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CHAPTER 1. GENERAL PROVISIONS

ARTICLE I. Adoption of Code

[Adopted 7-9-2003 by L.L. No. 9-2003]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the 1984 Code of the Town of Rotterdam, and subsequent local laws, ordinances and certain resolutions of the Town of Rotterdam, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 270, together with an Appendix, shall be known collectively as the "Code of the Town of Rotterdam," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the Code of the Town of Rotterdam to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the 1984 Code, and local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Rotterdam, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

All local laws and ordinances of a general and permanent nature of the Town of Rotterdam 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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.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 and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, 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 Rotterdam 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 Rotterdam 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 Rotterdam.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Rotterdam.
- E. Any local law or ordinance of the Town of Rotterdam 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 Rotterdam or any portion thereof.
- F. Any local law or ordinance of the Town of Rotterdam 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 Rotterdam or other instruments or evidence of the town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.

- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any regulations adopted regarding trailers.
- M. Any local law or ordinance relating to or establishing a pension plan or pension fund for town employees.
- N. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the town.
- O. Any local law adopted subsequent to 12-2-2002.

#### **§ 1-5. Severability.**

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or 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, chapter 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 Rotterdam 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 by the Town Clerk of the Town of Rotterdam by impressing thereon the Seal of the town, 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 said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

#### **§ 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 Rotterdam" 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 Rotterdam 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, local laws, ordinances or resolutions until such changes, local laws, 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.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

#### **§ 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 Rotterdam or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Rotterdam 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 \$250 or imprisonment for a term of not more than 15 days, or both.

#### **§ 1-11. Changes in previously adopted legislation; new provisions.**

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Rotterdam, 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 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 amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof 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 § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 7-9-2003 by L.L. No. 9-2003." Schedule A, which contains a complete description of all changes, is on file in the Town offices.

C. Nomenclature. Throughout the Code, all references to the "Building Inspector" are revised to read "Building Inspector/Code Enforcement Officer."

#### **§ 1-12. Incorporation of provisions into Code.**

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Rotterdam, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

**§ 1-13. When effective.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

**CHAPTER 4. APPEARANCE TICKETS**

§ 4-1. Purpose.

§ 4-2. Authorization.

§ 4-3. Manner of service.

**CHAPTER 4. APPEARANCE TICKETS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 2-7-1979 by L.L. No. 2-1979. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Dogs — See Ch. 97.

Zoning — See Ch. 270.

**§ 4-1. Purpose.**

The purpose of this chapter is to authorize public servants of the Town of Rotterdam to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances, codes or statutes or rules and regulations of the Town which the public servants are authorized or required to enforce.

**§ 4-2. Authorization.**

With respect to violations of state statutes or local laws, ordinances, codes or statutes or rules and regulations of the Town of Rotterdam:

A. The Building Inspector/Code Enforcement Officer is authorized to issue and serve an appearance ticket in the areas of building, zoning and planning, licensing of occupations and businesses, building and construction and fire prevention and safety. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The Health Technician is authorized to issue and serve appearance tickets in the areas of public health, safety and welfare and sanitation.

C. The Animal Control Officer is authorized to issue and serve an appearance ticket in the area of animal control.

**§ 4-3. Manner of service.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

An appearance ticket for violations set forth herein shall be served personally.

**CHAPTER 17. (RESERVED)**

**[Former Ch. 17, Continuity of Government, adopted 2-26-1993, as amended, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]**

**CHAPTER 22. DEFENSE OF EMPLOYEES**

§ 22-1. Purpose.

§ 22-2. Definitions.

§ 22-3. Defense.

§ 22-4. Indemnification.

**CHAPTER 22. DEFENSE OF EMPLOYEES**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Editor's Note: This local law also superseded former Ch. 22, Defense of Employees, adopted 6-18-1980 by L.L. No. 9-1980, as amended. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Code of Ethics and Disclosure — See Ch. 31.

Officers and employees — See Ch. 47.

**§ 22-1. Purpose.**

The purpose of this chapter is to provide for the defense and indemnification of Town employees pursuant to § 18 of the Public Officers Law.

**§ 22-2. Definitions.**

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

**TOWN EMPLOYEE**

Any commissioner, member of a public board or commission, trustees, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program or any other person holding a position by election, appointment or employment in the

service of the Town or Rotterdam, whether or not compensated. The term "Town employee" shall not include an independent contractor. The term "Town employee" shall include a former employee, the employee's estate or a judicially appointed personal representative.

**§ 22-3. Defense.**

The Town of Rotterdam hereby confers the benefits of § 18 of the Public Officers Law upon its employees, subject to the limitations set forth in said § 18.

**§ 22-4. Indemnification.**

The Town of Rotterdam hereby agrees to be held liable for the costs incurred under § 18 of the Public Officers Law, subject to the limitations set forth in said § 18.

**CHAPTER 27. EMERGENCY MEDICAL BOARD**

§ 27-1. Approval of formation and authorization of charter.

§ 27-2. Composition.

**CHAPTER 27. EMERGENCY MEDICAL BOARD**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 7-16-1980. Amendments noted where applicable.]**

**§ 27-1. Approval of formation and authorization of charter.**

The Town Board of the Town of Rotterdam hereby approves the formation of the Rotterdam Emergency Medical Board and authorizes the charter for said Board.

**§ 27-2. Composition.**

A. The membership of said Board consists of the following:

- (1) Two members from the Rotterdam Town Board.
- (2) Two members from the Rotterdam Police Department.
- (3) Two members from the Rotterdam Volunteer Emergency Medical Corps.
- (4) Two members from the White Eagle Relief Squad.
- (5) Two members from the Fire Department rescue squads as nominated by the Rotterdam Fire Chief's Association.

B. The Supervisor of the Town of Rotterdam and the Health Officer shall be ex officio members.

**CHAPTER 31. ETHICS AND DISCLOSURE, CODE OF**

§ 31-1. Repeal of existing Town ethics laws.

§ 31-2. Title.

§ 31-3. Purpose; interpretation.

§ 31-4. Definitions.

§ 31-5. General prohibition.

§ 31-6. Specific Town officers and employees.

§ 31-7. Transactional disclosure.

§ 31-8. Exclusions from Code of Ethics and from transactional disclosure.

§ 31-9. Inducement of violations of Code of Ethics.

§ 31-10. Interests in contracts with Town.

§ 31-11. Appearances by outside employers and businesses of Town officers and employees.

§ 31-12. Procedures.

§ 31-13. Applicant disclosure: generally.

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§ 31-15. Void contracts.

§ 31-16. Penalties for offenses.

§ 31-17. Injunctive relief.

§ 31-18. Ethics Board: establishment.

§ 31-19. Ethics Board: additional qualifications.

§ 31-20. Ethics Board: meetings.

§ 31-21. Ethics Board: jurisdiction, powers, and duties.

§ 31-22. Review of lists and disclosure statements.

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§ 31-30. Miscellaneous provisions.

§ 31-31. Distribution and posting.

## **CHAPTER 31. ETHICS AND DISCLOSURE, CODE OF**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 12-19-2001 by L.L. No. 19-2001; amended in its entirety 4-10-2002 by L.L. No. 5-2002. Subsequent amendments noted where applicable.]**

### **GENERAL REFERENCES**

Defense of employees — See Ch. 22.

Officers and employees — See Ch. 47.

#### **§ 31-1. Repeal of existing Town ethics laws.**

The local law of the Town of Rotterdam is hereby amended by deleting and repealing the Code of Ethics adopted June 17, 1970 as Local Law No. 6 of the 1970, Code of the Town of Rotterdam and by adding hereto a new local law to replace the local law hereinabove repealed, to be "Local Law No. 19 of the Year 2001, Town of Rotterdam Code of Ethics and Disclosure Law."

#### **§ 31-2. Title.**

This chapter, shall be known and may be cited as the "Code of Ethics and Disclosure Law of the Town of Rotterdam."

#### **§ 31-3. Purpose; interpretation.**

A. The purposes of this chapter are:

- (1) To establish high standards of ethical conduct for officers and employees, whether elected or appointed, paid or unpaid, of the Town;
- (2) To afford such officers and employees of the Town clear guidance on such standards;
- (3) To promote public confidence in the integrity of the governance and administration of the Town and its agencies and administrative offices;
- (4) To require public disclosure of financial interests that may influence or be perceived to influence the actions of Town officers and employees;
- (5) To facilitate consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance the accountability of government to the people;
- (6) To insure that Town officers and employees, whether elected or appointed, paid or unpaid, be independent, impartial and free from conflicts of interest in fulfilling their public responsibilities;
- (7) To provide for the fair and effective administration of this chapter.

B. This Code of Ethics represents a balancing of the need for eliminating real conflicts of interest with the recognition that membership in voluntary organizations devoted to public service is a laudable endeavor which should not be discouraged.

C. This chapter is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law. This chapter also supplements other provisions of law regulating ethics in local government, such as § 107 of the Civil Service Law of the State of New York.

D. This chapter shall be given its broadest possible interpretation under law, so as to implement its stated purpose.

#### **§ 31-4. Definitions.**

**[Amended 3-26-2003 by L.L. No. 6-2003; 4-27-2005 by L.L. No. 8-2005]**

Unless otherwise stated or unless the context otherwise requires, when used in this chapter, the following terms shall have the following meaning:

##### **ADVISORY BOARD**

Any board, committee, task force, study group, or similar entity which is created by the Town Board or Town Supervisor and which is authorized to make recommendations to Town officials but has no authority to implement its recommendations, act on behalf of the Town, or restrict the authority of the Town to act. Advisory boards do not include any entity consisting solely of governmental officials acting in their official capacity or any entity established pursuant to state law. Advisory board members who do not otherwise hold a position of employment or office with the Town shall not be considered Town officers or employees.

##### **APPEAR AND APPEAR BEFORE**

Communicating in any form, including, without limitation, personally, through another person, by letter, facsimile, electronic mail or by telephone.

##### **CONFIDENTIAL INFORMATION**

Any data acquired through the course of employment or public office which the Town has protected from disclosure by law that is not protected from disclosure by law but poses or may pose a conflict of interest.

##### **CONFLICT OF INTEREST**

Any action or omission which is in conflict or gives or may reasonably give the appearance of conflict with the performance of official Town business or government.

##### **CORPORATION**

An artificial person or being, endowed by law with the capacity of perpetual succession, and shall include corporations organized as public, private, charitable, civil, domestic, foreign, close, open, municipal and not-for-profit institutions.

##### **CUSTOMER OR CLIENT**

Any person to whom a Town officer or employee has supplied goods or services during the previous 24 months having, in the aggregate, a value greater than \$1,000 or any person to whom a Town officer's or employee's outside employer or business has supplied goods or

services during the previous 24 months having, in the aggregate, a value greater than \$1,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

**EMPLOYEE**

Includes all persons, other than seasonal employees, who are not officials but whose salaries are paid in whole or part by the Town of Rotterdam.

**ETHICS BOARD**

The Ethics Board of the Town established pursuant to § 31-18 of this chapter.

**GIFT AND FINANCIAL BENEFIT**

Shall include any money, service, license, permit, contract, authorization loan, travel, entertainment, hospitality, privilege, exemption or any promise thereof, or any other gratuity or promise thereof, or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

**INTEREST**

A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purpose of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves;
- B. A firm, partnership or association of which such officer or employee is a member or employee;
- C. A corporation of which such officer or employee is an officer, director or employee; and
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

**MINISTERIAL ACT**

An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

**OUTSIDE EMPLOYER OR BUSINESS**

A. Means:

- (1) Any activity, other than service to the Town, from which the Town officer or employee receives compensation for services rendered or goods sold or produced;
- (2) Any entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or
- (3) Any entity in which the Town officer or employee has an ownership interest, except a corporation of which the Town officer or employee owns less than 5% of the outstanding stock.

B. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

**PERSON**

Both individuals and entities.

**PROFESSIONAL LICENSE**

A privilege granted by the State of New York to conduct an occupation or trade.

**PUBLIC BENEFIT CORPORATION**

A corporation organized to construct or operate a public improvement that is located partially or totally in New York State and the profits from this corporation benefit New York State or other states or the people of New York State.

**RELATIVE**

A spouse, child, stepchild, brother, sister, or parent of the Town officer or employee, or a person claimed as a dependent on the Town officer's or employee's latest individual state income tax return, or the spouse of any such person.

**SEASONAL EMPLOYEE**

Any employee holding a position with the Town of Rotterdam which is performed for a period of time shorter than a full year, and said position may recur in each successive year.

**SPOUSE**

The husband or wife of the reporting individual, unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to:

- A. A judicial order, decree or a judgment of separation; or
- B. A legally binding separation.

**TOWN**

The Town of Rotterdam, but shall not include the Town Court.

**TOWN AGENCY**

Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, unit or committee of the Town other than the Town Court.

**TOWN OFFICER OR EMPLOYEE OR OFFICIAL**

Any officer or employee of the Town, whether elected or appointed, paid or unpaid, including all members of any office, board, body, council, commission, agency, department, district, administration, division, bureau, unit or committee. Any member of a public benefit corporation whose members are appointed by the Town Supervisor or Town Board shall be deemed a Town officer or employee or official for purposes of Chapter 31 only. "Town officer or employee or official" shall not include:

- A. A judge, justice, officer, or employee of the Unified Court System; or
- B. Members of advisory boards as defined by this chapter, or
- C. Any attorney licensed to practice in the State of New York, and who provides legal services to the Town, shall have his or her conduct governed by the Professional Code of Responsibility and regulated by the Appellate Division of the New York State Supreme Court;

provided, however, that any attorney providing legal services to the Town shall file a financial disclosure with the Town, in the same manner as set forth in this chapter.

#### **§ 31-5. General prohibition.**

A. Disclosure of interests. A municipal official or employee or officer who participates in discussions or gives official opinions on any matters before the Rotterdam Town Board, an official board, agency, officer or employee or officer shall publicly disclose in the official record the nature and extent of any direct or indirect financial or other interest he or any member of his family has in such matters, unless he or she refrains from voting upon or otherwise participating in the matter.

B. Gifts. Except as set forth in § 31-8, a Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town, nor accept anything of value from any person who the Town officer or employee knows or should reasonably have known received or sought a financial benefit from the Town within the previous 24 months. The purpose of this provision is to avoid circumstances where it could reasonably be inferred that the gift was intended to influence such Town officer or employee, or could reasonably be expected to influence such Town officer or employee in the performance of his or her official duties, or was intended as a reward for any official action taken by such Town officer or employee.

C. Use of Town property. With the exception of vehicle use by members of the Rotterdam Police Department, no Town officer or employee shall use or permit the use of Town property (including land, vehicles, equipment, materials and any other property) for personal convenience or profit, except when such use is available to Town citizens generally or is provided on the same terms and conditions as a matter of written Town policy.

D. Representation. A Town officer or employee shall not represent any other person in any matter that person has before the Town nor represent any other person in any matter against the interests of the Town.

E. Appearances. A Town officer or employee shall not appear before any agency of the Town, except on his or her own behalf or on behalf of the Town.

F. Confidential information. Town officers and employees and former Town officers and employees shall not disclose any confidential information or use it to further anyone's personal interests.

G. Revolving door. A Town officer or employee who is required to file an annual disclosure statement pursuant to § 31-12 shall not appear or practice before the particular Town agency in which the Town officer or employee served or by which he or she was employed, except on his or her own behalf, or receive compensation for working on any matter before the particular Town agency in which the Town officer or employee served or by which he or she was employed, for a period of one year after the termination of his or her Town service or employment; however, the bar shall be permanent for any Town officer or employee as to particular matters on which the Town officer or employee personally worked while in Town service that are still pending after the termination of his or her Town service or employment.

H. Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.

I. Conflict with other codes of conduct.

(1) Recognizing the need for professional integrity and the fact that various professional associations have adopted standards of conduct for their members, the Town hereby requires that each Town officer or employee who is affected by a professional Code of Ethics be bound, in addition to the within chapter, by his/her respective code of ethics. Any conflict between the provisions of this chapter and a given professional code of conduct of a Town officer or employee is to be resolved by the Ethics Board. However, the Ethics Board must at all times give the greatest latitude to said individual's professional code of conduct and, whenever possible, reconcile this to complement and respect the individual's professional code of conduct.

(2) Substantial consideration shall be given to the effect that deviation from an individual's professional code of conduct will have on that individual's ability to practice his/her profession. If need be, the Ethics Board is authorized and required to obtain advisory opinions from the appropriate professional association to clarify any given situation.

