telephone or any other public utility pole within the town.

(8) Sign application.

(a) Application for the permit shall be made, in writing, in duplicate upon forms prescribed and provided to the Building Inspector and shall contain the following information:

[1] The name, address and telephone number of the applicant.

[2] The location of the building, structure or land upon which the sign is to be erected.

[3] A detailed drawing or blueprint showing the description of the construction details of the sign and showing the lettering or pictorial matter composing the sign, position of lighting or other extraneous devices.

[4] A location plan showing the location of the sign and the building or land in its position in relation to nearby buildings or structures and to any private or public street or highway.

[5] Written consent of the owner or a duly authorized agent of the building structure or land to which or upon which the sign is to be erected in the event that the applicant is not the owner.

(b) It shall be the duty of the Building Inspector upon the filing of an application for a permit to erect a sign to examine such plan specifications and other data submitted to him with the application. The Building Inspector shall review said application and may require additional information. The Building Inspector shall either issue or deny a permit within 15 working days upon receipt of a complete application. The applicant must be notified, in writing, if the Building Inspector rejects the application. If the application is rejected, the applicant has the right to appeal to the Fort Edward Planning Board.

(c) Every applicant who shall be granted a permit under this section shall display in a prominent location on the premise the identifying decal of approval.

(9) Sign variance.

(a) The Planning Board of the Town of Fort Edward may in appropriate cases and after public notice and hearing and subject to appropriate safeguards vary or modify the application of this section or specific sign requests.

(b) The applicant shall file an appeal on a form submitted by the Building Inspector in duplicate to the Planning Board, and it shall contain the information previously submitted to the Building Inspector and any updated information, together with an explanation as to the need for variance or modification in the Sign Ordinance of this particular application, such as there being practical difficulty or unnecessary hardship in the way of carrying out the strict application of this section.

(c) In granting a variance or modification, the Planning Board may vary or modify the provisions so that the spirit of the law shall be observed and the proposed nonconforming sign would not be offensive to the artistic and aesthetic objectives of this section. In making any such determination, the burden of proving the necessity or the artistic value of the variance shall be on the applicant. The Planning Board may prescribe such conditions or restrictions as it may be deemed necessary. The Planning Board may specify the time limit during which a grant of variance shall be effective. Such conditions or restrictions shall be incorporated in any permits.

(d) The concurring vote of the majority of the members of the Planning Board present shall be necessary to reverse any order, requirement, decision, determination or appeal from or to decide in favor of the applicant in any matter upon which it is required to approve. Every decision shall be by resolution supported by the reasons. The decision shall be filed with the Town Clerk. The decision shall also be mailed to the applicant.

(e) The granting of any variance or modification shall in no event be construed as precedent for any other application for sign variance.

(10) Sign violation.

(a) In the event of a violation of any of the foregoing provisions, the Building Inspector shall give written notice specifying the violation to the named owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform the sign to the provision or remove such sign. The sign shall thereupon be conformed by the owner of the sign and the owner of the land within 30 days from the date of the notice. In the event that said sign shall not be conformed within 30 days, the Building Inspector shall thereupon revoke the permit and such sign shall be removed by the named owner of the sign or the named owner of the land.

(b) Failure to comply with any of the provisions of this section shall be deemed in violation. The violators shall be liable to a fine of not more than

\$50, and each day such violation continues shall constitute a separate violation.

K. Parking within commercial plaza zone.

(1) Off-street parking and loading. Off-street parking and loading must be provided according to the requirements set forth herein. No open or enclosed parking or loading area shall encroach on any required front yard. Open parking and loading areas may encroach on required side or rear yards to within three feet of the side or rear lot line.

(2) Off-street parking space shall be required for all buildings constructed, altered, extended and engaged in use after the effective date of this chapter.

(3) All parking shall be adequately lighted.

(4) Off-street parking areas located within 10 feet of residential use shall be shielded by wall, fencing or by other suitable material which shall serve to screen noise and site as approved by the Planning Board.

(5) Schedule of minimum required off-street parking spaces. The following shall be the minimum requirements for off-street parking.

Type	Number of Spaces Required
Retail convenience store	1 space per 500 square feet or fraction thereof of interior retail service area; under no circumstances less than five 5 spaces, plus 1 space for each employee
Professional offices, medical	1 space per 150 square feet of gross interior floor area
Professional offices, nonmedical	1 space per 200 square feet of gross floor area
Service stores	1 space per 100 square feet or fraction thereof of service area; under no circumstances less than five 5 spaces, plus 1 space for each employee
General	1 space per 200 square feet of floor area

Type	Number of Spaces Required
business offices	
Food markets	1 space per 200 square feet of gross floor area
Banks	1 space per 200 square feet of gross floor area
Restaurants	1 space per 50 square feet of gross floor area
Child day-care centers	1 space per employee plus 0.15 space per child
Hotels/motels	1 space per room and 1 space per employee on the maximum shifts

(6) Off-street loading within Commercial Plaza Zone.

(a) Off-street loading. At least one off-street loading space shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described below. Space for off-street loading shall be in addition to space for off-street parking.

(b) Each off-street loading space shall be subject to the following minimum requirements:

[1] Each berth shall be not less than 12 feet wide, 40 feet long and 14 feet in height when covered.

[2] Off-street loading space (or spaces) located within 25 feet of a residential property shall be shielded by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.

(c) For any building having more than one use, parking space shall be required as provided for each use.

L. Inconsistency and supersession. If there is any inconsistency between this section and other Town of Fort Edward local laws and Fort Edward Zoning Ordinance, this section shall prevail and supersede the other local laws and Fort Edward Zoning Ordinance.

§ 108-13. Lot, yard and height regulations.

Lot, yard and height regulations shall be as follows:

Regulation	District				
	R-Ag and R- 1	R-2	C-1	M-1	N-1 ¹
Minimum lot area (square feet)	10,000	10,000	--	1/2 acre	--
Without public water and sewage facilities (square feet)	20,000	20,000	--	--	--
Without public sewage facilities (square feet)	15,000	15,000	--	--	--
Minimum yards					
Front (feet)	20	20	20	30	20
Rear (feet)	25	25	20	30	20
Side					
1 (feet)	10	10	--*	20	--*
Both (feet)	25	25	--*	45	--*
Minimum lot width (feet)	100	75	--	100	--
Minimum lot depth (feet)	100	100	--	200	--
Maximum building coverage	30%	30%	50%	25%	50%
Maximum height					
Stories	2 1/2	2 1/2	3	2	3
Feet	30	30	35	30	35

*NOTE: None required, but when provided shall be at least 15

feet.

¹[Added 8-14-1989 by L.L. No. 6-1989]

ARTICLE V. Supplementary Regulations

§ 108-14. Lots.

A. Lot frontage. The minimum lot frontage of any lot shall be measured along the minimum building setback line as required for the district in which it is located.

B. Corner lots. At all street intersections, no obstruction to vision which is a hazard to vehicular movement exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 30 feet distant from their points of intersection.

C. Required area or space cannot be reduced. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter; and, if already less than the minimum required by this chapter, said area or dimension may be continued and shall not be further reduced.

D. Minimum lot size for two-or-more-family dwellings. Lots to be developed with private water supply and sewage disposal systems or private sewage disposal systems for two or-more-family dwelling structures may require larger lot sizes and widths than are specified because of unusual subsoil or geological conditions found to exist on the particular location in question. In such cases, the minimum lot area otherwise required shall be increased, where necessary, to the extent required to allow the proposed water and/or sewerage installation to operate effectively in order to protect the public health, safety and welfare. Detailed plans for such water and/or sewerage systems shall be submitted to the Zoning Administrator and/or Building Inspector and approved by them before a zoning permit shall be issued. The suitability of the proposed systems shall conform to the standards of New York State Department of Health.

[Amended 6-27-1988 by L.L. No. 3-1988]

§ 108-15. Height.

Height limitations stipulated elsewhere in this chapter shall not apply to open amusement uses, church spires, belfries, cupolas and domes, monuments, water towers, chimneys, smokestacks, flagpoles, radio and television towers, masts and aerials; or to parapet walls, except that no parapet wall may extend more than four feet above the limiting height of the building, or to farm buildings or structures on farms, provided that these farm buildings are not less than 20 feet from every lot line.

§ 108-16. Yards.

A. Front yard exception. When a vacant lot is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, and when both such improved lots contain principal structures which do not conform to the minimum front yard setbacks in that district, the front yard requirements of the unimproved lot may be reduced to the greater of the two front yard setbacks of the adjoining improved lots but in no case shall be less than 10 feet. However, where any lot shall front on a right-of-way which is proposed on the Official Map of the Town of Fort Edward to be widened, the front yard shall be measured from such proposed future right-of-way.

B. Additional yards required where C-1 and M-1 uses abut R Districts. All uses permitted in C-1 or M-1 Districts, which abut, at the lot line or on the same street, an R District, shall provide yards where they abut at least the minimum yard requirements in accordance with such R Districts.

§ 108-17. Accessory structures.

Minimum yard regulations for accessory structures shall be as follows:

A. Unattached accessory structures in R Districts. Accessory structures which are not attached to a principal structure may be erected in accordance with the following restrictions:

- (1) No accessory structure is located closer than 10 feet to the side and rear lot lines.
- (2) No accessory structure is located closer to the street than the street wall of the principal structure.
- (3) No accessory structure is located closer to a principal structure than 10 feet.

B. Attached accessory structures in R Districts. When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal buildings.

§ 108-18. Landscaping.

Any use which is in, abuts, is adjacent to or is less than 50 feet from any R District and which is not conducted within a completely enclosed building, such as junkyards, storage yards, lumber and building materials yards and parking lots and like uses shall be entirely enclosed by a fence or landscaping sufficient to effectively shield such uses. This section shall not apply to nurseries and the display sales purposes of new or used cars, trucks, trailers, bicycles, motorcycles or farm equipment.

§ 108-18.1. Marinas.

[Added 8-14-1989 by L.L. No. 6-1989]

A. General prohibitions.

- (1) No marina shall be operated within the Town of Fort Edward without first obtaining a site plan review permit from the Town of Fort Edward.
- (2) No marina shall be used for the importation or transportation of garbage, water products, junk or hazardous waste into the Town of Fort Edward, excepting that refuse produced at the marina in the normal course of business.

B. Specific standards. Marinas operated within the Town of Fort Edward shall provide the following:

- (1) Restrooms for the use of its customers or clientele.
- (2) Trash disposal receptacles sufficient to accommodate all trash generated by the marina's customers or clientele and maintained in a clean and usable condition.
- (3) Adequate parking spaces as determined by § 108-23O of the Zoning Chapter of the Town of Fort Edward.
- (4) An identification number corresponding to the permit number assigned to the owner of the wharf or wharves under permit. This number is to be displayed in such a manner that it is readily visible from the water.

(5) A maintenance program sufficient to keep all wharves, adjacent shoreline, water and lake bottom clean of debris.

(6) A plan that minimizes the project's visual impact and avoids any navigational hazards.

(7) A plan designed to avoid damage to the environment due to leakage or spills of fuels, lubricants, waste products or other pollutants.

C. Additionally, marinas operating within the Town of Fort Edward shall be subject to the following standards:

(1) A dockminium facility shall be considered a marina and therefore subject to all the provisions of this chapter and also the following standards.

(2) A quicklaunch facility, as herein defined, shall be considered a marina and therefore subject to all the provisions of this chapter and also the following standards:

(a) All provisions for vessel storage, launching, docking and parking for cars and trailers shall be located on the same one lot.

(b) The quicklaunching of vessels shall be limited to 20% of the maximum number of vessels that could be stored.

ARTICLE VI. Parking and Loading Requirements

§ 108-19. Off-street parking.

In all districts, in connection with every manufacturing, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces in accordance with the requirements set forth herein. The number of required off-street parking spaces shall be the number required for the entire building structure.

§ 108-20. Size; access.

A. Each off-street parking space shall have an area of not less than 180 square feet, exclusive of access drives or aisles, and each parking space shall have a minimum width of nine feet. Except in the case of one- and two-family residences, no parking area provided hereunder shall be established for fewer than three spaces.