#### **§ 31-6. Specific Town officers and employees.**

A. Specific officers and employees.

(1) Professionally licensed. All Town officers and employees with professional licenses are prohibited from knowingly exercising discretion in any matter of Town interest which shall involve any person, firm or corporation which is a client of his/hers or a client of his/her firm or has been a client within the immediate past one year and shall not knowingly have any interest in or accept compensation, direct or indirect, from any person, firm or corporation which has an interest in matters coming before any Town agency or before any public benefit corporation whose members are appointed by the Supervisor or the Town Board.

(2) Authorized to conduct inspections and issue permits. All Town officers and employees with the authority to conduct inspections or issue permit approvals shall not engage in a business or have a financial interest in any firm engaged in a business within the Town where said business conducts, as a regular and significant part of its business, matters requiring such inspections or such permits.

(3) Office of the Assessor. Neither the Assessor nor any employee in such department shall engage in the real estate, construction, building contracting or building materials business or have financial interest in firms engaging in such business within the Town of Rotterdam during the course of his or her employment by the Town.

B. The foregoing Town officers and employees are listed due to the unique nature of their offices and positions which, in turn, raise ethical conflicts unique to those offices and positions. This list is not to be deemed all-inclusive. Every Town officer and employee shall endeavor to pursue a course of conduct consistent with the spirit of this chapter as well as the actual provisions and strive to act so as not to raise suspicion among the public that he/she is likely to be engaged in activities that are in violation of his/her trust.



**§ 31-7. Transactional disclosure.**

A. Whenever a Town officer or employee is required to recuse himself or herself pursuant to § 31-5 of this chapter, he or she shall:

- (1) Immediately refrain from participating further in the matter;
- (2) Promptly inform his or her superior, if any; and
- (3) Promptly file with the Town Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board.

B. A Town officer or employee shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed with the Town Clerk a disclosure statement complying with requirements of § 31-10 of this chapter.

**§ 31-8. Exclusions from Code of Ethics and from transactional disclosure.**

The provisions of §§ 31-5 and 31-7 of this chapter shall not prohibit, or require recusal or transactional disclosure as a result of:

A. An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States;

B. A ministerial act;

C. Gifts:

- (1) Received by the Town officer or employee from his or her relative;
- (2) Having an aggregate value of \$75 or less during any twelve-month period;
- (3) Accepted on behalf of the Town and transferred to the Town;

D. Gifts or benefits having a value of \$75 or less that are received by a Town officer or employee listed in § 11-c of the Domestic Relations Law of the State of New York for the solemnization of a marriage by that officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business;

E. Awards from charitable organizations; or

F. Receipt of Town services or benefits, or use of Town facilities, that are generally available on the same terms and conditions to residents or a class of residents in the Town.

**§ 31-9. Inducement of violations of Code of Ethics.**

No person, whether or not a Town officer or employee, shall induce or attempt to induce a Town officer or employee to violate any of the provisions of § 31-5 of this chapter.

**§ 31-10. Interests in contracts with Town.**

A. Prohibited interests. No Town officer or employee shall have an interest in a contract with the Town, or an interest in a bank or trust company, that is prohibited by § 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by § 804 of that law.

B. Discloseable interests. Any Town officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the Town shall disclose in writing the nature and extent of that interest in accordance with § 803 of the General Municipal Law and promptly file such written disclosure with the Town Clerk. The Town Clerk shall cause a copy of that disclosure to be filed promptly with the Ethics Board.

C. Violations. Any Town officer or employee who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 805 of the General Municipal Law.

**§ 31-11. Appearances by outside employers and businesses of Town officers and employees.**

A. Except as provided in Subsection C of this section, the outside employer or business of a Town officer or employee shall not appear before the particular agency in which the Town officer or employee serves or by which he or she is employed.

B. Except as provided in Subsection C of this section, the outside employer or business of a Town officer or employee shall not appear before any other Town agency if the Town officer or employee has the authority to appoint any officer, employee, or member of the agency or to review, approve, audit, or authorize any budget, bill, payment, or claim of the agency, or if there exists any likelihood that such Town officer or employee may derive, directly or indirectly, a financial benefit as a result thereof.

C. Nothing in this section shall be construed to prohibit the outside employer or business of a Town officer or employee from:

- (1) Appearing on its own behalf, or on behalf of the Town, before a Town agency;
- (2) Seeking or obtaining a ministerial act; or
- (3) Receiving a Town service or benefit, or using a Town facility, which is generally available to the public on the same terms and conditions.

**§ 31-12. Procedures.**

**[Amended 3-26-2003 by L.L. No. 6-2003]**

**A. Financial disclosure statement.**

(1) Town officers and employees holding job titles or positions designated by the Town Board shall file with the Ethics Board a financial disclosure statement in a form determined by the Town Board by January 31 of each year.

(2) Compliance with this section shall be voluntary for Town officers and employees whose job titles or positions are covered by a collective bargaining agreement.

**B. Long-form ethics certification statement.**

**[Amended 10-13-2004 by L.L. No. 14-2004]**

(1) Members of advisory boards designated by the Town Board or Ethics Board shall file with the Ethics Board a long-form ethics certification statement. An advisory board member shall file a long-form ethics certification statement within 14 days after the date of the first advisory board meeting subsequent to that member's appointment to the advisory board.

(2) The form of the long-form ethics certification statement shall be:

**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

For Calendar Year

Name:

Home Address:

Marital Status — Married; Single; Widowed; Divorced

Phone number at which you may be contacted between 8:30 AM and 4:30 PM Monday through Friday with respect to this document:

- 1a. List all positions you hold as a Town of Rotterdam employee or as a Member of a Town of Rotterdam Board, Commission, Committee or Agency.

Position	Supervisor
1.	
2.	
3.	
4.	
5.	

- 1b. List any positions that you hold with any other public body/entity whether paid or unpaid.

Position	Supervisor
1.	
2.	
3.	

**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

4.

2. List each piece of real property you, your spouse, and/or dependent children own or have a financial interest in within the Town of Rotterdam including property that is owned, jointly owned or owned by a business entity in which the ownership interest is greater than 5%.

Owner of Record	Nature of Interest	Address of Real Estate	Type of Ownership
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3. List each piece of real property in the Town of Rotterdam you, your spouse and/or dependent children lease including property that is owned, jointly owned or owned by a business entity in which the leasehold interest is greater than 5%.

Owner of Record	Address of Real Estate	Name of Lessor
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4. List any business entity in which you, your spouse and/or dependent children have an ownership interest, except a private or public corporation of which you, your spouse and/or children own less than 5% of the outstanding stock.

Family Member: Self, Spouse, Child	Name of Business Entity	Address of Business Entity	Type of Interest (Partnership Limited/General, percent of stock/corporate owned, etc.)
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**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

- 5a. List any business entity where you, your spouse and/or dependent children are/were employed in the last 12 months.

Family Member: Self, Spouse, Children	Name of Business Entity	Address of Business Entity	Position
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- 5b. List all directorships or officer positions that you, your spouse, and/or dependent children hold in any business entity.

Family Member: Self, Spouse, Children	Name of Business Entity	Address of Business Entity	Position
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6. If you, your spouse and/or dependent children or any entity identified in (4) or (5) above is currently or has within the last two years been licensed and/or regulated by a Town of Rotterdam department, board, commission, committee or agency, list the name of the individual(s) or entity licensed or regulated, the name of any such Town of Rotterdam department, board, commission, committee, or agency and the type of license or permit received from the Town.

Name of Individual or Entity	Town of Rotterdam Licensing or Permit Agency	Type of License or Permit
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**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

7. List all debts and or liabilities in excess of \$10,000. (Do not list monies for the following: matrimonial action, credit card charges, educational loans, home mortgages/home improvement loans, home equity loans, auto loans, recreational vehicle loans, furniture, or appliance loans.)

Name of Family Member: Self/Spouse	Nature of Debt	Name of Individual/ Entity to Whom Debt Is Owed	Name of Guarantor, if any
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8. Has any individual or business entity offered or promised you any future employment or contract during or after your service with the town?

Employment/Contract	Name of Individual/Entity Offering Employment or Contract
---------------------	---

For questions 9 to 12 do not report exact dollar amounts. Instead report categories of amounts using the following:

Category A: Under \$5,000	Category D: \$25,001 - \$50,000
Category B: \$5,001 - \$10,000	Category E: \$50,001 - \$100,000
Category C: \$10,001 - \$25,000	Category F: Over \$100,000

9. Past Employment. Identify the source and nature of any current income from any prior employer, including deferred income, contributions to a pension or retirement fund, profit sharing plan severance pay or payments under a buyout agreement.

Name of Employer	Description of Source	Category of Amount
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10. Trusts. Identify each interest in a trust or estate or similar beneficial interest in any assets except for IRS eligible retirement plans or interests in an estate or trust of a relative for you, your spouse, or dependent children.

Family Member: Self/Spouse	Trustee/ Executor	Description of Trust/Estate	Category of Amount
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**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

11. Other Income. Identify the source and nature of any other income in excess of \$1,000 per year from any source not described above, including other employment and independent contract work, teaching income, lecture fees, consultant fees, contractual fees or other income of any nature for you, your spouse or dependent children.

Family Member: Self/Spouse	Name/ Address of Income Source	Nature of Income	Category of Amount
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12. Third-Party Reimbursements. Identify and describe the source of any third-party reimbursement for travel-related expenditures for any matter that relates to your official duties. The term "reimbursement" includes any travel-related expenses provided by anyone other than the Town or Rotterdam for speaking engagements, conferences, or fact-finding events that relate to your official duties.

Source	Description	Category of Amount
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13. Have you, your spouse, dependent children, or an employee of you or your spouse received any payment from the Town of Rotterdam for goods and services rendered in the past 12 months? State the name of the person (s) or entity (ies) and list the activity.

Name	Activity
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14. List any appearance you or your spouse made before a town or agency board, representing a private interest, or any appearance made by you in any litigation brought against the town in the past year.

Name of Board Agency or Court Appeared Before	Name of Litigation, Application or Topic Regarding Your Application	Type of Work Performed
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**Town of Rotterdam**

**Annual Statement of Financial Disclosure**

**(Attach additional pages as necessary)**

15. List the source of all gifts aggregating in excess of \$250 received during the last year by you, your spouse or dependent children, excluding gifts from a relative. The term "gifts" includes gifts of cash, property, personal items, payments to third parties on your behalf, forgiveness of debt, honorariums and any other payments that are not reported as income.

Family Member	Name/Address of Donor	Category of Amount
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The information contained in pages one through of this annual Statement of Financial disclosure constitutes a full and complete financial statement as of the date indicated, and, to the best of my knowledge, I have no conflict of interest prohibited by the Town of Rotterdam Code of Ethics for the position(s) I hold with the Town of Rotterdam.

Signature

Print Name

**The following certification must be executed by any member of an appointive or elective board in the Town of Rotterdam.**

I do hereby certify to the following:

Should any matter come before me in my capacity as a member of the which matter involves an individual or entity with whom I have a personal, familial, financial or professional relationship, I shall place such relationship upon the record or recuse myself from any and all deliberations, determinations, recommendations or votes with respect to such matter.

Dated	Signature
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**C. Administrative provisions.**

- (1) The Town Clerk shall notify all Town officers and employees of their obligation to file a financial disclosure statement pursuant to Subsection A of this section.
- (2) The Town Supervisor or Town Board shall, within five business days, notify the Ethics Board whenever a person is appointed to an advisory board or an advisory board is created. The Town Supervisor or Town Board shall provide each advisory board member with a short-form ethics certification form upon the member's appointment to an advisory board.
- (3) The Town Clerk shall transmit within five business days to the Ethics Board each transactional and applicant disclosure statement filed pursuant to Subsection A of § 31-7 and Subsection B of § 31-10 and each short-form ethics certification statement or financial disclosure statement filed with the Clerk.
- (4) The Ethics Board shall index and maintain on file for at least seven years all financial disclosure statements and short-form ethics certification statements.
- (5) Time and place for filing. Financial disclosure statements shall be filed with the Ethics Board no later than January 31 of each year or within 30 days after an officer or employee becomes subject to the provisions of this chapter. Short-form ethics certification statements shall be filed with the Ethics Board within 14 days after the date of the first advisory board meeting subsequent to that member's appointment to the advisory board.
- (6) Extension of time for filing annual financial disclosure statement or short-form ethics certification statement.

(a) The Ethics Board shall be empowered to grant an extension of time for filing a financial disclosure statement or a short-form ethics certification statement. In order for the Ethics Board to grant a request for an extension of time to file, the Ethics Board must find that there is justifiable cause for filing after the deadline or that application of deadline will impose an undue hardship.

(b) A request for an extension shall be in a form determined by the Ethics Board.

**§ 31-13. Applicant disclosure: generally.**

A. Where an official or employee requests the Town or a Town officer or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to such person and to either any officer or employee of the Town or to one of the other persons listed in §§ 31-5 and 31-6 of this chapter, such official or employee shall disclose the names of any such persons, including Town officers or employees, that may financially benefit from such action or inaction by the Town or a Town officer or employee, to the extent known to such person at the time of the request.

B. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in writing, filed with the Town Clerk.

C. Such official or employee shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed a disclosure statement complying with requirements of § 31-14 of this chapter.

**§ 31-14. Applicant disclosure: land use applications.**

A. Disclosure. Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town, shall state the name, residence and nature and extent of the interest of any Town officer or employee in the person or entity making such application, petition or request, to the extent known to such applicant and as otherwise required by § 809 of the General Municipal Law of the State of New York.

B. Violations. Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 809 of the General Municipal Law.

**§ 31-15. Void contracts.**

Any contract or agreement entered into by or with the Town which results in or from a violation of provision of § 31-5, 31-6, or 31-10 of this chapter shall be void unless ratified by the Town Board. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this chapter or any other provision of law.

**§ 31-16. Penalties for offenses.**

A. Disciplinary action. Any Town officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

B. Civil fine. Any Town officer or employee who violates any provision of this chapter may be subject to a civil fine of up to \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.

C. Damages. Any person, whether or not a Town officer or employee, who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.

D. Misdemeanor. Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter shall be guilty of a Class A misdemeanor and, upon conviction thereof, if a Town officer or employee, shall forfeit his or her Town office or employment.

**§ 31-17. Injunctive relief.**

A. Any resident, officer, or employee of the Town may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the Town from violating this chapter or to compel an officer or employee of the Town to comply with the provisions of this chapter. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

B. No action or special proceeding shall be prosecuted or maintained pursuant to Subsection A of this section, unless:

(1) The plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the officer or employee;

(2) It shall appear by, and as an allegation in, the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter; and

(3) The action or special proceeding shall be commenced within three years after the alleged violation occurred.

**§ 31-18. Ethics Board: establishment.**

[Amended 1-1-2007 by L.L. No. 2-2007]



A. Pursuant to General Municipal Law § 808, there is hereby created the Ethics Board of the Town of Rotterdam. The Ethics Board shall consist of five members to be appointed by the Town Board and otherwise governed by General Municipal Law § 808. To the extent this section is inconsistent with the provisions of § 808 of the General Municipal Law of the State of New York, this section shall supersede those provisions.

B. The term of office of Ethics Board members shall be three years, with each term running from January 1 through December 31. No member shall serve more than two consecutive terms.

(1) Initially for the purpose of enacting this amendment, the Board shall appoint five members as follows:

(a) Two members shall be appointed for a term commencing January 1, 2007, and expiring December 31, 2007;

(b) Two members shall be appointed for a term commencing January 1, 2007, and expiring December 31, 2008;

(c) One member shall be appointed for a term commencing January 1, 2007, and expiring December 31, 2009;

(d) Current members shall be eligible for appointment;

(e) At the expiration of the terms as set forth above, appointment or reappointment shall be made for a three-year term.

C. The attorney for the Ethics Board shall be appointed by the Town Board and shall serve at the pleasure of the Town Board. The appointment shall be reviewed annually. In the event there is a vacancy in the position of the Ethics Board attorney, created in a manner other than the annual review of the current attorney, the Ethics Board shall advertise for and conduct interviews of applicants. Upon completion of the interviews, the Ethics Board shall submit three or more names of those applicants it finds acceptable. The Town Board shall consider the Ethics Board's list prior to making the appointment.

#### **§ 31-19. Ethics Board: additional qualifications.**

Pursuant to authority conferred by the Municipal Home Rule Law, the Statute of Local Governments and the New York State Constitution, the Town of Rotterdam enacts the following additional qualifications for Ethics Board membership:

A. Members of the Ethics Board shall be residents of the Town of Rotterdam.

B. No more than two members of the Ethics Board shall be registered in the same political party as defined by Election Law § 1-104(3).