B. There shall be adequate provision for ingress and egress to all parking spaces. Access drives or driveways shall not be less than 10 feet wide. Access to off-street parking shall be limited to several well-defined locations, and in no case shall there be permitted unrestricted access along the length of the street or alley upon which the parking area abuts. Access to off-street parking areas for 25 or more cars shall be so designed as to provide ingress and egress on two-way traffic streets by right turns only.

§ 108-21. Number of spaces required.

[Amended 6-27-1988 by L.L. No. 3-1988]

The number of off-street parking spaces required shall be set forth in § 108-23 below.

§ 108-22. Parking for churches, synagogues and other houses of worship.

The number of required off-street parking spaces for churches, synagogues and other houses of worship may be eliminated or reduced if there exist within 500 feet of the church, synagogue or house of worship public or private parking lots containing a sufficient number of off-street parking spaces to satisfy the requirements of § 108-23. The church, synagogue or house of worship must provide the difference if the number of parking spaces in the private or public lots is below the number required by § 108-23. Any spaces provided in public or private lots must be shown to be legally available for worshipers on the day or days of greatest use.

§ 108-23. Specific parking requirements.

Minimum required off-street parking spaces shall be as follows:

- A. Bowling alleys: five parking spaces for each alley.
- B. Churches, synagogues and houses of worship: one parking space for each five permanent seats, except as noted in § 108-22. When individual seats are not provided, each 20 inches of benches shall be considered one seat.
- C. Community buildings, country clubs, social halls, lodges, fraternal organizations and similar uses: one for each 200 square feet of floor area occupied by all principal and accessory structures.
- D. Motels and rooming houses: one for each rentable unit.
- E. Hotels: one for each two rentable units.

F. Funeral homes and mortuaries: five for each parlor.

G. Hospital, nursing and convalescent homes: one for each five beds, plus one for each two employees.

H. Manufacturing, industrial and general commercial uses not otherwise specified herein: one for each 1,000 square feet of floor area, plus one for each four employees in the maximum working shift.

I. Offices: one for every 400 square feet of rentable floor area.

J. Restaurants, bars and nightclubs: one for each three seats.

K. Retail stores, store groups, shops, etc.: one for each 300 square feet of floor area where the floor area shall exceed 1,000 square feet.

L. Schools.

(1) Senior high schools: one parking space for every 10 classroom seats.

(2) Elementary and junior high schools: one for every 15 classroom seats.

M. Wholesale establishments or warehouses: one for each two employees in the maximum shift. The total parking area shall be not less than 20% of the building floor area.

N. Auditoriums, theaters, assembly halls: one for each 3 1/2 seats.

O. Marinas: one for each employee in the maximum shift, plus one for each seasonal mooring, plus 10 additional parking spaces.

[Added 8-14-1989 by L.L. No. 6-1989]

§ 108-24. Off-street loading.

A. In any district, in connection with every building or building group or part thereof hereafter erected which is to be occupied by manufacturing or commercial uses or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same zone lot with such building off-street loading berths in accordance with the requirements of § 108-25 following.

B. Size and location. Each loading space shall be not less than 10 feet in width and 35 feet in length and have a minimum clearance of 14 feet and may occupy all or any part of any required yard.

§ 108-25. Number of loading spaces required.

For offices, hotels, retail, commercial, wholesale, manufacturing, storage and miscellaneous uses, the following loading space is required:

Total Floor Area (square feet)	Required Off- Street Loading Berths
From 10,000 to 25,000	1
From 25,000 to 40,000	2
From 40,000 to 60,000	3
From 60,000 to 100,000	4
For each additional 50,000 or major fraction thereof	1 additional

§ 108-26. Joint parking and loading facilities.

Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use, and provided that all regulations governing the location of accessory spaces in relation to the use served are adhered to. Further, no accessory space or portion thereof shall serve as a required space for more than one use unless otherwise approved by the Zoning Board of Appeals in accordance with the purposes and procedures set forth herein.

§ 108-27. Development and maintenance of areas.

Every parcel of land hereafter used as a public or private parking area for five or more cars or structure used as a parking garage or loading area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements. Plans for such areas shall be reviewed by the Planning Board to ensure compliance with these regulations.

A. Screening and landscaping. Off-street parking areas and structures for five or more vehicles and off-street loading areas shall be effectively screened by a

fence or hedge if located within 50 feet of an R District. Such hedge or fence shall not be less than six feet in height and shall be maintained in good condition without any advertising thereon. Any space between such fence or hedge and the side lot line adjoining premises or the front lot line facing premises in any R District shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.

B. Minimum distances and setbacks. No off-street loading area or parking area or part thereof for five or more vehicles shall be closer than 10 feet to any dwelling, school, hospital or institution for human care located on an adjoining or adjacent lot.

C. Lighting. Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to reflect the light away from adjoining premises. Off-street parking facilities for multifamily structures containing four or more families shall be adequately lighted.

D. Drainage. Any off-street parking area and off-street loading area shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.

ARTICLE VII. Special Uses

§ 108-28. General requirements.

Special uses, as enumerated in §§ 108-8 through 108-12, shall be permitted only upon authorization by the Zoning Board of Appeals, provided that such uses shall comply with the following requirements and other applicable requirements as set forth in this chapter:

A. That the use is a special use as set forth in §§ 108-8 through 108-12 hereof.

B. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience of the citizens will be protected.

C. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

D. That the use will be compatible with adjoining development and the proposed character of the zone district in which it is to be located.

E. That adequate landscaping and screening is provided as required in § 108-18 and as otherwise provided herein.

F. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

§ 108-29. Specific requirements.

The special uses enumerated below shall be governed by the following specific requirements in addition to the ones presented above.

§ 108-30. Motels, motor courts, motor hotels and similar uses.

A. Motels, motor courts, motor hotels and similar uses shall have a minimum area of 150 square feet rentable for each unit, exclusive of bathroom facilities.

B. Each rentable unit shall include a minimum of one bedroom and a shower or bath room with toilet.

C. Illuminated signs and other lights shall be directed away from or shielded from surrounding residential properties in such a way as not to disturb the occupants thereof.

§ 108-31. Service stations and commercial parking areas.

A. Location of exits and entrances. No gasoline filling station or commercial parking areas or garage for 25 or more motor vehicles shall have an entrance or exit for vehicles within 200 feet along the same side of a street on which is located a school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street on which the lot does not abut. Such access shall be not closer to the intersection of any two streets than 50 feet.

B. Location of oil-drainage pits and hydraulic lifts. No oil-drainage pit or hydraulic lift shall be located closer than 25 feet to any R District, except when such pit or lift is within a building. Storage tanks are to be located underground.

C. Work area. In any gasoline filling station or other establishment where motor vehicles are serviced or repaired, all repair operations shall be conducted within a building.

§ 108-32. Community buildings, country clubs, clubs, social halls, lodges, fraternal organizations and similar uses.

Requirements for community buildings, country clubs, clubs, social halls, lodges, fraternal organizations and similar uses shall be as follows:

A. In R Districts, where permitted, all buildings shall be a minimum of 50 feet from the center line of the road.

B. In R Districts, where permitted, such uses shall not be located on lots of less than 40,000 square feet with a minimum frontage of 200 feet.

§ 108-33. Hospitals and sanatoriums.

All buildings related to hospitals and sanatoriums, where permitted, shall be a minimum of 50 feet from the center line of the road.

§ 108-34. Mobile home parks.

Editor's Note: See Ch. 71, Mobile Homes.

[Amended 6-27-1988 by L.L. No. 3-1988]

Mobile homes shall comply with any Mobile Home Ordinance in the Town of Fort Edward.

§ 108-35. Planned development groups.

Regulations governing planned development groups shall be as follows:

A. Under the standard provisions of this chapter, a separate ground area must be designated, provided and continuously maintained for each structure or use. Pursuant to the procedure hereinafter set forth, two or more such structures may be erected and maintained on the same lot. Also, several lots may be combined into one special plan covering a planned development group. The procedure is intended to permit diversification in the location of structures and to improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, welfare and convenience in the use and occupancy of buildings and facilities in planned groups.

B. In reviewing all applications for planned development groups, the Planning Board shall consider a general development plan of the proposed project. The development plan shall show the proposed use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses such as schools and playgrounds, landscaping and other open spaces. The Board shall review architectural drawings and sketches demonstrating the design and character of the proposed uses and the physical relationship of the uses and such other pertinent information as may be necessary.

§ 108-36. Residential building groups.

Spacing between buildings and orientation in multiple-dwelling structures shall be as follows:

- A. Walls containing main window exposures or main entrances shall be so oriented as to ensure adequate light and air exposures.
- B. Such buildings shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- C. A building wall exposing both windows and an entranceway shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than 50 feet.
- D. A building wall exposing only windows or only an entranceway shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than 25 feet.
- E. A building group may not be so arranged that any temporary or permanently inhabited building is inaccessible by emergency vehicles.

§ 108-37. Commercial building groups.

Spacing between buildings and orientation in commercial building groups shall be as follows:

- A. Exterior walls of opposite buildings shall be located no closer than a distance equal to the height of the taller building.
- B. A building group may not be so arranged that any permanently or temporarily occupied building is inaccessible to emergency vehicles.

§ 108-38. Circulation.

- A. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- B. There shall be an adequate amount in a suitable location of pedestrian walks, malls and landscaped spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.

C. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

§ 108-39. Paving and drainage.

There shall be adequate design of grades, paving, gutters, drainage and treatment of turf to handle stormwaters and prevent erosion and formation of dust.

§ 108-40. Signs and lighting.

Signs and lighting devices shall be properly arranged with respect to traffic control devices and adjacent residential districts.

§ 108-41. Open space.

In residential building groups providing for permanent family occupancy, play areas for children and other recreational areas in safe locations and in an amount of not less than 10% of the gross land area of the development shall be provided.

§ 108-42. Conversions.

A. Conversions in R-2 Districts. Conversions are permitted, provided that:

- (1) There shall be not more than the maximum number of dwelling units that are permitted in the respective districts.
- (2) Off-street parking shall be provided in an amount of not less than one for each new dwelling unit added.
- (3) There shall be at least 500 square feet of habitable dwelling space in each dwelling unit.
- (4) There shall be at least one bathroom in each dwelling unit.

B. Nondwelling structures. No commercial or manufacturing structure, originally designed for other than residential use, shall be converted to a dwelling structure; nor shall any such structure which was so converted prior to the adoption of this chapter be further converted to provide for additional dwellings.

§ 108-43. Home occupations.

Permitted home occupations may be conducted in any dwelling unit only under the following conditions:

- A. Where permitted. A home occupation shall be permitted within a single dwelling unit or accessory structures thereto only by the person or persons residing therein. These home occupations shall not provide employment for more than two nonresident employees.
- B. Evidence of use. It does not display or create outside the building any evidence of the home occupation, except that one unanimated, nonilluminated flat or window sign having an area of not more than one square foot shall be permitted on each street front of the lot on which the building is situated.
- C. Extent of use. It does not utilize more than 20% of the floor area of the dwelling unit (except foster-family care).

[Amended 9-15-1971]

D. Permitted home occupation. It includes not more than one of the following uses on a lot: professional offices, rooming houses and boardinghouses, tutoring, except excluding dance studios and custom tailoring or dressmaking. Application may be made to the Zoning Board of Appeals for any other uses not creating excessive nuisances.

ARTICLE VIII. Signs and Fences

§ 108-44. Signs.

Signs may be erected and maintained only when in compliance with the following provisions:

- A. Signs in residential districts. The following types of nonilluminated, nonadvertising and nonflashing signs are permitted in all residential districts as follows:
 - (1) Nameplates and identification signs. Signs indicating the name or address of the occupant or a permitted home occupation, provided that they shall not be larger than one square foot in area. Only one such sign per dwelling unit shall be permitted, except in the case of corner lots, where two such signs (one facing each street) shall be permitted for each dwelling unit.
 - (2) Sales or rental signs. Signs advertising the sale or rental of the premises upon which they are located may be permitted, provided that:

(a) The size of any such sign is not in excess of six square feet.

(b) Not more than one sign is placed upon any property unless such property fronts upon more than one street, in which event two signs may be erected, one on each frontage.