C. No Ethics Board member shall be a party officer in any political party as defined by Election Law § 1-104(5), or be employed or act as a registered lobbyist pursuant to Article 1A of the Legislative Law, or hold a local, state, or federal elected office.

#### **§ 31-20. Ethics Board: meetings.**

The Town Board shall select a Chairman and, at its first meeting each year, the Ethics Board shall elect a Vice-Chairman and Secretary from among its members. A majority shall be required for the Ethics Board to take any action. The Chairman or a majority of its members may call a meeting of the Ethics Board. The Ethics Board shall hold at least one meeting annually, regardless of whether there are any matters pending before the Ethics Board.

#### **§ 31-21. Ethics Board: jurisdiction, powers, and duties.**

A. The Ethics Board may only act with respect to Town officers and employees of the Town.

B. The termination of the term of office or employment of a Town officer or employee with the Town shall not affect the jurisdiction of the Ethics Board with respect to the requirements imposed on him or her by this chapter.

C. The Ethics Board shall have the following powers and duties:

(1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this chapter as so authorized by the Town Board.

(2) To review, index, and maintain on file lists of Town officers and employees and disclosure statements filed with the Ethics Board, pursuant to this chapter.

(3) To recommend annually the names of any other Town officers or employees that the Ethics Board determines should file a financial disclosure statement.

**[Amended 3-26-2003 by L.L. No. 6-2003]**

(4) To make recommendations related to the form and content of the financial disclosure statement.

**[Amended 3-26-2003 by L.L. No. 6-2003]**

(5) To make recommendations related to the form and content of the short-form ethics certification statement.

**[Amended 3-26-2003 by L.L. No. 6-2003]**

(6) To review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct;

(7) To conduct hearings, recommend disciplinary action, assess penalties, make referrals and initiate appropriate actions and proceedings pursuant to § 31-24;

- (8) To render, index, and maintain on file advisory opinions pursuant to § 31-25;
- (9) To provide training and education to Town officers and employees pursuant to § 31-29;
- (10) To prepare reports and recommend changes to this chapter pursuant to § 31-28;
- (11) To provide for public inspection of certain records pursuant to § 31-27;
- (12) To select provisions of this chapter for reproduction and distribution pursuant to § 31-31;
- (13) To review and decide pursuant to the procedure and requirements outlined in § 31-12 in of this chapter, all requests for redaction of disclosure and extension of time to file; and
- (14) To otherwise enforce and administer all of the provisions of this chapter.

**§ 31-22. Review of lists and disclosure statements.**

A. The Ethics Board shall review:

- (1) The lists of Town officers and employees, prepared pursuant to Subsection C of § 31-21 of this chapter, to determine whether the lists are complete and accurate;
- (2) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this chapter; and
- (3) All transactional disclosure statements.

B. If a person required to file an annual or transactional disclosure statement with the Ethics Board has failed to file such a statement, has filed a deficient statement, or, having filed such a statement, reveals a possible or potential violation of this chapter, the Ethics Board shall notify the reporting person in writing of such deficiency or possible or potential violation and of the penalties for failure to comply with this chapter and provide the person with a fifteen-day period to cure the deficiency.

**§ 31-23. Investigations.**

A. If the Ethics Board preliminarily finds, on its own review of an annual disclosure statement or transactional disclosure statement; or pursuant to its review of a request for an advisory opinion; or pursuant to receipt of a complaint alleging a violation of this chapter upon the written request of any individual; or pursuant to an investigation initiated by the Ethics Board in carrying out the provisions of this chapter, that a possible violation of this chapter exists, the Ethics Board may, but shall not be required to, provide the person(s) affected with a reasonable opportunity to cure such violation. Such a preliminary finding shall be confidential and not subject to public disclosure. If under any other circumstances, such as through the filing and investigation of a complaint, the Ethics Board determines that there is reasonable cause to believe that a violation of this chapter has occurred, or after any grace period granted by the Ethics Board has expired and it such violation remains uncured, it shall send a notice of reasonable cause to:

- (1) The reporting/applicable person;
- (2) The complainant, if any; and
- (3) The Supervisor and the Town Board.

B. Before any such "reasonable cause" finding shall be made, the Ethics Board shall:

- (1) Notify in writing the reporting/affected person as to the possible or alleged violation of this chapter;
- (2) Afford the reporting/affected person an opportunity to submit in writing a written response setting forth such information as said reporting/affected person deems relevant to the activities cited by the Ethics Board as a possible or alleged violation of this chapter; and
- (3) Upon written request, afford the affected person a hearing wherein this affected person may provide either a written or oral response setting forth such information as the affected person deems necessary or appropriate in response to the actions by the Ethics Board.

C. Upon receipt of a sworn complaint by any person alleging a violation of this chapter, or upon determining on its own initiative that a violation of this chapter may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this chapter.

D. The Ethics Board shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the Ethics Board.

E. Any person filing a sworn complaint with the Ethics Board shall be notified in writing of the disposition of the complaint.

F. Nothing in this section shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any provision of this chapter, or any other law, the Ethics Board shall promptly transmit to the Town Board a copy of the complaint. The Ethics Board may request the Schenectady County Ethics Commission to conduct an investigation of itself or of any of its members or staff.

**§ 31-24. Hearings; assessment of penalties; injunctive relief.**

A. Disciplinary action. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend appropriate disciplinary action pursuant to Subsection A of § 31-16 of this chapter. The recommendation of the Ethics Board shall be made to Supervisor and the Town Board or such other person or body authorized by law to impose such disciplinary action. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Ethics Board refers the matter to the Town Board or such other person or body authorized by law to impose disciplinary action or unless the Ethics Board refers the matter to the appropriate prosecutor. If such a referral is made, the Ethics Board may adjourn the matter pending determination by the Town Board, person, body, or prosecutor, as the case may be.

B. Civil fine. In its discretion and after a hearing providing for due process procedural mechanisms, the Ethics Board, pursuant to Subsection B of § 31-16 of this chapter, may assess a civil fine, not to exceed \$1,500 for each violation, upon any Town officer or employee found by the Ethics Board to have violated this chapter. The Ethics Board shall conduct and complete the hearing with reasonable promptness. The civil fine shall be payable to the Town.

C. Damages. The Town Board may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in Subsection C of § 31-16 of this chapter.

D. Injunctive relief. The Town Board, or the Ethics Board on behalf of the Town, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this chapter or to compel compliance with this chapter as provided in § 31-17 of this chapter.

E. Prosecutions. The Ethics Board may refer to the appropriate prosecutor possible criminal violations of this chapter. Nothing contained in this chapter shall be construed to restrict the authority of any prosecutor to prosecute any violation of this chapter or of any other law.

#### **§ 31-25. Advisory opinions.**

A. Upon the written request of any Town officer or employee or Town resident, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this chapter or of Article 18 of the General Municipal Law of the State of New York.

B. In rendering advisory opinions, the Ethics Board may request the advice and counsel of the attorney employed by the Ethics Board or, if none, the Town Attorney.

C. An advisory opinion rendered by the Ethics Board, until and unless amended or revoked, shall be binding on the Ethics Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the Ethics Board may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.

D. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.

E. Any person aggrieved by an advisory opinion of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

F. Any person who has submitted to the Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with § 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this subdivision unless:

(1) It shall appear by, and as an allegation in, the petition or complaint that at least six months have elapsed since the filing of the request and that the Ethics Board has failed to file any determination in the matter; and

(2) The action or special proceeding shall be commenced within 10 months after the submission of the request for the advisory opinion.

#### **§ 31-26. Judicial review.**

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

#### **§ 31-27. Public inspection of Code of Ethics.**

The Ethics Board shall make information concerning this chapter and Article 18 of the General Municipal Law available to the Town officers and employees, to the public, and to persons interested in doing business with the Town.

#### **§ 31-28. Annual reports; review of Code of Ethics.**

A. The Ethics Board shall prepare and submit an annual report to the Supervisor and the Town Board, summarizing the activities of the Ethics Board by April 15 for the previous fiscal year.

B. The Ethics Board shall periodically review this chapter and the Ethics Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable, common sense standards of conduct. At any time, the Ethics Board may recommend changes to the text or administration of this chapter to the Town Board.

#### **§ 31-29. Public inspection of records; public access to meetings.**

A. Notwithstanding the provisions of Article 6 of the Public Officers Law of the State of New York, the only records of the Ethics Board which shall be available for public inspection are:

- (1) The information set forth in an annual disclosure statement or transactional disclosure statement filed pursuant to this chapter, except any item of information redacted pursuant to Subsection C of § 31-12 of this chapter;
- (2) Notices of reasonable cause set under Subsections A and B of § 31-23 of this chapter;
- (3) Redacted advisory opinion prepared as provided in § 31-28 of this chapter; and
- (4) Assessments of civil penalties, sanction, discipline or other action taken or imposed as provided in §§ 31-16 and 31-24 of this chapter.

B. Notwithstanding the provisions of Article 7 of the Public Officers Law or by other applicable state or federal law or regulation, no meeting or proceeding of the Ethics Board, including any such proceeding contemplated under § 31-23 of this chapter, shall be open to the public, except upon the request of the Town officer or employee under investigation, or, as expressly provided otherwise by the Town Board.

#### **§ 31-30. Miscellaneous provisions.**

- A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.
- B. Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.
- C. If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this chapter.

#### **§ 31-31. Distribution and posting.**

- A. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor and Town Clerk, in a form suitable for posting, copies of those provisions of this chapter which the Town Board deems necessary for posting in the Town. Within 10 days after receipt of those copies, the Town Clerk shall cause the copies to be posted conspicuously in a place designated for the posting of public notices.
- B. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor, or other Town officer or employee as designated by the Supervisor, in a form suitable for distribution, copies of those provisions of this chapter which the Town Board deems necessary for distribution to the Town officers and employees. Within 10 days after receipt of those copies, the Supervisor, or his or her designee, shall cause the copies to be distributed to every Town officer and employee, and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within 10 days after entering upon the duties of his or her position.
- C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.

### **CHAPTER 32. EQUAL EMPLOYMENT OPPORTUNITY POLICY FOR NONPOLICY- AND POLICY-MAKING POSITIONS**

- § 32-1. Equal Employment Opportunity Policy.
- § 32-2. Political affiliation policy.
- § 32-3. Americans with Disabilities Act Policy.

### **CHAPTER 32. EQUAL EMPLOYMENT OPPORTUNITY POLICY FOR NONPOLICY- AND POLICY-MAKING POSITIONS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 1-23-2002 by L.L. No. 1-2002. Amendments noted where applicable.]**

#### **§ 32-1. Equal Employment Opportunity Policy.**

The Town of Rotterdam is an equal employment opportunity employer. The Town does not discriminate on the basis of race, color, sex, religion, age, national origin, marital status, disability or veteran status. Discrimination based on any of the above groups is strictly prohibited. This policy applies to all aspects of employment, including but not limited to hiring, placement, compensation, promotion, transfer, training, leave of absence and termination.

#### **§ 32-2. Political affiliation policy.**

Political affiliation, in addition to merit and fitness, may be considered by the Town of Rotterdam in connection with policy-making positions. Political affiliation shall not be considered in making any employment decision, including but not limited to hiring, placement, compensation, promotion, transfer, training, leave of absence and termination, for nonpolicy-making positions.

#### **§ 32-3. Americans with Disabilities Act Policy.**

The Town of Rotterdam does not discriminate against qualified individuals with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. It is the policy of the Town to hire, promote, and maintain terms, conditions, and privileges of employment in a manner which does not discriminate on the basis of a qualified individual's disability.

### **CHAPTER 47. OFFICERS AND EMPLOYEES**

- ARTICLE I. Town Clerk
- § 47-1. Term of office.

§ 47-2. Provisions subject to mandatory referendum.  
§ 47-3. Date of referendum; when effective.

#### **CHAPTER 47. OFFICERS AND EMPLOYEES**

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

##### **GENERAL REFERENCES**

Defense of employees — See Ch. 22.  
Code of Ethics — See Ch. 31.  
Residency requirements — See Ch. 60.

##### **ARTICLE I. Town Clerk**

[Adopted 8-2-1972 by L.L. No. 11-1972]

##### **§ 47-1. Term of office.**

It is hereby enacted that the term of office of the Town Clerk of the Town of Rotterdam shall be increased from a two-year term to a four-year term commencing with the term of office to be filled at the biennial election of 1973, said term commencing on January 1, 1974.

##### **§ 47-2. Provisions subject to mandatory referendum.**

This chapter is subject to a mandatory referendum pursuant to requirements of the Municipal Home Rule Law.

##### **§ 47-3. Date of referendum; when effective.**

Said referendum shall be conducted at the time of the general election for the year 1972 on November 7, 1972, and this chapter shall become effective when approved by a majority of the duly qualified electorates of the Town of Rotterdam casting ballots upon said proposition at said general election. Editor's Note: This chapter received the affirmative vote of a majority of the qualified electors voting thereon at the general election held 11-7-1972.

#### **CHAPTER 51. (RESERVED)**

[Former Ch. 51, Ordinances, Publication of, adopted 11-16-1977 by L.L. No. 16-1977, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]

#### **CHAPTER 55. (RESERVED)**

[Former Ch. 55, Public Works Department, adopted 5-15-1974 by L.L. No. 9-1974, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]

#### **CHAPTER 60. RESIDENCY REQUIREMENTS**

##### **ARTICLE I. General Provisions**

§ 60-1. Employees hired prior to effective date.  
§ 60-2. Employees hired subsequent to effective date.  
§ 60-3. Exemptions.  
§ 60-4. Failure to comply.

##### **ARTICLE II. Town Comptroller**

§ 60-5. Requirements for Comptroller.

##### **ARTICLE III. Town Engineer**

§ 60-6. Requirements for Town Engineer.

##### **ARTICLE IV. Town Assessor**

§ 60-7. Requirements for Town Assessor.

#### **CHAPTER 60. RESIDENCY REQUIREMENTS**

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

##### **GENERAL REFERENCES**

Officers and employees — See Ch. 47.

##### **ARTICLE I. General Provisions**

[Adopted 2-16-1977 by L.L. No. 5-1977]

##### **§ 60-1. Employees hired prior to effective date.**

Any person hired and employed by the Town of Rotterdam before the effective date of this article must, during the period of his or her employment with said Town, maintain his or her residence or dwelling within the boundaries and corporate limits of said Town, with the exception only of those employees that presently reside outside of the boundaries and corporate limits of said Town.

**§ 60-2. Employees hired subsequent to effective date.**

Any person hired and employed by the Town of Rotterdam after the effective date of this article must, during the period of his or her employment with said Town, maintain his or her residence or dwelling within the boundaries and corporate limits of said Town.

**§ 60-3. Exemptions.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A. This article shall not apply to any person hired and employed by the Town of Rotterdam prior to the effective date of Local Law No. 5-1977, who resides or maintains a dwelling outside the boundaries and corporate limits of said Town, and such persons shall be excluded from complying with the residency requirements herein.

B. The provisions of this article shall not apply to elected officials, all other officials or employees whose residency requirements are established by law, or to employees during a leave of absence duly granted.

**§ 60-4. Failure to comply.**

Failure of any employee to comply with any of the provisions of this article shall constitute misconduct and shall be cause for removal in the manner provided by law.

**ARTICLE II. Town Comptroller**

**[Adopted 1-21-1998 by L.L. No. 1-1998]**

**§ 60-5. Requirements for Comptroller.**

This article shall supersede § 23 of the Town Law for the purpose of hiring a Town Comptroller who does not reside in the Town of Rotterdam but does reside in the County of Schenectady.

**ARTICLE III. Town Engineer**

**[Adopted 3-11-1998 by L.L. No. 4-1998]**

**§ 60-6. Requirements for Town Engineer.**

This article shall supersede § 23 of the Town Law for the purpose of hiring a Town Engineer who does not reside in the Town of Rotterdam but does reside in the County of Schenectady.



**ARTICLE IV. Town Assessor**

**[Adopted 11-28-2001 by L.L. No. 16-2001]**

**§ 60-7. Requirements for Town Assessor.**

This article shall supersede § 23 of the Town Law for the purpose of hiring a Town Assessor who does not reside in the Town of Rotterdam but does reside in the State of New York. Editor's Note: Former Article V, Town Attorney, adopted 2-27-2002 by L.L. No. 4-2002, which immediately followed this section, was repealed 1-26-2005 by L.L. No. 1-2005.

**CHAPTER 63. SALARIES AND COMPENSATION**

**[The salaries and compensation of Town officers and employees are determined annually 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 68. ADVERTISING MATERIALS**

§ 68-1. Distribution restricted.

§ 68-2. Exceptions.

§ 68-3. Penalties for offenses.