(c) Such signs shall be promptly removed when premises are sold or rented.

(3) Farm product signs in R-1 and R-2 Districts. Signs advertising the sale of farm products when permitted by this chapter, provided that:

(a) The size of any such sign is not in excess of six square feet.

(b) Not more than two signs are used.

(c) The signs shall be displayed only when such products are on sale.

(4) Professional signs. Signs indicating the presence of a doctor, lawyer or dentist for the practice of his profession in R-1 and R-2 Districts may be permitted, provided that:

[Added 9-15-1971]

(a) The size of any such sign is not in excess of six square feet.

(b) Not more than one sign is placed upon any property.

B. Advertising signs. Advertising signs shall be permitted only in the R-Ag Zone. The following regulations shall apply to all advertising signs.

(1) Minimum distance between signs. Advertising signs fronting on a public way shall be no closer to one another than 500 feet.

(2) Setback. All advertising signs shall conform to the minimum yard requirements of the district where located.

C. Fee. A fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. shall be paid at the office of the Zoning Administrator and/or Building Inspector.

[Added 6-13-2005 by L.L. No. 6-2005]

§ 108-45. Fences.

[Amended 6-27-1988 by L.L. No. 3-1988]

Fences from the lot line to the front of the building shall be a maximum of 42 inches in height. From the outermost front line of the building to the rear lot line, fences shall not exceed six feet six inches in height from the ground level, except that eight-foot fences shall be allowed around junkyards.

ARTICLE IX. Nonconforming Uses and Structures

§ 108-46. Continuation.

A use, building or structure lawfully in existence at the effective date of this chapter which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto may be continued except as otherwise provided in this Article.

§ 108-47. General regulations.

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming use or when required to do so by law and as follows:

A. Restoration. Any nonconforming structure damaged may be restored, reconstructed or used as before, provided that the floor area of such use, building or structure shall not exceed the floor area which existed prior to such damage. All repairs shall be completed within one year after damages occur or such use shall not be rebuilt except as a conforming use.

B. Displacement. A nonconforming use shall not be extended to displace a conforming use.

C. Change of use.

(1) A nonconforming use or structure shall not be changed into a use which is permitted in a less restrictive district.

(2) A nonconforming use may be changed into a conforming use.

(3) A nonconforming use which is not permitted in any district or which is permitted only as a special use may only be changed into a conforming use.

D. Repairs. Normal maintenance repair and incidental alteration of a structure containing a nonconforming use is permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability. No structural alterations shall be made which would increase the number of dwelling units.

E. Prior approval. Nothing herein contained shall require any change in the plans, construction or designated use of a building complying with existing laws, a permit for which shall have been obtained before the date of adoption of this chapter or any applicable amendment thereto, and the ground-story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and the entire building shall have been completed according to such plans as have been filed within one year of the date of adoption of this chapter or any applicable amendment thereto.

§ 108-48. Termination of use.

The discontinuance of a nonconforming use for a period of one year and/or the change of use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof, and such nonconforming use shall not thereafter be revived. Intent to resume active operations shall not affect the foregoing.

§ 108-49. Nonconforming industrial uses.

A. The provisions of this article shall not apply, except as noted herein specifically, to any nonconforming industrial use located in a residential zone which exists on the effective date of this chapter; provided, however, that no change shall be made in the basic type of industrial operation or additions be made to the existing operation which is noxious, offensive, hazardous, detrimental to the comfortable enjoyment of life or injurious to human, plant or animal life and property or to the health, safety and general welfare of the community.

B. No land devoted to nonconforming industrial use shall be extended beyond its property boundaries as existed at the effective date of this chapter. A nonconforming industrial use may be changed into a conforming use.

ARTICLE X. Zoning Board of Appeals

§ 108-50. Establishment; membership; vacancies; alternate members.

[Amended 6-27-1988 by L.L. No. 3-1988]

A. There is hereby established a Zoning Board of Appeals having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of five members appointed by the Town Board. Appointments shall be in accordance with the Consolidated Laws of the State of New York. An appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term.

B. The Town Board shall appoint two alternate members of the Zoning Board to substitute for any regular member in the event of a conflict of interest or other factor such as illness, vacation, or other absences. The alternate member(s) shall be appointed by resolution of the Town Board for terms of three year(s). The Chairperson of the Zoning Board may designate an alternate member to substitute for a regular member when such regular member is unable to participate in an application or matter before the Zoning Board. When so designated, the alternate member shall possess all of the powers and responsibilities of such regular member. Such designation shall be entered into the minutes of the initial Zoning Board meeting at which the substitution is made. All provisions relating to Zoning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

[Added 6-9-2003 by L.L. No. 3-2003]

§ 108-51. Organization and procedure.

A. Appointment of officers; meetings.

- (1) The Town Board shall appoint a Chairman.
- (2) The Zoning Board shall adopt rules and regulations consistent with law or ordinance.
- (3) Meetings of the Zoning Board shall be held at the call of the Chairman and at such other times as the Zoning Board may determine.
- (4) The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.

B. Hearings open to the public; records:

- (1) Hearings of the Zoning Board shall be public.

(2) The Zoning Board shall keep minutes of its proceedings, showing the action of the Zoning Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its inspections and other official actions, all of which shall be a public record.

C. Quorum; voting.

[Amended 6-27-1988 by L.L. No. 3-1988; 3-14-2005 by L.L. No. 4-2005]

(1) The Zoning Board shall act by resolution.

(2) The concurring vote of a majority of the members of the Zoning Board shall be necessary to reverse any order, requirement or decision or determination of the Zoning Administrator and/or Building Inspector or the Planning Board or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to grant any variation from the requirements of this chapter.

D. Public hearing; notice.

[Added 3-14-2005 by L.L. No. 4-2005]

(1) The Zoning Board shall conduct a public hearing on the appeal or other matter referred to it and shall give public notice of the hearing by publication one time in a newspaper of general circulation in the Town as follows:

(a) Each notice of hearing upon an application for building in the bed of a mapped street shall be published at least 10 days prior to the date of the public hearing; and

(b) Each notice of hearing upon any other application shall be published at least five days prior to the date of the public hearing.