**CHAPTER 68. ADVERTISING MATERIALS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 8-21-1974 by L.L. No. 13-1974. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Hawking, peddling and soliciting — See Ch. 150.

**§ 68-1. Distribution restricted.**

It shall be unlawful for any person to leave hanging any kind of bag or bags containing advertising materials or samples, or to distribute advertising material or samples at a home located within the Town of Rotterdam, New York, other than the home of the person soliciting the same, by placing such material at the home or on the property of the person owning or occupying such home, unless the person distributing such advertising material or samples obtains the written consent of the person occupying the home.

**§ 68-2. Exceptions.**

The foregoing provision shall not apply to the distributing of advertising materials through the United States postal services. The provisions of this chapter shall not apply to the distribution of any newspaper of general circulation nor to materials distributed by charitable or nonprofit organizations.

**§ 68-3. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A violation of this chapter, shall be deemed an offense, and all persons, including corporations, found in violation shall be subject to a fine of \$250 for each offense and or imprisonment for not more than 15 days, or both.

**CHAPTER 71. ALARMS**

- § 71-1. Definitions.
- § 71-2. License required; fees; exception.
- § 71-3. Responsibilities of suppliers, installers, repairers and/or central dispatch station.
- § 71-4. Approval required for connection to police headquarters.
- § 71-5. Registration and permit required.
- § 71-6. Types of alarms to be connected to police headquarters.
- § 71-7. Maintenance.
- § 71-8. General regulations.
- § 71-9. Restriction on liability of Police Department and town.
- § 71-10. Penalties for offenses.
- § 71-11. Enforcement.
- § 71-12. When effective; time period for compliance.

**CHAPTER 71. ALARMS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-10-1996 by L.L. No. 5-1996. Editor's Note: This local law also repealed former Ch. 71, Alarms, adopted 3-16-1983 by L.L. No. 4-1983, as amended. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fees — See Ch. 126.

Fires and fire prevention — See Ch. 130.

**§ 71-1. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings indicated:

**ALARM DEVICE**

Any type of alarm-actuating equipment, excluding motor vehicle alarms, which provides warning of intrusion, fire, smoke, carbon monoxide, burglary, flood or like perils, including dial alarms (devices using normal telephone lines transmitting notification by telephone directly to police headquarters or any other central dispatch area), direct alarms (devices using telephone lines terminating in an alarm panel or similar device located in police headquarters or any other central dispatch location) and any audible alarms or other type of alarm.

**ALARM PANEL**

That component installed in police headquarters containing alarm indications and designations.

**ALARM SUPPLIER AND/OR INSTALLER AND/OR REPAIRER**

Any person or party who manufactures, constructs, installs or otherwise prepares alarm systems or devices for use in the Town of Rotterdam. This shall not include businesses supplying alarms only and not being involved in the act of installing or repairing in any form.

**ALARM SYSTEM**

The installation in one or more buildings of one or more alarm devices for the express purpose of giving visual or audible warning, or both, of an emergency, such as a burglary, intrusion, carbon monoxide, fire, smoke, flood or like perils.

**AUDIBLE ALARM**

A device that emits an audible signal from the premises that it is designed to protect.

**CENTRAL DISPATCH STATION**

A remote alarm-monitoring station, other than a police and/or fire headquarters, away from the protected premises or building.

**DIGITAL ALARM RECEIVER**

That component installed in police headquarters containing alarm indications and designations capable of receiving notification of activated alarm systems.

**FALSE ALARM**

An alarm signal necessitating response by the Police or Fire Department where an emergency situation does not exist.

**PERSON**

Any natural person, partnership, corporation, association or other legal entity.

**TAPE DIALER**

Playback tape recorders that have prerecorded messages and which dial predetermined numbers and deliver a taped voice message.

**§ 71-2. License required; fees; exception.**

No alarm supplier and/or installer and/or repairer and/or central dispatch station shall be permitted to do business in the Town of Rotterdam without being licensed to do so by said town. The annual fee for such license is as set forth in Chapter 126, Fees. Each permit shall be subject to renewal annually on or before the 31st day of January. An exception to this licensing is residents who install their own system upon their own premises.

**§ 71-3. Responsibilities of suppliers, installers, repairers and/or central dispatch station.**

A. Each alarm supplier and/or installer who sells or leases an alarm or device must offer service, directly or through an agent, on a twenty-four-hour basis seven days a week, to repair such device so as to correct any malfunctions of same that may occur. At the time of installation, each alarm equipment supplier shall furnish to the purchaser, for whom the protective alarm device or system has been installed, written information as to how service can be obtained at any time, including telephone numbers to call for service, and such person shall be responsible for having the device repaired within a reasonable time after he learns, either from his own sources or from notification by the Police Department, that the alarm system or device is not working properly. It shall be the responsibility of the alarm supplier and/or installer to inform the purchaser of any alarm system or device of the need for a permit for the system, and the alarm supplier and/or installer shall not complete the installation of the device or system until such permit has been obtained. The supplier and/or installer is responsible to notify the Town of Rotterdam Police Department of any system or device that the supplier and/or installer has removed in the Town of Rotterdam.

B. Each central dispatch station which provides service, directly or through an agent, must provide service on a twenty-four-hour basis seven days a week. It shall be the responsibility of the central dispatch station to inform the owner/lessee of any alarm system of the need for a Town permit for the system. The central dispatch station shall not service the system until such permit has been obtained. Each central dispatch station is responsible to notify the Town of Rotterdam Police Department of the installation and/or discontinuance of any monitoring site in the Town of Rotterdam. Each central dispatch station must furnish the Rotterdam Police Department with current responsible party information as follows:

- (1) The name, residence address and telephone number of the lessee/owner.
- (2) The names, addresses and telephone numbers of at least three persons to contact who are authorized to respond to an emergency and open the place where the alarm system is installed to reset the alarm.
- (3) In the case of a business location, the central dispatch station shall provide the Rotterdam Police Department with the names, addresses and telephone numbers of at least three persons to contact who have access to the business.
- (4) Current responsible party information must be furnished upon initial installation of the system and annually thereafter in the month of January.

#### **§ 71-4. Approval required for connection to police headquarters.**

No emergency alarm, silent or audible, as defined in § 71-1 of this chapter, shall be installed in the Town of Rotterdam which terminates in the Rotterdam police headquarters without prior submission of an application to the Rotterdam Police Department and without prior approval of the Chief of Police of the Town of Rotterdam to have said emergency alarm installed.

#### **§ 71-5. Registration and permit required.**

Every owner/lessee of an alarm system or device must register said alarm system or device with the Town of Rotterdam Police Department and obtain a permit therefrom.

#### **§ 71-6. Types of alarms to be connected to police headquarters.**

A. Any type of alarm system or device terminating at the police headquarters of the Town of Rotterdam shall be either a direct-alarm type (devices using telephone lines terminating in an alarm panel located in police headquarters) or the dial-alarm type (devices using normal telephone lines transmitting notification by telephone directly to the digital receiver at police headquarters).

B. Tape-voiced dialers shall not terminate at or transmit to the police headquarters of the Town of Rotterdam, over any emergency or business line. Only those dialers that are licensed and approved to transmit data to the Police Department's digital receiver or alarm panel over a designated data line may transmit to or terminate at police headquarters.

#### **§ 71-7. Maintenance.**

Any and all emergency alarm systems must be adequately maintained at all times. This maintenance will be carried out at the expense of the alarm permit holder, and, when this maintenance involves any equipment located at the police headquarters, the maintenance shall be carried out only by personnel licensed by the Town of Rotterdam pursuant to § 71-2 of this chapter and shall be at the expense of the alarm permit holder.

#### **§ 71-8. General regulations.**

The following rules and regulations shall cover any type of protective alarm system, whether audible or silent. The rules and regulations pertain in any case where the Police Department or Fire Department must respond to an alarm, whether the system terminates at the police headquarters or not.

A. Every owner/lessee of an alarm system or device must furnish the Rotterdam Police Department with a current list of information which states the following:

- (1) The name, residence address and telephone number of the lessee/owner.
- (2) The names, addresses and telephone numbers of at least three persons to contact who are authorized to respond to an emergency and open the place where the alarm system is installed to reset the alarm.
- (3) In the case of a business location, the owner/lessee shall provide the Police Department with at least three persons to contact in case of an emergency and who have access to the building.

B. No owner/lessee of a building shall have in operation an audible alarm thereon unless such alarm shall be capable of and shall automatically terminate its operation within 30 minutes of its being activated and reset.

C. False alarms (as defined in § 71-1 of this chapter):

- (1) Persistent false alarms are described as more than four false alarms reported within each calendar year.
- (2) For every false alarm over the allowed four in a calendar year, the owner/lessee shall be charged a fee by the Town of Rotterdam as set forth in Chapter 126, Fees.



(3) Persistent false alarms shall not include those false alarms caused by acts of God, natural disaster or other causes not under the immediate control of the owner/lessee. Malfunctions of alarm equipment shall be considered as under the control of the owner/lessee.

D. Testing of the system or device shall be conducted in the following manner:

(1) No more than one test shall be conducted per calendar month unless otherwise authorized by the Police Department or, in case of the Fire Department, by the Fire Department.

(2) The owner/lessee or his agent must notify the Police Department beforehand of the testing of the system, in person or by phone. When notifying the Police Department of the test, the person making the notification must indicate his permit number to the person notified, for purposes of security. If the person making the notification fails to give the permit number, it shall be a sign that this is an active alarm to the Police Department. The person notified shall, in turn, stamp the appropriate police complaint sheet and indicate the time of alarm, person who contacted the Police Department and the permit number.

E. The Police Department shall maintain records indicating that it has responded to a false alarm, including a summary of the date, time, and other relevant data relating to such response. After the fourth false alarm, a notice shall be issued to the owner/lessee indicating that all subsequent false alarms within that calendar shall constitute a violation.

F. All emergency alarm systems that terminate at the Police Department digital alarm receiver/alarm panel shall be subject to an annual service fee as set forth in Chapter 126, Fees.

G. All emergency alarm systems that are outside audible only and do not terminate at either a central dispatch station or the Police Department digital alarm receiver/alarm panel shall be subject to an annual service fee as set forth in Chapter 126, Fees.

H. All emergency alarm systems that terminate at a central dispatch station shall be subject to an annual service fee as set forth in Chapter 126, Fees.

#### **§ 71-9. Restriction on liability of Police Department and town.**

The Rotterdam Police Department and the Town of Rotterdam shall take every reasonable precaution to assure that emergency alarm signals received by the Town are given appropriate and immediate attention. Nevertheless, the Town shall not be liable for any defects in operation of emergency alarm systems, for any failure to respond appropriately or any errant response, upon receipt of any emergency alarm signal, nor for the failure or defect of any licensee pursuant to § 71-2 of this chapter, in respect to installation, operation or maintenance of equipment, the transmission of alarm signals or messages or the relaying of such signals or messages. In the event that the Town finds it necessary to disconnect a defective automatic or signaling device, the Town shall incur no liability therefrom.

#### **§ 71-10. Penalties for offenses.**

A. Any owner/lessee of an alarm device or system operating such device or system without a valid permit issued by the Town shall be guilty of a violation and shall be subject to a fine of not more than \$250. Each week that the violation shall continue shall constitute a separate offense.

B. Any alarm supplier and/or installer and/or repairer and/or central dispatch station which manufactures, constructs, installs, repairs or otherwise monitors alarm systems or devices for use in the Town of Rotterdam without a valid license issued by the Town shall be guilty of a violation and shall be subject to a fine of not more than \$500.

C. Any owner/lessee who is charged a fee by this chapter shall pay said fee, within 30 days after notice, to the Rotterdam Police Department. If said fee is not paid within the thirty-day period after notice, the owner/lessee shall be in violation of this chapter and shall be subject to a fine of not more than \$250.

D. Any violation of this chapter not provided for in Subsections A, B or C of this section shall constitute a violation and shall be punishable by a fine of not more than \$250.

E. A civil penalty of \$100 per week is hereby imposed for each week's violation of this chapter, which penalty may be collected in any judgment rendered in a proceeding or civil action.

F. Duly recognized nonprofit, public service and governmental entities are considered exempt from the fee schedules, as outlined, that pertain to this chapter. They are, however, required to comply with all of the other provisions and requirements stated herein.

#### **§ 71-11. Enforcement.**

Every violation of this chapter shall constitute a violation and shall be punishable as prescribed by law.

#### **§ 71-12. When effective; time period for compliance.**

This chapter shall take effect upon filing in the office of the Secretary of State and State Comptroller. Alarm systems installed or in use at the effective date of this chapter shall conform to the requirements of this chapter within 120 days after the effective date hereof.

#### **CHAPTER 72. ALCOHOLIC BEVERAGES**

§ 72-1. Open containers in public places prohibited.

§ 72-2. Consumption in public places prohibited.

#### **CHAPTER 72. ALCOHOLIC BEVERAGES**

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

## **GENERAL REFERENCES**

Mass gatherings — See Ch. 180.

Parks and playgrounds — See Ch. 194.

### **§ 72-1. Open containers in public places prohibited.**

A. No person shall have in his possession within the Town of Rotterdam an open container of alcoholic beverage, with the intent to consume the same, while said person is in any public place, including but not limited to any public highway, public street, public sidewalk, public alley, public parking lot or public area, except for locations licensed for the sale of alcoholic beverages by the State of New York.

B. The possession within the Town of Rotterdam of an open or unsealed bottle or container of an alcoholic beverage while such person is in any public place as referred to in Subsection A above is presumptive evidence of possession of the same with the intent to consume said alcoholic beverage while such person is in said public place.

### **§ 72-2. Consumption in public places prohibited.**

No person shall drink or otherwise consume any liquor, wine, beer or other alcoholic beverage while such person is in any public place, including but not limited to any public highway, public street, public sidewalk, public alley, public parking lot or public area, except for locations licensed for the sale of alcoholic beverages by the State of New York.

## **CHAPTER 74. AMUSEMENTS**

§ 74-1. Purpose.

§ 74-2. Definitions.

§ 74-3. Restriction on possession of amusement games.

§ 74-4. License required.

§ 74-5. License application procedure.

§ 74-6. License fees; expiration and renewal of license.

§ 74-7. Transmittal of application to Building Inspector/Code Enforcement Officer; compliance with other standards.

§ 74-8. Review of application; issuance or denial of license.

§ 74-9. Display of license; transferability.

§ 74-10. Operation of game rooms.

§ 74-11. Existing game rooms.

§ 74-12. Enforcement.

§ 74-13. Revocation of license.

§ 74-14. Penalties for offenses; complaints; civil action.

§ 74-15. Exemptions.

## **CHAPTER 74. AMUSEMENTS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 3-17-1982 by L.L. No. 3-1982. Amendments noted where applicable.]**

## **GENERAL REFERENCES**

Carnivals and tent shows — See Ch. 98.

Fees — See Ch. 126.

Public entertainment — See Ch. 217.

Zoning — See Ch. 270.

### **§ 74-1. Purpose.**

The purpose of this chapter is to control the establishment of game rooms by licensing in order to determine whether premises containing game rooms comply with all fire, health, sanitary and building codes and laws and other applicable state and local laws, ordinances and regulations and to adopt rules and regulations governing the occupancy and use of such game rooms.

### **§ 74-2. Definitions.**

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

#### **AMUSEMENT GAME**

Any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game of skill by the insertion of a piece of money, coin, token or other article or by paying money to have it activated. This definition does not include:

A. A jukebox.

B. Amusement rides.

C. Bowling lanes.

D. Any device maintained within a private residence for use of the occupants thereof and their guests.

E. Any device, the possession or use of which is prohibited by law.

F. Pool tables.

#### **GAME ROOM**

A room or place used exclusively for and containing more than four amusement games and meeting the specifications prescribed by this chapter.

#### **PERSON**

One or more individuals, a corporation, partnership, association, trust, firm, trustee, receiver or assignee or any other legal entity.

**PREMISES** Any room, building or place to which the general public has access or to which individuals have access with the permission of the person in control thereof.

**TOWN** The Town of Rotterdam.

**§ 74-3. Restriction on possession of amusement games.**

No person shall place or permit to be placed upon any premises owned by him or under his control as manager, proprietor, lessee or otherwise, more than four amusement games, unless he shall have established a game room in accordance with the provisions of this chapter.

**§ 74-4. License required.**

No person shall operate a game room in the Town unless the person is licensed to do so pursuant to the provisions of this chapter.

**§ 74-5. License application procedure.**

A. Each application for a license hereunder shall be filed with the Town Clerk, in duplicate, and shall specify:

(1) The name, address and telephone number of the applicant and, if a firm, corporation, partnership or association, the principal officers thereof and their addresses and telephone numbers.