(2) In addition, notices shall be mailed to all owners of property within 500 feet of the exterior boundary of the property for which the application is made at least five days prior to the date of the hearing.

E. Fees. A fee in the amount adopted by the Town Board pursuant to Town Code § 50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. shall be paid at the time an application is filed with the Zoning Board of Appeals.

[Added 6-13-2005 by L.L. No. 6-2005]

§ 108-52. Powers and duties.

[Amended 6-27-1988 by L.L. No. 3-1988; 3-14-2005 by L.L. No. 4-2005]

The Zoning Board of Appeals shall have the following powers and duties:

A. To hear and decide appeals. The Zoning Board may hear and decide appeals made pursuant to § 108-56 where it is alleged that error or misinterpretation in any order, requirement, decision, grant or refusal was made by the Zoning Administrator and/or Building Inspector or other administrative official in the carrying out or enforcement of the provisions of this chapter or any ordinance pursuant thereto. The Zoning Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make whatever order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of the ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

B. To grant variances.

(1) Use variances.

(a) The Zoning Board, on appeal from the decision or determination of the Zoning Administrator and/or Building Inspector, shall have the power to grant use variances, as defined herein.

(b) No use variance shall be granted by the Zoning Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove unnecessary hardship, the applicant must demonstrate to the Zoning Board for each and every permitted use under the zoning regulations for the particular district where the property is located that the:

[1] Applicant cannot realize a reasonable return, and that the lack of return is substantial as demonstrated by competent financial evidence;

[2] Alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

[3] Requested use variance, if granted, will not alter the essential character of the neighborhood; and

[4] Alleged hardship has not been self-created.

(c) In the granting of use variances, the Zoning Board shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(2) Area variances.

(a) The Zoning Board shall have the power, upon an appeal from a decision or determination of the Zoning Administrator and/or Building Inspector, to grant area variances as defined herein.

(b) In making its determination, the Zoning Board shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by the variance. In making this determination the Board shall also consider whether:

[1] An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

[2] The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

[3] The requested area variance is substantial;

[4] The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

[5] The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board, but shall not necessarily preclude the granting of the area variance.

(c) In granting area variances, the Zoning Board shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(3) Imposition of conditions. In granting both use variances and area variances, the Zoning Board shall have the authority to impose reasonable conditions and restrictions which are directly related to and incidental to the

proposed use of the property. These conditions shall be consistent with the spirit and intent of the Zoning Ordinance and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

C. To hold public hearings as required and as may be permitted by this chapter.

D. To authorize the Zoning Administrator and/or Building Inspector to issue a zoning permit for a special use.

E. To permit building in the bed of mapped streets. After due notice and hearing as provided for in the Consolidated Laws of the State of New York and in accordance with the provisions set forth therein, the Zoning Board may grant a permit for a building in the bed of a mapped street or highway shown upon the Official Map or Plan of the Town of Fort Edward, as it may be adopted and from time to time amended.

F. To authorize temporary uses. After due notice and hearing, the Zoning Board may grant the temporary occupancy and use of a structure in any district for a purpose that does not conform to the district requirements, provided that the proposed occupancy and use are truly of a temporary nature and subject to any reasonable conditions and safeguards which the Zoning Board may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. The approval of the Zoning Board and any permit based on that approval for temporary occupancy and use shall not be granted for a period of more than 12 months and shall not be renewable more than once, and then for a period of not more than 12 months.

ARTICLE XI. Administration and Enforcement

§ 108-53. Zoning Administrator and Building Inspector.

[Amended 6-27-1988 by L.L. No. 3-1988]

The Town Board shall provide for the services of a Zoning Administrator and/or Building Inspector. The Zoning Administrator and/or Building Inspector are hereby given the duty, power and authority to enforce the provisions of this chapter. They shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this chapter and all nonconforming uses, record and file all applications for permits with accompanying plans and documents and make such reports as may be required.

§ 108-54. Zoning permits.

[Amended 6-27-1988 by L.L. No. 3-1988]

A. Zoning permits for a variance from the requirements of this chapter and for such special uses as may be enumerated in Article IV hereof shall be issued only upon written order of the Zoning Board of Appeals.

B. Purpose. To ensure compliance with the provisions of this chapter, no person shall erect, alter or convert any structure or building or part thereof nor alter the use of any land subsequent to the adoption of this chapter until a zoning permit has been issued by the Zoning Administrator and/or Building Inspector. Zoning permits may be valid for a limited period of time for special uses of a temporary nature as set forth herein and for other uses as may be regulated by the Zoning Board.

C. Water supply and sewage disposal. All water supply and sewage disposal installations shall conform to the New York State Department of Health regulations.

D. For principal permitted uses. All such applications shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any building, sign, parking or loading area or other physical feature existing and the intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate and such other information as may be necessary to determine compliance with this chapter. One copy of such plans shall be returned to the owner when such plans shall be approved, and one copy each of all applications, with accompanying plans and documents, shall become a public record after a permit is issued or denied.

E. For special uses. All such applications shall be accompanied by plans and such other information as may be required by the Zoning Board, except that for planned development groups the following shall be furnished:

(1) A general development plan showing the use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses such as schools and playgrounds, landscaping and other open spaces and architectural drawings and sketches demonstrating the design and character of the proposed uses and such other pertinent information as may be necessary to a determination that the contemplated arrangement or use makes it desirable to apply

regulations and requirements differing from those ordinarily applicable under this chapter.

F. Issuance of permits.

(1) It shall be the duty of the Zoning Administrator and/or Building Inspector to issue a zoning permit, provided that they are satisfied that the structure, building, sign, parking area and the proposed use conform to all requirements of this chapter and that all other reviews and actions, if any, called for in this chapter have been complied with and all necessary approvals secured therefor.

(2) All zoning permits shall be issued in duplicate, and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a zoning permit covering such operation has been displayed as required by this chapter, nor shall they perform building operations of any kind after notification of the revocation of said zoning permit.

G. Denial of permit. When the Zoning Administrator and/or Building Inspector are not satisfied that the applicant's proposed development will meet the requirements of this chapter, they shall refuse to issue a zoning permit, and the applicant may appeal to the Zoning Board of Appeals for a reversal of the Zoning Administrator's and/or Building Inspector's decision.

H. Revocation of permits. If it shall appear, at any time, to the Zoning Administrator and/or Building Inspector that the application or accompanying plan is in any respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with them under existing laws or ordinances, they may forthwith revoke the zoning permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to said Zoning Administrator and/or Building Inspector. After the zoning permit has been revoked, the Zoning Administrator and/or Building Inspector may, in their discretion, before issuing the new zoning permit, require the applicant to file an indemnity bond in favor of the Town of Fort Edward with sufficient surety conditioned for compliance with this chapter and all laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building or structure if it does not so comply.

I. No zoning permit shall be issued unless and until the applicant has complied with the requirements of the stormwater management and erosion and sediment control provisions of Chapter 56 of the Town Code.

[Added 6-12-2006 by L.L. No. 4-2006]

§ 108-55. Certificate of occupancy.

[Amended 6-27-1988 by L.L. No. 3-1988]

For new uses, after completion of the whole building or structure and upon the sworn application by the owner or his duly authorized agent setting forth such facts as the Zoning Administrator and/or Building Inspector may require and after actual inspection of the premises by the Zoning Administrator and/or Building Inspector or their duly authorized assistant, the Zoning Administrator and/or Building Inspector shall, upon finding the facts to be as represented, issue, in duplicate, an occupancy permit, certifying that the premises comply with the provisions of this chapter and may be used for the purposes set forth in the permit, which purposes shall conform to the requirements of this chapter. No change of use shall be made in any building, structure or premises now or hereafter erected or altered that is not consistent with the requirements of this chapter. Any person desiring to change the use of his premises shall apply to the Zoning Administrator and/or Building Inspector for an occupancy permit. A copy of the occupancy permit shall be kept at all times upon the premises affected and shall be displayed upon request made by any building inspector or police officer. A record shall be kept of all occupancy permits issued, and the original applications therefor shall be kept on file in the same manner as applications for zoning permits. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this chapter, without first procuring an occupancy permit, provided that an occupancy permit, once granted, shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

§ 108-56. Appeals.

A. Appeal from Zoning Administrator and/or Building Inspector.

[Amended 6-27-1988 by L.L. No. 3-1988]

(1) Procedure for appellant.

(a) An appeal to the Zoning Board from any ruling of any administrative officer administering any portion of this chapter may be taken by any person aggrieved or by an officer, department, board or bureau of the Town affected thereby. Such appeal shall be taken by filing with the officer from whose action the appeal is taken and with the Zoning Board by filing

with the Secretary thereof a notice of appeal, specifying the grounds therefor.

(b) All applications and appeals made to the Zoning Board shall be in writing on forms prescribed by the Zoning Administrator and/or Building Inspector. Every application or appeal shall refer to the specific provision of this chapter and shall exactly set forth the interpretation that is claimed, the plans for a special use or the details of the variance that is applied for, in addition to the following information:

[1] The name and address of the applicant or appellant.

[2] The name and address of the owner of the zone lot to be affected by such proposed change or appeal.

[3] A brief description and location of the zone lot to be affected by such proposed change or appeal.

[4] A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.

[5] A reasonably accurate description of the present improvements and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.

(2) Procedure for Zoning Administrator and/or Building Inspector.

(a) The notice of appeal in any case where a permit has been granted or denied by the Zoning Administrator and/or Building Inspector shall be filed within such time as shall be prescribed by the Zoning Board under general rule after notice of such action granting or denying the permit has been mailed to the applicant. The Zoning Administrator and/or Building Inspector shall forthwith transmit to the Zoning Board all papers constituting the record upon which the action appealed from was taken or, in lieu thereof, certified copies of said papers.

(b) It shall be competent for the Zoning Administrator and/or Building Inspector to recommend to the Zoning Board a modification or reversal of their action in cases where they believe substantial justice requires the

same but where they have not themselves sufficient authority to grant the relief sought.

(3) Procedure for the Zoning Board. The Zoning Board shall decide each appeal within a reasonable time. Upon the hearing, any party may appear in person or be represented by an agent or attorney. The Zoning Board's decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the Zoning Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from or may make such order, requirement, decision or determination in accordance with the provisions hereof.

(4) Expiration of appeal decision. Unless otherwise specified by the Zoning Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary zoning permit or comply with the conditions of said authorized permit within six months from the date of authorization thereof.

(5) Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator and/or Building Inspector certify for the Zoning Board, after the notice of appeal shall have been filed, that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board or by the Supreme Court on application, on notice to the Zoning Administrator and/or Building Inspector and on due cause shown.

B. Appeal from decision of Zoning Board. All decisions of the Zoning Board are subject to court review in accordance with applicable laws or the State of New York.

§ 108-57. Hearing; notice.

A. The Zoning Board shall fix a reasonable time for the hearing on the appeal or application and give due notice to the following officials, persons and owners of property not less than five days prior to the day of the hearing:

[Amended 6-27-1988 by L.L. No. 3-1988]

(1) When appealing action of the Zoning Administrator and/or Building Inspector. In case of an appeal alleging an error or misinterpretation in any

order or other action by the Zoning Administrator and/or Building Inspector, the following persons shall be notified: the Zoning Administrator and/or Building Inspector, the appellant and the person or persons, if any, who benefit from the order, requirement, regulation or determination.

(2) When appealing for variance; special use. In case of an appeal for a variance or in case of application for a special use, as provided for in this chapter, the following persons shall be notified: all owners of property within 500 feet of the nearest line of the property for which the variance or special use is sought and to such other property owners as the Chairman of the Zoning Board may direct.

B. Adjournment of hearing. Upon the day for hearing any application or appeal, the Zoning Board may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

C. Required interval for hearings on applications and appeals after denial. Whenever the Board, after hearing all the evidence presented upon an application or appeal, under the provisions of this chapter denies the same, the Zoning Board shall refuse to hold further hearings on said or substantially similar application or appeal by the same applicant, his successor or assign for a period of one year, except and unless the Zoning Board shall find and determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified.

§ 108-58. Complaints; abatement of violations; penalties for offenses.