(2) The address of the premises where the game room is to be operated, together with the character of the business carried on at such premises if used other than exclusively as a game room.

(3) The name and address of the registered agent, if any, of the applicant, upon whom service of process is authorized to be made.

(4) The name, address and telephone number of the manager, if any, of the applicant, who shall be in charge of the applicant's game room in the Town of Rotterdam.

(5) The floor area of the game room and the number of amusement games which applicant proposes to place in the game room.

B. The application shall contain a certification, under oath, made by the applicant, or a principal officer thereof if the applicant is other than a natural person, that the information contained in the application is complete, accurate and truthful to the best of his knowledge and belief.

C. If the establishment of the game room necessitates construction, reconstruction, alteration or remodeling of a premises so that a building permit is required therefor, the application shall not be submitted until such time as the permit is obtained by the applicant. If a site plan approval is a prerequisite to the issuance of the building permit under Article XVIII, Site Plan Approval, of the Zoning Ordinance of the Town of Rotterdam, the site plan review shall be completed prior to the submission of the license application. The report of the Planning Commission as provided by § 270-134, Final site plan approval, of the Code shall be submitted to the Building Inspector/Code Enforcement Officer.

[Amended 3-12-1986 by L.L. No. 4-1986 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]

**§ 74-6. License fees; expiration and renewal of license.**

A. The annual license fees shall be as set forth in Ch. 126, Fees. No additional fees shall be payable for game machines.

[Amended 1-25-1989 by L.L. No. 1-1989]

B. The license year shall be from January 1 to December 31 of each year, and all licenses shall expire on the 31st day of December of each year.

C. The license fee shall be payable annually in advance and shall accompany the application for a license. Where the application is submitted on or subsequent to July 1 of any year, the applicant shall pay a license fee as set forth in Ch. 126, Fees.

[Amended 1-25-1989 by L.L. No. 1-1989]

D. The license may be renewed by the licensee by payment to the Town Clerk of the fee in effect at the time of renewal.

**§ 74-7. Transmittal of application to Building Inspector/Code Enforcement Officer; compliance with other standards.**

A. The Town Clerk shall, within three working days of receipt thereof, forward a copy of the application to the Building Inspector/Code Enforcement Officer for review and report. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. No license shall be granted unless the premises in which the game room is to be situate meets all requirements of fire, housing, building, sanitary, electrical and plumbing codes of the Town and any other applicable Town or state laws, rules and regulations, ordinances or local laws.

**§ 74-8. Review of application; issuance or denial of license.**

A. The Building Inspector/Code Enforcement Officer shall review the application and, with the advice and assistance of such other Town personnel as may be necessary, inspect the premises to ascertain whether the premises comply with all applicable fire, housing, building, sanitary, electrical and plumbing codes, state or local. The inspection and review shall be completed within 14 working days after the date of the receipt of the copy of the application by the Building Inspector/Code Enforcement Officer or within seven working days of the final completion of any construction, alteration or remodeling of a premises authorized by a building permit after, if necessary, site plan review. Within six working days after completion of the inspection and review, the Building Inspector/Code Enforcement Officer shall, by letter to the Town Clerk and a copy to the applicant, either authorize issuance of the license or deny the same with the reasons for such denial. The denial of such license shall be subject to review by certiorari. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Within five working days of the receipt of said letter by the Town Clerk, the license, if authorized, shall be issued by the Town Clerk.

C. If the license is denied, 25% of the paid license fee shall be returned to the applicant, the balance going to offset the costs of the application review.

**§ 74-9. Display of license; transferability.**

A. The license shall be posted in a conspicuous place in the game room.

B. All licenses shall be nonassignable and nontransferable.

**§ 74-10. Operation of game rooms.**

A. The licensee shall not permit any individuals to bet or gamble on the premises in which the game room is situate.

B. The licensee shall, at all times, maintain good order and shall not permit any disturbance, congestion or loitering upon the premise in which the game room is situate.

C. No game room shall be without sanitary facilities as required by local or state law or contain any fire, safety or health hazard prohibited by local or state law.

D. No licensee shall refuse to cooperate fully with the Town Clerk, any law enforcement officer or agency or the Town Building Inspector/Code Enforcement Officer. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Possession or consumption of alcoholic beverages, except upon premises licensed for on-premises possession or consumption is prohibited.

F. The owner or operator of a game room shall not allow it to be open or used unless it is under the control and supervision of a person at least 18 years of age who shall ensure that it is operated in compliance with these regulations.

G. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement game.

**§ 74-11. Existing game rooms.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). If any person shall have on premises under his control more than four amusement games on the effective date of this chapter, the person shall apply for a game room license within 30 days after such effective date. The utilization of the amusement games by such person shall be permissible without a license pending a final determination by the Building Inspector/Code Enforcement Officer on the application in accordance with the procedures prescribed in this chapter.

**§ 74-12. Enforcement.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). All officers of the Town Police Department and the Town Building Inspector/Code Enforcement Officer are authorized to enforce the provisions of this chapter.

**§ 74-13. Revocation of license.**

A. Every license issued hereunder is subject to revocation by the Town Board for the violation of any of the provisions of this chapter. Any material misstated or omitted in the license application shall constitute grounds for revocation. The revocation shall occur only after a hearing.

B. The licensee shall be given 10 days' notice of the date of such hearing, and such notice shall state the grounds therefor. At such hearing, the licensee may submit pertinent information on his own behalf.

**§ 74-14. Penalties for offenses; complaints; civil action.**

A. Violations. Any person or persons, firm or corporation violating any of the provisions of this chapter shall be guilty of an offense punishable by a fine not to exceed \$250 or imprisonment not to exceed 15 days, or by both such fine and imprisonment. Each week's continuous violation shall constitute a separate additional violation. The Town Board shall have such other remedies as are allowable by law.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

B. Complaints. Whenever a violation of this chapter occurs, any individual may file a complaint. Such complaint shall be in writing and shall be filed with the Building Inspector/Code Enforcement Officer. Such complaint shall be immediately investigated, and a written report thereon filed with the Town Board within 30 days. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. Civil action. In addition, the Town Board may authorize the institution of any appropriate civil action, including an action for injunction, for the purpose of enforcing this chapter.

**§ 74-15. Exemptions.**

This chapter shall not have application to the possession or operation of amusement games by nonprofit corporations, associations or groups, unless the amusement games are available for use by the general public. Additionally, this chapter shall not have application to all premises holding a valid New York State liquor license where there is on-premises consumption of alcoholic beverages.

**CHAPTER 78. AUCTIONS AND AUCTIONEERS**

ARTICLE I. Auctions  
§ 78-1. License required.  
§ 78-2. License application.  
§ 78-3. Hours of operation.  
§ 78-4. Granting of license.  
§ 78-5. License fee; duration of license.  
§ 78-6. Penalties for offenses.  
ARTICLE II. Auctioneers  
§ 78-7. Definitions.  
§ 78-8. License required.  
§ 78-9. Exemptions.  
§ 78-10. License application; issuance of license.  
§ 78-11. License fee.  
§ 78-12. Expiration of license.  
§ 78-13. Prohibited actions.  
§ 78-14. Maintenance of records by auctioneers.  
§ 78-15. Records to be open to inspection by Town Clerk.  
§ 78-16. Denial or revocation of license.  
§ 78-17. Appeal procedure.  
§ 78-18. Hearings.  
§ 78-19. Maintenance of records by Town Clerk.  
§ 78-20. Penalties for offenses.

## **CHAPTER 78. AUCTIONS AND AUCTIONEERS**

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

### **GENERAL REFERENCES**

Fees — See Ch. 126.

Hawking, peddling and soliciting — See Ch. 150.

### **ARTICLE I. Auctions**

[Adopted 12-13-1954]

#### **§ 78-1. License required.**

No person, firm or corporation whether setting as principal or as agent for another shall conduct a public auction of any goods, wares or merchandise or any other personal property except in an auction conducted under process of law or in any legal proceeding in the Town of Rotterdam without first obtaining a license thereof as provided herein.

#### **§ 78-2. License application.**

A. Any such person, firm or corporation applying for a license to conduct any such public auction in the Town of Rotterdam shall apply for such license by verified petition to the Town Clerk of the Town of Rotterdam stating his or its name, residence or place of business and the location where the proposed auction is to take place. There shall accompany such petition and be made a part thereof an inventory in detail of the goods which are to be sold and what facts are to be represented upon said sale as to such goods.

B. The applicant shall also furnish to accompany said petition such other and further information as shall be necessary to establish the truth of the facts stated in said petition.

#### **§ 78-3. Hours of operation.**

No license shall be granted under this article which shall permit such auction sale to be conducted between the hours of 10:00 p.m. and 8:00 a.m., nor shall any license be granted to permit such auction sale on Sundays.

#### **§ 78-4. Granting of license.**

The granting of a license under this article shall rest in the discretion of the Town Clerk of the Town of Rotterdam.

#### **§ 78-5. License fee; duration of license.**

[Amended 1-25-1989 by L.L. No. 1-1989]

Before the issuing of said license, there shall be paid to the Town Clerk of the Town of Rotterdam a license fee per day as set forth in Ch. 126, Fees. No license shall be granted for a period of longer than 15 days.

#### **§ 78-6. Penalties for offenses.**

[Amended 3-12-1986 by L.L. No. 4-1986]

Any person, firm or corporation failing to obey any of the provisions of this article shall be punishable by a fine not to exceed \$250 and by imprisonment not to exceed 15 days, or both.

### **ARTICLE II. Auctioneers**

[Adopted 12-13-1954]

#### **§ 78-7. Definitions.**

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

**PERSON**

Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

**PUBLIC AUCTIONEER**

Includes any person selling or offering for sale for another or for himself at public auction any goods, wares, merchandise, real or personal property of any description, except as hereinafter provided.

**§ 78-8. License required.**

It shall be unlawful for any person to conduct, or to represent or circulate or place before the public any announcement that he conducts the business of a public auctioneer without first having obtained and paid for and having in full force and effect a license therefor as herein provided.

**§ 78-9. Exemptions.**

Nothing herein contained shall apply to the judicial sales or sales by executors or administrators, by trustees under deed of assignment, by lienors or by public officers in the manner prescribed by law.

**§ 78-10. License application; issuance of license.**

A. Every applicant for a license is required to submit to the Town Clerk a written application supplying, under affidavit, the following information:

- (1) Whether or not he is a citizen of the United States;
- (2) Whether or not he has ever been convicted of a felony or a misdemeanor; and
- (3) Such other information as the Town Board may from time to time require.

B. If satisfied that the applicant possesses the required qualifications, he is a fit and desirable person, and is capable of properly conducting public auctions, the Town Clerk shall, upon receipt of a license fee, issue a license to the applicant authorizing him to act as an auctioneer in the Town of Rotterdam.

**§ 78-11. License fee.**

[Amended 1-25-1989 by L.L. No. 1-1989]

The yearly license fee for a public auctioneer shall be as set forth in Ch. 126, Fees, payable at the time the license is issued.

**§ 78-12. Expiration of license.**

All licenses issued hereunder shall automatically expire on the first day of January of the year following their issuance.

**§ 78-13. Prohibited actions.**

A licensed public auctioneer shall not:

- A. Falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Blow a horn, ring a bell or use any other noise or device to attract public attention to his articles for sale.
- C. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

**§ 78-14. Maintenance of records by auctioneers.**

Every public auctioneer shall, upon the receipt of acceptance by him of any goods for the purpose of sale at auction, and before offering the same or any part thereof for sale at auction, write or cause to be written in a book to be kept by him for the purpose, the name and address of the person who employed him to sell such goods at auction; the name and address of the person from whom such public auctioneer received or accepted such goods; the name and address of the person who was the owner, the authorized agent of the owner or the consignor of such goods immediately prior to the receipt or acceptance for the purpose of sale at auction of the same by such public auctioneer; the locations, with street and number, if any, of such goods immediately prior to the receipt or acceptance of the same by such public auctioneer for the purpose of sale at the auction; the date of the receipt or acceptance by such public auctioneer of such goods for the purpose of sale at auction; the place, with street and number, if any, in which such goods are to be held, kept or stored until sold or offered for sale at auction; the place, with street and number, if any, in which such goods are to be sold or offered for sale at auction; a description of such goods, the quantity thereof and the distinctive marks thereon, if any; the terms and conditions upon which such public auctioneer receives or accepts such goods for sale at auction. The expression "goods," as used in this section, signifies any goods, wares, work of art, commodity, compound or thing, chattels, merchandise or personal property which may be lawfully kept or offered for sale, but shall not include goods damaged at sea or by fire and sold or to be sold for the benefit of the owners, insurers or for the account for whom it may concern or goods sold by virtue of judicial degree. Nothing in this section shall apply to the sale of real property at auction.

**§ 78-15. Records to be open to inspection by Town Clerk.**

Such books and the entries therein, made as provided in the preceding section, shall at all reasonable times be open to the inspection of the Town Clerk of the Town of Rotterdam to inspect the same.

**§ 78-16. Denial or revocation of license.**

[Added 3-12-1986 by L.L. No. 4-1986]

A. The Town Clerk may deny the issuance or renewal of a license or may revoke any outstanding license if he/she deems that there is good and sufficient reason for the denial or revocation thereof. Any person aggrieved by the action of the Town Clerk in denying the issuance, renewal or revoking of any license shall have the right to appeal pursuant to § 78-17 hereof.

B. An appeal may be taken pursuant to §§ 78-17 and 78-18 within 20 days of the receipt of written notice of the denial or revocation, mailed to the appellant's last known address, by filing with the Town Clerk a written notice of appeal and a statement setting forth fully the grounds of the appeal.

**§ 78-17. Appeal procedure.**

**[Added 3-12-1986 by L.L. No. 4-1986]**

A. Any person who has been refused the issuance of an auctioneer's license or has had a previously issued auctioneer's license revoked or suspended by the action of the Town Clerk shall have the right to review the action of the Town Clerk as hereinafter provided:

(1) An application for such review shall be in writing, signed and acknowledged by the applicant, and shall state the ground or grounds on which the applicant claims that the determination of the Town Clerk was erroneous.

(2) Such application shall be filed with the Town Clerk by the applicant within 20 days after notice of denial of his application by the Town Clerk has been mailed to him or delivered to him in person.

(3) Upon the filing of such application, a hearing shall be held thereon pursuant to the provisions of § 78-18.

(4) At such hearing, the Review Board shall consider the record upon which the Town Clerk based his/her determination and, in its discretion, may receive new or additional evidence in support thereof or in opposition thereto.

B. The Review Board, after such hearing, may affirm the action of the Town Clerk or direct the Town Clerk to issue a proper license pursuant to this chapter.

**§ 78-18. Hearings.**

**[Added 3-12-1986 by L.L. No. 4-1986]**

Whenever it shall be provided herein that a hearing shall or may be held in connection with an application or license:

A. If an application or licensee requests a hearing, the Supervisor shall designate two or more members of the Town Board to conduct said hearing as a Review Board.

B. Such hearing shall be held on a date at a place and hour designated by the Chairman thereof.

C. The Town Clerk shall give notice thereof, stating the name and address of the applicant or licensee concerned, the subject matter of the hearing and the date, place and hour thereof designated therefor, by mailing a copy thereof to the applicant or licensee concerned, at the address shown upon the most recent application of such applicant or licensee at least 10 days prior to such hearing.

D. The applicant or licensee involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.

E. All witnesses shall be sworn and examined under oath.

**§ 78-19. Maintenance of records by Town Clerk.**

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this article, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

**§ 78-20. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person, who shall act as a public auctioneer as herein defined without a license or shall violate any of the provisions of this article, or who, having had his license revoked, shall continue to act as a public auctioneer shall be guilty of a misdemeanor; and be punished by fine of not more than \$500 or by imprisonment not to exceed three months, or both; and each day on which such violation continues shall constitute a separate offense.

**CHAPTER 83. BINGO**

§ 83-1. License required.

§ 83-2. Sunday games.

§ 83-3. Lease restrictions.

§ 83-4. Purchase of equipment.

§ 83-5. Use of proceeds.

§ 83-6. Amount of single prize.

§ 83-7. Amount of series of prizes.

§ 83-8. Management and operation personnel.

§ 83-9. Remuneration for personnel prohibited.

§ 83-10. Penalties for offenses.

§ 83-11. Licensed sellers of supplies and equipment.

§ 83-12. Limited period bingo.

**CHAPTER 83. BINGO**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 6-18-1958; amended 7-10-1963. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

Games of chance — See Ch. 142.

##### **§ 83-1. License required.**

No person, firm, association, corporation or organization other than a licensee under the provisions of Article 14-H of the General Municipal Law shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.