[Amended 9-26-1983; 6-27-1988 by L.L. No. 3-1988]

A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Administrator and/or Building Inspector, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

B. Procedure for abatement of violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or of any ordinance or regulation made under authority conferred hereby, the Town

Board or the Zoning Administrator and/or Building Inspector, in addition to other remedies, may institute any appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

C. Any person, firm or corporation violating any provision of this chapter shall be punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each weeks' continued violation shall constitute a separate additional violation.

§ 108-59. Fees.

[Amended 9-26-1983; 6-27-1988 by L.L. No. 3-1988; 6-13-2005 by L.L. No. 6-2005]

Application fees in the amounts adopted by the Town Board pursuant to Town Code §50-1 and listed on the Fee Schedule Editor's Note: The Fee Schedule is on file in the Town offices. See § 50-1. shall be paid at the office of the Zoning Administrator and/or Building Inspector upon the filing of an application.

ARTICLE XII. Amendments and Interpretation

§ 108-60. Amendment by Town Board.

The Town Board may from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing.

§ 108-61. Review by Planning Board.

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. If the Planning Board shall fail to file such a report, it shall be presumed that the Planning Board has approved the proposed amendment, supplement or change.

§ 108-62. Hearing; notice.

The Town Board, by resolution, shall fix the time and place of the public hearing on the proposed amendments and cause notice to be given as follows:

A. Public notice. By publishing a notice at least 10 days in advance of such hearing in at least one newspaper of general circulation in the Town of Fort Edward. Such notice shall state the date, time and place of such hearing, the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents and shall name the place or places where copies of the proposed amendment may be examined.

B. Personal notice.

(1) By mailing a copy of such notice to every association of residents of the Town which shall have registered its name and address for this purpose with the Town Clerk.

(2) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.

(3) A written notice of any proposed change or amendment affecting property within 500 feet 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 10 days prior to the date of such hearing.

C. Opportunity to be heard at hearing. At the public hearing, full opportunity to be heard shall be given to any citizen and all parties in interest.

§ 108-63. Amendment after protest.

[Amended 6-27-1988 by L.L. No. 3-1988]

In case of an adverse recommendation against any proposed amendment by the Planning Board or in case of a protest signed by the owners of 20% or more of the assessed valuation of the land included in such proposed change, the land

immediately adjacent extending 100 feet therefrom or the land directly opposite thereto extending 100 feet from the street, road or highway frontage of such opposite land, such amendment shall not become effective except by a favorable vote of at least four members of the Town Board.

§ 108-64. Interpretation.

In the interpretation and the application of the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes greater restrictions upon the use of buildings or premises or upon the height or bulk of a building or requires larger open spaces, the provisions of this chapter shall apply.

CHAPTER DL. DISPOSITION LIST

§ DL-1. Disposition of legislation.

CHAPTER DL. DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Fort Edward adopted since January 1, 2003, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

Local Law No.	Adoption Date	Subject	Disposition
1- 2003	3-10- 2003	Rental property	Ch. <u>79A</u>
2- 2003	4-14- 2003	Site plan review amendment; subdivision of land amendment	Chs. 81, 87
3- 2003	6-9-2003	Alternate members for Planning Board and Zoning Board of Appeals	Chs. 20, Art. I; 108

Local Law No.	Adoption Date	Subject	Disposition
4- 2003	8-25- 2003	Moratorium	NCM
5- 2003	11-10- 2003	Moratorium	NCM
1- 2004	2-19- 2004	Moratorium	NCM
2- 2004	4-12- 2004	Moratorium	NCM
3- 2004	8-9-2004	Moratorium	NCM
4- 2004	12-30- 2004	Moratorium	NCM
5- 2004	12-30- 2004	Moratorium	NCM
1- 2005	1-10- 2005	Zoning amendment	Ch. <u>108</u>
2- 2005	1-10- 2005	Mobile homes amendment; zoning amendment	Chs. 71 and 108
3- 2005	3-14- 2005	Sanitary standards amendment	Ch. <u>80A</u>
4- 2005	3-14- 2005	Zoning amendment	Ch. <u>108</u>
5- 2005	5-9-2005	Moratorium	NCM
6- 2005	6-13- 2005	Fees amendment; fire prevention and building code amendment; subdivision of land	Chs. 50, 1, 31, 42, 51, 59, 66, 71, 76, 79, 80, 81, 85, 87, 106,

Local Law No.	Adoption Date	Subject	Disposition
		amendment	108
7- 2005	8-8-2005	Extending moratorium on siting of mobile homes	NCM
1- 2006	1-9-2006	Extending moratorium on siting of mobile homes	NCM
2- 2006	5-8-2006	Extending moratorium on siting of mobile homes	NCM
3- 2006	6-12- 2006	Fee Schedule amendment	Ch. <u>50</u>
4- 2006	6-12- 2006	Stormwater management and erosion and sediment control	Chs. 56, 81, 87 and 108
5- 2006	11-16- 2006	Extension of moratorium on siting of mobile homes	NCM
1- 2007	1-8-2007	Taxation: senior citizens real property exemption amendment; exemption for persons with disabilities; alternative veterans exemption from real property taxation	Ch. <u>92</u> , Arts. I, III and IV
2- 2007	12-10- 2007	Storm sewers: discharges, activities and connections	Ch. <u>57</u> , Art. <u>I</u>
1- 2008	2-11- 2008	Cold War veterans tax exemption	Ch. <u>92</u> , Art. <u>V</u>
2- 2008	2-11- 2008	Extension of moratorium on siting of mobile homes	NCM

Local Law No.	Adoption Date	Subject	Disposition
3- 2008	4-14- 2008	Board of Assessment: Grievance Day	Ch. <u>6</u> , Art. <u>I</u>
1- 2009	1-12- 2009	Vehicles and traffic: truck exclusions amendment	Ch. <u>99</u> , Art. <u>III</u>
2- 2009	2-9-2009	Extension of moratorium on siting of mobile homes	NCM

STORMWATER MANAGEMENT
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Town of Fort Edward

Schedule A

Stormwater Management Practices Acceptable for Water Quality (from New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P- 4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water

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		quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter	A filter that incorporates a

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	(F- 3)	sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.