##### **§ 83-2. Sunday games.**

[Added 1-21-1970 by L.L. No. 1-1970]

Notwithstanding the prohibition of § 485 of the General Municipal Law, and pursuant to the authority therein contained, the Town Board of the Town of Rotterdam may grant permission to the licensee in any license issued pursuant to the provisions of Article 14-H of the General Municipal Law to hold, operate and conduct bingo games on Sundays.

##### **§ 83-3. Lease restrictions.**

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.

##### **§ 83-4. Purchase of equipment.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase, lease 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 or from another authorized organization.

##### **§ 83-5. Use of proceeds.**

The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organizations permitted to conduct the same.

##### **§ 83-6. Amount of single prize.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No prize shall exceed the sum or value of \$1,000 in any single game of bingo.

##### **§ 83-7. Amount of series of prizes.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No series of prizes on any one bingo occasion shall aggregate more than \$3,000.

##### **§ 83-8. Management and operation personnel.**

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

##### **§ 83-9. Remuneration for personnel prohibited.**

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

##### **§ 83-10. Penalties for offenses.**

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.

##### **§ 83-11. Licensed sellers of supplies and equipment.**

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No person licensed to sell bingo supplies or equipment, or his/her agents, shall conduct, participate in, or assist in the conduct of bingo. Nothing herein shall prohibit a licensed distributor from selling, offering for sale, or explaining a product to an authorized organization, or installing, or servicing bingo equipment, upon the premises of a bingo game licensee.

##### **§ 83-12. Limited period bingo.**

[Added 3-12-1986 by L.L. No. 4-1986]

Limited period bingo shall be conducted in accordance with Article 14-H of the General Municipal Law and the rules and regulations of the State Bingo Control Commission.

#### **CHAPTER 87. (RESERVED)**

[Former Ch. 87, Building Construction, Repair and Demolition, adopted 4-3-1974 by L.L. No. 5-1974, as amended, was repealed 5-10-1989 by L.L. No. 9-1989. See now Ch. 154, Housing and Building Standards.]

#### **CHAPTER 90. BUILDINGS, UNSAFE**

§ 90-1. Purpose.

§ 90-2. Title.

§ 90-3. Definitions.

§ 90-4. Investigation and report.



- § 90-5. Town Board order.
- § 90-6. Notice; contents.
- § 90-7. Service of notice.
- § 90-8. Filing of notice.
- § 90-9. Refusal to comply.
- § 90-10. Assessment of expenses.
- § 90-11. Emergency cases.

## **CHAPTER 90. BUILDINGS, UNSAFE**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-23-1997 by L.L. No. 8-1997. Editor's Note: This local law also repealed former Ch. 90, Buildings, Unsafe, adopted 4-2-1969 by L.L. No. 5-1969. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Fires and fire prevention — See Ch. 130.  
Housing and building standards — See Ch. 154.

#### **§ 90-1. Purpose.**

Unsafe buildings pose a threat to life and property in the Town of Rotterdam. 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. 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 Rotterdam by requiring that such unsafe buildings be repaired or demolished and removed.

#### **§ 90-2. Title.**

This chapter shall be known as the "Unsafe Buildings Law" of the Town of Rotterdam.

#### **§ 90-3. 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 or industrial purpose.

##### **BUILDING INSPECTOR/CODE ENFORCEMENT OFFICER**

The Building Inspector/Code Enforcement Officer of the Town of Rotterdam or such other person appointed by the Town Board to enforce the provisions of this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

##### **TOWN**

The Town of Rotterdam.

#### **§ 90-4. Investigation and report.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). When in his own opinion or upon receipt of information that a building is or may become dangerous or unsafe to the general public; is open at the doorways and windows making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety, morals and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, the Building Inspector/Code Enforcement Officer shall cause or make an inspection thereof and report in writing to the Town Board of the Town his findings and recommendations in regard to its repair or demolition and removal.

#### **§ 90-5. Town Board order.**

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal and further order that a notice be served upon the persons and in the manner provided herein.

#### **§ 90-6. Notice; contents.**

The notice shall contain the following:

- A. A description of the premises;
- B. A statement of the particulars in which the building is unsafe or dangerous;
- C. An order outlining the manner in which the building is to be made safe and secure, or demolished and removed;
- D. A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless, for good cause shown, such time shall be extended;
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice; and
- F. A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

#### **§ 90-7. Service of notice.**

The notice shall be served by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building as shown by the records of the Receiver of Taxes or of the County Clerk or, if no such person can be reasonably found, by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and by securely affixing a copy of such notice upon the unsafe building.

**§ 90-8. Filing of notice.**

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Schenectady in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, which notice shall have the same effect as a notice of pendency.

**§ 90-9. Refusal to comply.**

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board, and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in § 90-11 hereof, any contract for demolition and removal of a building in excess of \$20,000 shall be awarded through competitive bidding.

**§ 90-10. 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, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Town Board, either:

A. 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 12 of the Town Law for the levy and collection of a special ad valorem levy; or

B. Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law § 78-b.

**§ 90-11. Emergency cases.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). 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 is immediately repaired and secured or demolished, the Town Board may by resolution authorize the Building Inspector/Code Enforcement Officer to immediately cause the repair or demolition of such unsafe building. 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 § 90-10 hereof.

CHAPTER 93. (RESERVED)

**[Former Ch. 93, Buildings, Vacant, adopted 10-6-1976 by L.L. No. 5-1976, as amended, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 90, Unsafe Buildings.]**

CHAPTER 98. CARNIVALS AND TENT SHOWS

ARTICLE I. Carnivals

§ 98-1. Affidavit.

§ 98-2. License fee.

ARTICLE II. Tent Shows

§ 98-3. Title.

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§ 98-5. Permit required.

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§ 98-8. Safety precautions.

§ 98-9. Prohibited actions; revocation of permit.

§ 98-10. Penalties for offenses.

**CHAPTER 98. CARNIVALS AND TENT SHOWS**

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

**GENERAL REFERENCES**

Fees — See Ch. 126.

Fires and fire prevention — See Ch. 130.

Mass gatherings — See Ch. 180.

**ARTICLE I. Carnivals**

**[Adopted 7-22-1925]**

**§ 98-1. Affidavit.**

The applicant, at the time of applying for a license to conduct or take part in an itinerant carnival, exhibition or show in the Town of Rotterdam, must furnish to the Town Board an affidavit setting forth the precise nature of such carnival, exhibition or show and any additional matter which may be required by the Town Board.

**§ 98-2. License fee.**

**[Amended 3-12-1986 by L.L. No. 4-1986; 1-25-1989 by L.L. No. 1-1989]**

Said applicant, at the time of applying for said license, shall pay to the Town of Rotterdam a license fee as set forth in Ch. 126, Fees.

**ARTICLE II. Tent Shows**

[Adopted 5-23-1946]

**§ 98-3. Title.**

This article shall be known and quoted as the "Rotterdam Fire Ordinance," regulating itinerant shows, circuses, carnivals and tent shows within the corporate boundaries of the Town of Rotterdam.

**§ 98-4. Definitions.**

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

**APPLICATION**

An application in writing for a permit to hold a tent show or exhibition in accordance with the provisions of this article.

**FIRE CHIEF**

Includes the Fire Chief of any duly organized fire district in the Town of Rotterdam, and includes his assistants or deputy chiefs and/or assistant fire chiefs.

**FIRE POLICE**

Includes fire police officers as specified in Subdivision 10 and members and/or officers of fire police squads as specified in Subdivision 13 of § 176 of the Town Law; also officers and patrolmen of Rotterdam Police Department, and the Sheriff and his deputies.

**FIRE WARDEN**

A person designated as Fire Warden by the Supervisor of the Town of Rotterdam in accordance with Subdivision 3 of § 52 of the Conservation Law. Editor's Note: The Conservation Law has been repealed and replaced by the Environmental Conservation Law.

**ITINERANT SHOWS**

Includes a circus, carnival, bazaar, midway and any other public performance, show, spectacle or exhibition using, operating and/or maintaining one or more tents or temporary enclosures designed for housing and/or public assembly of two or more persons.

**PERMIT**

Includes a written authorization given permittee by permit authority pursuant to the provisions of this article.

**PERMIT AUTHORITY**

Includes the Town Board of the Town of Rotterdam, which is the duly constituted licensing agency of the Town of Rotterdam.

**TOWN CLERK**

The Town Clerk of the Town of Rotterdam and/or his deputy.

**§ 98-5. Permit required.**

No itinerant show, tent show, circus, carnival, bazaar, midway or any other exhibition, performance or entertainment as specified in § 98-3 herein, shall be held in the Town of Rotterdam without a permit duly issued as provided in this article.

**§ 98-6. Permit application.**

A. Application for a permit shall be made in writing by the owner or his duly appointed agent in writing, or if the applicant be a corporation, by a duly authorized officer of such corporation, upon a proper form to be secured from the Town Clerk of the Town of Rotterdam, which application shall set forth the following:

- (1) The name and address of the person, firm, or corporation who or which shall hold, or intends to hold, the carnival, circus or any other exhibition as specified in § 98-3.
- (2) The date and time of day at which the exhibition is to be given or held.
- (3) The location of such exhibition.
- (4) Such other information as the permit authority may deem necessary to protect persons or property.

B. All applications for permits shall be filed with the Town Clerk of the Town of Rotterdam at least five days prior to the date fixed for such exhibition.

C. Such application shall contain the approval of the Fire Chief of the fire district wherein such exhibition is to be held or given, and if it be held or given outside the corporate boundaries of any fire district, it shall bear the approval of a Fire Warden of the Town of Rotterdam, and the head of the Police Department of the Town of Rotterdam.

D. Upon filing such application with the Town Clerk, the applicant shall pay to the Town Clerk a fee as set forth in Ch. 126, Fees.

[Amended 3-12-1986 by L.L. No. 4-1986; 1-25-1989 by L.L. No. 1-1989]

**§ 98-7. Bonds.**

A. Before granting and issuing a permit, the permit authority shall require an adequate bond from the applicant in a sum to be fixed by the permit authority, which bond, however, shall not be less than \$50,000 issued by a surety or insurance company, duly authorized to do business in New York State, conditioned for the payment of all damages which may be caused to a person or persons, or to property, by reason of the giving or holding of such exhibition, performance, entertainment or assemblage under any term designated in § 98-3, so permitted, and arising from any acts of the permittee, his agents, employees, contractors or subcontractors. Such bond shall run to the Town of Rotterdam, the fire district in which such performance or exhibition is held, the permit authority, and for the use and benefit of any person or persons, or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action shall also accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners.

B. The permit authority may accept in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated, and for the purpose herein provided.

C. Any bond or policy of indemnity insurance issued in compliance with this section shall specifically provide that all motor vehicles used in conjunction with itinerant shows shall be covered by said bond or policy of indemnity insurance for all damages caused thereby in and about the grounds wherein said show operates and on all private roads, rights-of-way and means of egress and ingress to said grounds.

**[Added 4-22-1959]**

D. A motor vehicle for the purposes of this section shall be deemed to be any vehicle propelled by any other power than muscular power, without exception.

**[Added 4-22-1959]**

E. In the application for permit specified in § 98-6 hereof all applicants shall designate, in writing, that the Town Clerk of the Town of Rotterdam shall be his or their agent to receive process in his or their behalf in any action or proceeding, whether in contract or in tort arising directly or indirectly out of the presentation or exhibition of the show. The application shall set forth the permanent address of the exhibitor and shall indicate the state of domicile if the exhibitor is a corporation.

**[Added 4-22-1959]**

**§ 98-8. Safety precautions.**

The permit authority shall not issue any permit until and unless the following precautions for safety to life and property have been taken by the applicant:

A. Location, construction and material. Tents exceeding 120 square feet in area shall not be erected within 20 feet of any buildings. All tents shall be constructed and erected to withstand a wind pressure of 10 pounds per square foot. All canvas, curtains, cloth, rope, netting and decorative material shall be rendered flameproof, a test being made of the tent by the Fire Department prior to each erection and on the decorative and other materials before they are attached to or placed therein.

B. In lieu of such tests, the Fire Department may accept a certificate from the manufacturer that the material has been tested by Underwriters' Laboratories, Inc., or some other recognized laboratories, and found to be permanently flameproofed provided the material has proper identification markings and is not more than three years old or has not been waterproofed subsequently by a process which increases its flammability.

C. Where tents are used as places of assembly with a capacity of 200 or more persons, the seats, chairs, jacks and other appurtenances, if of wood, must be suitably treated to reduce the fire hazard by a suitable application of a surface treatment or by impregnation.

D. No tier of seats shall rise to a height exceeding 12 feet.

E. All lighting shall be by electricity, with lamps properly guarded to prevent ignition by radiation, and all bulbs to be at least 12 inches from any canvas. In places of assembly, emergency lighting facilities must be as provided in the Building and Electrical Codes for theaters.

F. All wiring conductors shall be of a type approved for the class of service and be protected against overcurrent. Loads for feeders and branch lines shall be limited in accordance with the carrying capacities as specified in the electrical standards currently applicable in the Town. When deemed necessary by the Electrical Inspector, conductors shall be trenched and covered.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

G. Tents in which persons sleep, and mess tents, shall not be used for any exhibition purpose.

H. Exits, aisles and seats. A minimum of two exits shall be provided where a tent is used as a place of assembly with a capacity of 100 or more persons, in any tent where 10 or more persons sleep and in any tent involving conditions hazardous to life. Where tents are used as a place of public assembly with a capacity in excess of 500 people, each exit shall be not less than nine feet wide, and the number of exits shall be based upon the ratio of one exit to each 500 persons or major fraction thereof which the tent is designed to seat or hold. Such exits shall be placed not over 75 feet apart and exitways serving such exits shall be not less than nine feet in clear width.

I. Aisles not less than 44 inches in width shall be provided so that there are not more than 10 seats between any seat and an aisle. Where individual seats are not provided, a distance of 18 inches along any bench or platform shall constitute one seat in computing required aisles and exits. Every aisle shall lead directly to an exitway, or to a cross aisle running parallel with the seat rows and leading to an exitway. Such aisles shall not be less in width than the combined width of aisles that they connect. In tents having a capacity of 1,000 or over, facilities must be provided for admitting patrons on opposite sides or ends convenient to their seating locations. (The purpose of this requirement is to prevent congestion during the seating period and familiarize patrons with exits closest to their seats.)

J. Aisles and exitways shall be used only for passage to and from seats and for vendors carrying their wares. No poles or ropes shall be permitted in aisles and exitways and all exitways and exits shall be kept unobstructed at all times and so maintained as to not present a hazard from fire. The area for a distance of 20 feet beyond any exit shall be kept free and clear and be made readily passable.

K. Where two or more tents adjoin, with an opening between, an exit to the outside shall be provided at the point of juncture.

L. Marking and lighting of exits. All required exits, other than those normally used for entrance, shall be plainly marked during hours of darkness, as to be readily distinguished. Required exitways shall also be kept adequately lighted at such time, including the immediate area outside the exits.

M. No smoking. Signs prohibiting smoking shall be prominently displayed at all entrances and at other locations within any tent used as a place of assembly, so that they may be clearly visible to all occupants. Frequent announcement regarding such prohibition shall be made, preferably over a public-address system if available. Suitable noncombustible containers shall be provided at all entrances for the proper disposition of cigar or cigarette butts and pipe dottle, and a uniformed fireman shall be stationed at such locations to advise patrons of the no-smoking regulations.

N. Motion pictures. No motion-picture film of the nitrocellulose type shall be used, stored or exhibited within a tent. Such exhibitions, when held within a tent, shall be restricted to the use of safety film only.

O. Automobiles, trucks, tractors, lighting equipment and other equipment using gasoline. All such appliances shall be filled with approved safety cans or by hose from fixed pumps, from wheeled tanks with pumps, or pump from a tank wagon located not closer than 25 feet to any tent.

P. Fire appliances. The Chief of the Fire Department shall survey or cause to be surveyed each tent for which a permit has been granted, after it is erected, and if it is to be used as a place of assembly, before it is to be used as a place of assembly, before it is occupied. He shall require the installation of such fire appliances as are deemed necessary, and designate their location. Such fire appliances may consist of water tanks, pumps, hose, water buckets, extinguishers and fireproof blankets.

Q. All fire appliances shall be kept in working condition and all pump and hose, when used in connection with tank wagons, shall be inspected and tested, if deemed necessary, prior to the occupancy of the tent. Portable extinguishers and similar appliances shall be properly distributed and readily accessible. It shall be the duty of the owner or manager of each exhibition to properly train sufficient responsible employees in the use of fire equipment so that it can be quickly put in operation; the Chief of the Fire Department may require these employees to prove their fitness.

R. Inspection and supervision by Fire Department. Firemen shall be detailed to all circuses, carnivals or other exhibitions where large crowds assemble. They shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits, and shall patrol the entire area of the tent during the time it is occupied. Special policemen or firemen should see that overcrowding is not permitted, that aisles and exitways are kept open and that no-smoking rules are observed.

#### **§ 98-9. Prohibited actions; revocation of permit.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

The holding or giving of any exhibition mentioned or described in this article without a permit therefor, is hereby declared to be a violation, punishable in the manner hereinafter set forth. Any violation of the provisions of this article following the issuance of a permit is hereby declared to be a violation and shall constitute grounds for summary revocation of the permit by the permit authority, and shall subject the applicant and/or the person, firm or corporation guilty of such violation, to punishment as provided in the following section.

#### **§ 98-10. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person, firm or corporation holding or giving any exhibition without a permit duly obtained, shall be guilty of a violation and shall pay a fine of not more than \$250 or be imprisoned for a term not to exceed 15 days, or both, for each violation. The permit authority shall, in addition to imposing such fine or punishment upon evidence of any violation of the provisions of this article, forthwith summarily revoke any permit granted the applicant for the holding or giving of any exhibition provided herein.

### **CHAPTER 99. CATS**

- § 99-1. Purpose.
- § 99-2. Definitions.
- § 99-3. Registration.
- § 99-4. Fees; proof of spaying/neutering.
- § 99-5. Identification of cats.
- § 99-6. Cats at large.
- § 99-7. Penalties for offenses.
- § 99-8. Enforcement.
- § 99-9. Exclusion of areas zoned agricultural.
- § 99-10. Supersession of state law pursuant to § 22 of Municipal Home Rule Law.

### **CHAPTER 99. CATS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 11-14-2001 by L.L. No. 12-2001. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Dogs — See Ch. 107.  
Fees — See Ch. 126.  
Zoning — See Ch. 270.

#### **§ 99-1. Purpose.**

The purpose of this chapter shall be to preserve the public peace and good order in the Town of Rotterdam and to promote the public health, safety and welfare of the residents of the Town by enforcing regulations and restrictions on the activities of cats consistent with the rights and privileges of cat owners as well as the rights and privileges of other citizens of the Town.

#### **§ 99-2. Definitions.**

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

##### **OWNER**

Any person who is the owner of a cat or any person who keeps or harbors a cat.

B. The definitions of terms as set forth in Article 7 of the Agriculture and Markets Law of the State of New York shall be applicable to all such other terms as contained in this chapter.

#### **§ 99-3. Registration.**

A. Cat owners must register their cats six months old or older with the Town Clerk. On or before July 1, 2002, all cat owners are required to secure a Town of Rotterdam cat registration form from the Rotterdam Town Clerk. Authoritative proof of current rabies vaccination and identification, as defined below, must be provided to the Town Clerk in order to register a cat.

B. In the event ownership of the cat is transferred, then the current registration will be deemed to have expired, and the new owner shall have to secure a new registration for the cat. No registration is transferable from one cat to another.

**§ 99-4. Fees; proof of spaying/neutering.**

A. The registration fee for a spayed/neutered cat and for an unspayed/unneutered cat is as set forth in Chapter 126, Fees. Authoritative proof of spaying/neutering must be shown at the time of registration.

B. The registration fee to register a cat will be a one-time charge to the owner for the cat, and the registration will remain valid so long as the cat ownership shall remain the same.

**§ 99-5. Identification of cats.**

Owners must identify cats at time of registration. "Identified" cats shall include cats which the owner can show proof were tattooed and registered, microchipped, ear notched, or described wearing a collar with indelible markings or tag, or other reliable identification as approved by the Animal Control Officer. Authoritative proof can include statements from veterinarians, animal shelters, breeders, or other authority as recognized by the Animal Control Officer.

**§ 99-6. Cats at large.**

It shall be unlawful for any owner of any unspayed or unneutered cat to permit or allow said cat to be at large within the Town of Rotterdam.

**§ 99-7. Penalties for offenses.**

Any person who violates this chapter or knowingly permits the violation of this chapter or any provisions thereof shall be deemed to have committed a violation against this chapter, and any person convicted of any such violation, after investigation and trial, shall be deemed liable to a penalty of not more than \$25 for the first conviction; \$50 for the second conviction; and \$100 for the third and any subsequent convictions.

**§ 99-8. Enforcement.**

The Town of Rotterdam Animal Control Officer is authorized to enforce the provisions of this chapter, including service of summons, or appearance ticket and the execution of any other court process. It shall be unlawful for any person, other than the owner or person with permission of the owner, to remove from any cat within the Town of Rotterdam any collar, tag or other identification, except when removal is necessary to ensure the immediate health and/or safety of the animal.

**§ 99-9. Exclusion of areas zoned agricultural.**

Notwithstanding any language to the contrary, this chapter shall have no application and shall not be enforced in any area zoned "Agricultural" and designated as such on the Zoning Map as the same may, from time to time, be filed in the office of the Rotterdam Town Clerk pursuant to § 270-7 of the Rotterdam Town Code.

**§ 99-10. Supersession of state law pursuant to § 22 of Municipal Home Rule Law.**

Any provision of the Agriculture and Markets Law of the State of New York which limits the authority of the Town Board to enact the provisions of this chapter, in effect on the effective date of this chapter, is hereby superseded to the extent such provisions are inconsistent herewith.

**CHAPTER 101. (RESERVED)**

**[Former Ch. 101, Consumer Protection, adopted 1-7-1976 by L.L. No. 1-1976, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]**

**CHAPTER 104. DELIVERY AND SERVICE PERSONNEL**

§ 104-1. Use of sidewalks and walkways required.

§ 104-2. Crossing lawns and other private property.

§ 104-3. Penalties for offenses.

**CHAPTER 104. DELIVERY AND SERVICE PERSONNEL**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 9-3-1980 by L.L. No. 10-1980. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Advertising materials — See Ch. 68.

Hawking, peddling and soliciting — See Ch. 150.

**§ 104-1. Use of sidewalks and walkways required.**

All delivery or service personnel, including letter carriers, must use sidewalks and walkways approved by the owners of property in order to effect delivery or service intended by such personnel.

**§ 104-2. Crossing lawns and other private property.**

A. All delivery or service personnel, including letter carriers, must refrain from crossing lawns or other private property in order to effect delivery or service unless authorized to do so by the property owner.

B. Delivery and service personnel may cross private property to effect delivery if the delivery or service cannot be effected in any other manner.

**§ 104-3. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any violation of this chapter shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.

**CHAPTER 107. DOGS**

- § 107-1. Purpose.
- § 107-2. Definitions.
- § 107-3. License fees.
- § 107-4. General restrictions.
- § 107-5. Enforcement.
- § 107-6. Impoundment fees; additional costs.
- § 107-7. Responsibility for costs upon failure to redeem dog.
- § 107-8. Applicability of statutory provisions.
- § 107-9. Penalties for offenses.

**CHAPTER 107. DOGS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 11-20-1985 by L.L. No. 17-1985. Editor's Note: This local law also repealed former Ch. 107, Dogs, adopted as follows: Art. I, 4-3-1974 by L.L. No. 4-1974; Art. II, 9-19-1979 by L.L. No. 8-1979, as amended. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Appearance tickets — See Ch. 4.

Fees — See Ch. 126.

Zoning — See Ch. 270.

**§ 107-1. Purpose.**

The purpose of this chapter shall be to preserve the public peace and good order in the Town of Rotterdam and to promote the public health, safety and welfare of the residents of the Town by enforcing regulations and restrictions on the activities of dogs consistent with the rights and privileges of dog owners as well as the rights and privileges of other citizens of the Town.

**§ 107-2. Definitions.**

The definitions of terms as set forth in Article 7 of the Agriculture and Markets Law of the State of New York shall be applicable to such terms contained in this chapter.

**§ 107-3. License fees.**

**[Amended 1-25-1989 by L.L. No. 1-1989]**

In addition to other statutory charges, the Town local license fee for dogs is hereby established as set forth in Ch. 126, Fees.

**§ 107-4. General restrictions.**

**A. Limitation on number.**

(1) Not more than three dogs, six months or more in age, shall be harbored on any premises. Notwithstanding the foregoing restriction, a special permit may be granted by the Town Board to a licensed veterinarian or veterinary hospital or any incorporated society for the prevention of cruelty to animals or similar incorporated dog preventive association to allow the harboring of more than three dogs, provided that each dog harbored shall be six months or more in age. Such special permit may be granted in such instances and upon such terms and conditions as the Town Board shall determine. No such special permit shall be granted to allow the harboring of more than three dogs six months or more in age on premises in an R-1 Residential District, R-2 Residential District and an R-3 Multiple-Family Dwellings and Apartment House District. It shall be further illegal, regardless of whether the license is purebred or kennel, to harbor more than three dogs over six months of age in an R-1 Residential, R-2 Residential or R-3 Multiple-Family Dwellings and Apartment House District. Editor's Note: Pursuant to L.L. No. 6-1988, the R-3 Multiple-Family Dwellings and Apartment House District is now the R-3 Multiple-Family Residential District.

(2) Notwithstanding the provision of Subsection A(1), a person who, on the effective date of this chapter, is the harborer of more than three dogs six months or more in age shall be permitted to continue harboring the specific dogs so harbored; provided, however, that no dogs other than the specific dogs so harbored may be harbored by any such person until the number of such specific dogs numbers fewer than three, at which time the provisions of Subsection A(1) shall be applicable to any such persons; further provided that if a person who harbors more than three dogs over six months of age shall be convicted of two or more violations of this chapter such person must, within 10 days of the second conviction, reduce the number of dogs harbored to three or fewer.

B. No owner of a dog shall keep or harbor a dog in an unclean or unsanitary manner. For the purpose of this chapter, "unclean" shall be defined as not being clean of any fleas, bugs or other insects; "unsanitary manner" shall mean that the dog shall not be quartered in surroundings with an unreasonable amount of feces lying about.

C. No owner of a dog shall fail to provide adequate food, water, shelter or space for such dog. "Adequate" shall mean sufficient for the age, size and number of dogs on the premises.

D. Every person who, as owner or otherwise, harbors or has custody or possession of a dog, whether permanently or for an indefinite duration of time, shall:

**[Amended 8-10-1994 by L.L. No. 13-1994; 8-9-2000 by L.L. No. 8-2000]**

(1) At all times, confine the dog which he/she harbors, or has custody or possession of, upon the premises owned or occupied by the person. This subsection shall not apply where a dog is off said premises while restrained by a chain or leash not exceeding six feet in length and under the control of the said person or for hunting purposes and accompanied by a duly licensed hunter.

(2) At all times, prevent any such dog from engaging in howling, barking, crying or whining and from engaging in other conduct in such a manner as to unreasonably disturb the comfort or repose of any individual. For the purpose of this subsection, the comfort or repose of an individual shall be deemed to be unreasonably disturbed if howling, barking, crying or whining is audible to that individual for a minimum of 10 minutes of continuous duration.

(3) Prevent any such dogs from damaging or destroying property or committing a nuisance. For purposes of this subsection, a "nuisance" is defined as to include but not be limited to depositing feces or urinating upon the premises of the Town of Rotterdam or a person other than the owner or the person harboring or who has custody or possession of the dog.

(4) Prevent any such dog from chasing any motorized vehicle or self-propelled vehicle on public roadways.

(5) Prevent any such dog from chasing or otherwise harassing any person in such a manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

(6) Not allow any such dog to be left unattended for a period of 24 hours or more.

**§ 107-5. Enforcement.**

The Town of Rotterdam Animal Control Officer shall act as dog control officer for the purposes of enforcement of this chapter and enforcement of Article 7 of the Agriculture and Markets Law of the State of New York and shall have power to issue appearance tickets, serve summonses or to serve and execute any lawful order or process in the execution of this chapter and provisions of the New York State Agriculture and Markets Law.

**§ 107-6. Impoundment fees; additional costs.**

A. Any person claiming ownership of any dog seized pursuant to Article 7 of the Agriculture and Markets Law of the State of New York, shall pay the following impoundment fees:

(1) For the first impoundment of any dog owned by that person: \$10.

(2) For the second impoundment, within one year of the first impoundment, of any dog owned by that person: \$20.

(3) For the third and subsequent impoundment, within one year of the second impoundment, of any dog owned by that person: \$30.

B. In addition thereto, any person claiming ownership of any dog shall be responsible to pay the sum of \$5 for each 24 hours or part thereof for sheltering, feeding and watering said dog.

C. In any case where veterinary care is necessary to protect the health and welfare of the dog, in addition to the impoundment fee, the Town shall also charge for the cost of such veterinary care.

D. In any case wherein it becomes necessary for the Town of Rotterdam, in protecting the health and welfare of its citizens, by removing a dog or dogs to the protection of an animal shelter, the costs incurred for such harboring shall be borne by the owners of said dog or dogs. It shall be presumed that anyone harboring a dog or dogs shall be the owner of the dog regardless of whether the dog is licensed or unlicensed.

**§ 107-7. Responsibility for costs upon failure to redeem dog.**

Even though an owner may elect not to redeem said dog in the time frame as set forth in Article 7 of the Agriculture and Markets Law of the State of New York, said owner shall, nevertheless, be responsible to the Town of Rotterdam for the impoundment fee or other expenses as set forth herein or incurred, including euthanasia fees, should this procedure become necessary. An action may be commenced to collect all said sums.

**§ 107-8. Applicability of statutory provisions.**

The provisions of Article 7 of the Agriculture and Markets Law of the State of New York shall be applicable in addition to the provisions set forth in this chapter.

**§ 107-9. Penalties for offenses.**

**[Amended 5-13-1998 by L.L. No. 8-1998]**

Any person who violates this chapter or knowingly permits the violation of this chapter or any of the provisions thereof shall be deemed to have committed a violation against this chapter, and any person convicted of any such violation, after investigation and trial, shall be deemed liable to a penalty of not more than \$50 for the first conviction, \$100 for the second conviction and \$200 for the third conviction. On the fourth or any subsequent offense and conviction, the Town Justice shall banish the offending animal, impounding it at the animal shelter where it may be disposed of under the provisions of Article 7 of the Agriculture and Markets Law of the State of New York.

**CHAPTER 112. ELECTRICAL INSPECTIONS**

§ 112-1. Title.

§ 112-2. Purpose.

§ 112-3. Conflict with state provisions.

§ 112-4. Adoption of standards.



- § 112-5. Authorization of inspectors.
- § 112-6. Powers and duties of Inspectors.
- § 112-7. Application for inspection and certificate of compliance required.
- § 112-8. Penalties for offenses.
- § 112-9. Applicability.
- § 112-10. Construction; assumption of liability.

## **CHAPTER 112. ELECTRICAL INSPECTIONS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 3-23-1960. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Unsafe buildings — See Ch. 90.  
 Fires and fire prevention — See Ch. 130.  
 Housing standards — See Ch. 154.

#### **§ 112-1. Title.**

This chapter shall be known as the "Electrical Inspection Ordinance of the Town of Rotterdam."

#### **§ 112-2. Purpose.**

Since there is danger to life and property inherent in the use of electrical energy, this Electrical Inspection Ordinance is enacted to regulate the installation, alteration or repair of wiring for electric light, heat or power and signal systems operating on 50 volts or more, or to install or cause to be installed, or to alter, repair or maintain any portable electrical equipment used for amusement device connected to 50 or more volts of electrical power which equipment is intended for use by the public or as an amusement device or vending machine, in or on all real property within the Town of Rotterdam.

#### **§ 112-3. Conflict with state provisions.**

**[Added 3-12-1986 by L.L. No. 4-1986]**

Where the provisions of this chapter conflict with any provision of the New York State Uniform Fire Prevention and Building Code, the provisions of the New York State Uniform Fire Prevention and Building Code shall apply.

#### **§ 112-4. Adoption of standards.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code so long as it or they shall continue to be standards approved by the New York State Fire Prevention and Building Code Council, or any other standards approved by the New York State Fire Prevention and Building Code Council, except where the provisions of this chapter or any other local law, ordinance or Building Code of the Town of Rotterdam shall differently prescribe, in which event compliance with the provisions of such local law, ordinance or Building Code shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be those known as the "National Fire Protection Association Pamphlet No. 70," as approved by the American Standards Association.

#### **§ 112-5. Authorization of inspectors.**

**[Amended 6-12-1991 by L.L. No. 4-1991; 3-26-1997 by L.L. No. 6-1997; 11-12-1997 by L.L. No. 14-1997; 8-12-1998 by L.L. No. 11-1998; 10-13-1999 by L.L. No. 16-1999]**

The Chief Inspector, and each of the duly appointed inspectors of the New York Board of Fire Underwriters, the Middle Department Inspection Agency, Inc., the Allied Electrical Inspection Agency and The Inspector, LLC, are hereby authorized and deputized as agents of the Town of Rotterdam to make inspections and reinspections of all electrical installations heretofore and hereafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Town of Rotterdam.

#### **§ 112-6. Powers and duties of Inspectors.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It shall be the duty of the Inspector to report in writing to the Chief Building Inspector/Code Enforcement Officer, whose duty it shall be to enforce all the provisions of this code, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code, and of all local laws, ordinances and the Building Code as referred to in this chapter insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Rotterdam upon the written request of an authorized official of the Town of Rotterdam or as herein provided. The Inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment, in and on properties within the Town of Rotterdam, where he deems it necessary for the protection of life and property. In the event of an emergency it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Town of Rotterdam. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Town of Rotterdam and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this chapter. He shall direct that a copy of the certificate of compliance be sent to the Town of Rotterdam to the attention of the Building Inspector/Code Enforcement Officer.

#### **§ 112-7. Application for inspection and certificate of compliance required.**

**[Amended 6-12-1991 by L.L. No. 4-1991; 3-26-1997 by L.L. No. 6-1997; 11-12-1997 by L.L. No. 14-1997; 10-13-1999 by L.L. No. 16-1999]**

It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for heat, light or power in or on properties in the Town of Rotterdam, until an application for inspection has been filed with the New York Board of Fire Underwriters, the Middle Department Inspection Agency, Inc., the Allied Electrical Inspection Agency or The Inspector, LLC. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters, the Middle Department Inspection Agency, Inc., the Allied Electrical Inspection Agency or The Inspector, LLC.

#### **§ 112-8. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person, firm or corporation who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall, upon conviction thereof, be punished by a fine of not more than \$250 or imprisonment for a term not to exceed 15 days, or both, and each day on which such violation continues shall constitute a separate offense.

**§ 112-9. Applicability.**

The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility, and located outdoors or in buildings used exclusively for that purpose. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business. It shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

**§ 112-10. Construction; assumption of liability.**

**[Amended 6-12-1991 by L.L. No. 4-1991; 3-26-1997 by L.L. No. 6-1997; 11-12-1997 by L.L. No. 14-1997; 10-13-1999 by L.L. No. 16-1999]**

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by a defect therein, nor shall the Town of Rotterdam or the New York Board of Fire Underwriters or the Middle Department of Inspection Agency, Inc., or The Inspector, LLC be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

**CHAPTER 116. ENVIRONMENTAL QUALITY REVIEW**

- § 116-1. Purpose.
- § 116-2. Word usage; definitions.
- § 116-3. Compliance required.
- § 116-4. Environmental assessment form.
- § 116-5. Environmental impact statement.
- § 116-6. Determination of lead agency.
- § 116-7. Designation of clearinghouse.
- § 116-8. Actions involving federal agencies.
- § 116-9. Critical areas.
- § 116-10. Additional Type I actions.
- § 116-11. Additional Type II actions.

**CHAPTER 116. ENVIRONMENTAL QUALITY REVIEW**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 6-6-1979 by L.L. No. 4-1979. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Subdivision of land — See Ch. 249.  
Zoning — See Ch. 270.

**§ 116-1. Purpose.**

The purpose of this chapter is to implement for the Town of Rotterdam, New York, the SEQRA and 6 NYCRR 617.

**§ 116-2. Word usage; definitions.**

A. The terms and words used in this chapter shall have the same meanings as such terms and words are defined in Article 8 of the Environmental Conservation Law and 6 NYCRR 617, unless the context requires a different meaning.

B. The following terms shall have the meanings indicated:

**EAF**

Environmental assessment form.

**EIS**

Environmental impact statement.

**RULES AND REGULATIONS**

Those set forth in 6 NYCRR 617.

**SEQRA**

The State Environmental Quality Review Act as set forth in Article 8 of the Environmental Conservation Law and 6 NYCRR 617.

**TOWN**

The Town of Rotterdam, New York.

**§ 116-3. Compliance required.**

No action, other than an exempt, excluded or Type II action, shall be carried out, approved or funded by any agency, board, body or officer of the Town unless it has complied with SEQRA, 6 NYCRR 617, to the extent applicable and this chapter.

**§ 116-4. Environmental assessment form.**

A. An EAF shall be prepared by or on behalf of any agency, board, body or officer of the Town in connection with any Type I action which such agency, board, body or officer contemplates or proposes to carry out directly. For an unlisted action, an EAF in a short or long form may be prepared to facilitate a preliminary determination of environmental significance.

B. An application for permit or funding of a Type I action shall be accompanied by an EAF and for an unlisted action may be accompanied by a short- or long-form EAF as may be needed to assist the lead agency in making a preliminary determination of environmental significance. An applicant may prepare a draft EIS to accompany the application in place of the EAF. In lieu of an EAF, the Town Board or the lead agency having authority to adopt its own regulations may adopt a different procedure for reviewing environmental significance of unlisted actions. The lead agency shall make a preliminary determination of environmental significance of the action on the basis of the EAF, draft EIS or with respect to unlisted actions in accordance with its own procedures, as the case may be, and such other information as it requires. Such determination shall be

made within 15 days of its designation as lead agency or within 15 days of its receipt of all information it requires, whichever is later. For Type I actions, a determination of nonsignificance shall be noticed and filed as provided in Section 617.12; for unlisted actions, a determination of nonsignificance shall be sent to the applicant and maintained in accordance with Section 617.12. After a determination of nonsignificance, the action, including one involving a permit or funding, shall be processed without further regard to the SEQRA, 6 NYCRR 617 or this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The time of filing an application for approval or funding of an action shall commence to run from the date the preliminary determination of environmental nonsignificance is rendered or, if in lieu of an EAF the applicant prepares a draft EIS, from the date the applicant files a draft EIS acceptable to the lead agency.

#### **§ 116-5. Environmental impact statement.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). If the lead agency determines that an EIS is required, it shall proceed as provided in Sections 617.9, 617.11 and 617.12. Commencing with acceptance of the draft EIS, the time limitation for processing the EIS shall run concurrently with the time limitations applicable to processing the application for approval or funding of the action, and a public hearing on the draft EIS, if any, shall be held concurrently with any hearing to be held on such application. The draft EIS shall be prepared by the applicant. Failure by the applicant to prepare an EIS acceptable to the lead agency shall, at the option of the lead agency, be deemed an abandonment and discontinuance of the application.

#### **§ 116-6. Determination of lead agency.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The lead agency shall be determined and designated as provided in Sections 617.6, 617.7 and 617.8, except that in the following Type I and unlisted actions the lead agency shall be as provided herein:

- A. Adoption, amendment or change in zoning regulations not requiring a federal or state agency permit or approval: the Town Board.
- B. Construction or expansion of Town buildings, Town structures or Town facilities within the Town not requiring a federal or state agency permit or approval: the Town Board.
- C. Purchase, sale and lease of real property by the Town not requiring a federal or state agency permit or approval: the Town Board.
- D. Variances not requiring a federal or state agency permit or approval: the Zoning Board of Appeals.
- E. Planned unit development not requiring a federal or state agency permit or approval: the Planning Commission.
- F. Site plan review and/or special exception permit, neither of which requires a federal or state agency permit or approval: the Planning Commission.
- G. Construction or expansion of a nonresidential facility not requiring a federal or state agency permit or approval: the Planning Commission.
- H. Parking lot not requiring a federal or state agency permit or approval: the Planning Commission.

#### **§ 116-7. Designation of clearinghouse.**

The Planning Commission shall act as the Town clearinghouse for lead agency determination. Such clearinghouse shall assist agencies and applicants to identify other agencies, including federal and state, that may be involved in approving, funding or carrying out Type I and unlisted actions. The clearinghouse shall also make recommendations on the designation of a lead agency.

#### **§ 116-8. Actions involving federal agencies.**

Environmental review of actions involving a federal agency shall be processed in accordance with Section 617.15.

#### **§ 116-9. Critical areas.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Critical environmental areas may be designated by resolution of the Town Board in accordance with Section 617.14(g).

#### **§ 116-10. Additional Type I actions.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The following are deemed Type I actions in addition to those set forth in Section 617.4; any ordinance or local law contained in the Code of the Town of Rotterdam which, when subjected to review in accordance with Section 617.7, Criteria, results in a positive finding that the action involved is Type I.

#### **§ 116-11. Additional Type II actions.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The following are deemed Type II actions in addition to those set forth in Section 617.5: any ordinance or local law contained in the Code of the Town of Rotterdam which, when subjected to review in accordance with Section 617.7, results in a negative finding and that the action involved is Type II.

### **CHAPTER 121. EXCAVATIONS AND OPEN WELLS**

- § 121-1. Purpose.
- § 121-2. Title.
- § 121-3. Prohibited acts.
- § 121-4. Exceptions.
- § 121-5. Penalties for offenses.

### **CHAPTER 121. EXCAVATIONS AND OPEN WELLS**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 6-13-1956. Amendments noted where applicable.]

#### GENERAL REFERENCES

Flood damage prevention — See Ch. 134.

Sewers — See Ch. 230.

Subdivision of land — See Ch. 249.

Zoning — See Ch. 270.

#### § 121-1. Purpose.

It is hereby determined that the existence of open wells, cesspools, basins, sumps and other open excavations constitute a menace to the health and safety of the inhabitants of the Town of Rotterdam and that it is the public interest to provide adequate regulations with respect to such open wells and other excavations.

#### § 121-2. Title.

This chapter shall be known and cited as the "Open Well Ordinance."

#### § 121-3. Prohibited acts.

It shall be unlawful for any person to construct, maintain or use, either on his own lands or on lands of another, any open well, cesspool, cistern, recharging basin, catch basin, sump or building foundation excavation unless such well and/or other excavation be completely covered, or unless such well or other excavation be surrounded by a board, woven-wire or other solid-type fence five feet in height.

#### § 121-4. Exceptions.

This chapter shall not apply to the following:

A. Agricultural use and/or uses; and excavations, open for not more than 30 days, made for purposes of building construction.

#### § 121-5. Penalties for offenses.

[Amended 3-12-1986 by L.L. No. 4-1986]

A violation of this chapter or any provision thereof is hereby declared to be a violation and shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment.

#### CHAPTER 126. FEES

[As provided by L.L. 1-2003, Editor's Note: This local law also repealed former Ch. 126, Fees, adopted 6-7-2000 by L.L. No. 7-2000, as amended. **adopted 2-13-2003, the current Schedule of Fees is on file in the office of the Town Clerk.**]

#### CHAPTER 128. FIRE INSURANCE CLAIMS

- § 128-1. Definitions.
- § 128-2. Notice of intention to claim.
- § 128-3. Claim shall constitute special lien.
- § 128-4. Conflict with other provisions.
- § 128-5. Release of proceeds.
- § 128-6. Conditions of release of proceeds.
- § 128-7. Termination of right of insured to assert claim.
- § 128-8. Fund for fire insurance proceeds.
- § 128-9. Disposition of proceeds.
- § 128-10. Continuance of liens in effect until paid.
- § 128-11. Purpose of agreements; repairs not Town project.
- § 128-12. Power of Comptroller to promulgate rules and adopt approved forms.

#### CHAPTER 128. FIRE INSURANCE CLAIMS

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 3-24-1999 by L.L. No. 3-1999. Amendments noted where applicable.]

#### GENERAL REFERENCES

Unsafe buildings — See Ch. 90.

#### § 128-1. Definitions.

As used in this chapter, any inconsistent provisions of law notwithstanding, the following terms shall have the following meanings:

##### COMPTROLLER

The Comptroller for the Town of Rotterdam.

##### LIEN

Any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the Town of Rotterdam or special district, which is an encumbrance on real property and which has remained undischarged for a period of one year or more.

##### REAL PROPERTY

Any property upon which there is erected any residential, commercial or industrial building or structure.

##### SPECIAL LIEN

A lien upon fire insurance proceeds pursuant to this chapter and § 22 of the General Municipal Law and § 331 of the Insurance Law, and any amendments thereto.

**§ 128-2. Notice of intention to claim.**

The Comptroller shall file a notice of intention to claim against the proceeds of fire insurance policies with the State Superintendent of Insurance for entry in the Index of Tax Districts in accordance § 22 of the General Municipal Law, the New York State Insurance Law and all rules and regulations promulgated by the New York State Department of Insurance with respect to this procedure.

**§ 128-3. Claim shall constitute special lien.**

Prior to the payment of any proceeds of a policy of insurance for damages caused by fire to real property, which policy insures the interest of an owner and is issued on real property located within the Town of Rotterdam, and following notification to the Comptroller by an insurer of the filing of a claim for payment of such proceeds, the Comptroller shall claim, by serving a certificate of lien, against such proceeds to the extent of any lien, including interest and penalties to the date of the claim, thereon, which claims, when made and perfected in the manner provided for in § 22 of the General Municipal Law and § 331(a) of the Insurance Law, and any amendments thereto, shall constitute a special lien against such proceeds and shall, as to such proceeds, be prior to all other liens and claims except the claim of a mortgagee of record named in such policy. Notice of the service of the certificate of the special lien shall be given to the insured by certified mail.

**§ 128-4. Conflict with other provisions.**

The provisions of this chapter shall not be deemed or construed to alter or impair the right of the Town of Rotterdam to acquire or enforce any lien against property but shall be in addition to any other power provided by law to acquire or enforce such right.

**§ 128-5. Release of proceeds.**

Whenever the proceeds of a policy of fire insurance which will be or has been paid to the Town of Rotterdam instead of an insured, all or part of such proceeds may be paid or released to the insured if the insured satisfies the Comptroller that the affected premises have been or will be repaired or restored, that such repairs or restoration are in the public interest and that the insured is issued and complies with an agreement entered into pursuant to this chapter. To secure such payment or release of proceeds, the insured must notify the office of the Comptroller for the Town of Rotterdam within 45 days after the mailing to the insured of a notice of the service of the certificate of special lien, pursuant to § 128-3 of this chapter, of the intention to restore or repair the affected premises and must file with the Comptroller a completed application with all required supporting documentation, pursuant to § 128-6 of this chapter, within 60 days thereafter, unless the Comptroller grants an extension for a stated period of time.

**§ 128-6. Conditions of release of proceeds.**

The release or return to the insured of any amounts to which he or it would otherwise be entitled to claim shall be subject to the following conditions:

A. Such release or return shall be subject to the repair or restoration of the affected premises, in accordance with applicable building laws, to the condition it was in prior to the time the lien of the Town of Rotterdam arose or to any improved conditions.

B. The insured shall file with the Comptroller an application, in affidavit form, with such supporting documentation as the Comptroller shall require, containing the following:

- (1) A complete description of the nature and extent of the damage to the insured premises and of the condition of the premises prior to the time the lien of the Town arose.
- (2) A complete description of the nature of the repairs or restoration to be undertaken and the cost thereof.
- (3) A statement as to the source of funds needed to complete such repairs or restoration if the insurance proceeds are not sufficient therefor.
- (4) The name and address of each contractor who will effect such repairs or restoration.
- (5) An estimated time schedule showing how long the repairs or restoration, and each phase thereof, will take.
- (6) Such other information as may be required by the Comptroller to enable him to determine whether the repairs or restoration are in the public interest and will be or have been timely and properly made.

C. Upon preliminary approval of an application by the Comptroller and the Building Inspector/Code Enforcement Officer, the Comptroller may enter into a written agreement with the insured, which shall set forth the terms and conditions for the release and return of all or part of the proceeds, and the Comptroller is hereby authorized to enter into such agreement on behalf of the Town of Rotterdam. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. The repairs or restoration required by the Comptroller shall be completed in compliance with the terms and conditions of the agreement prior to the release or return of any part of the insurance proceeds; provided, however, that the Comptroller may, upon the written request of the insured and in its sole discretion, approve a prior release of such proceeds or a portion thereof in a lump sum or in installments, where the insured certifies and demonstrates that such release is required to permit such repairs or restoration to go forward. Any such insurance proceeds released or returned prior to the completion of the repairs or restoration required by the Comptroller may be paid directly to the contractor or contractors responsible for making such repairs or restoration. Such payment shall, to the extent thereof, release the Comptroller from further liability to the insured.

E. Whenever the Comptroller releases the entire amount of the proceeds prior to compliance with the terms and conditions of the agreement, the insured shall post an undertaking in an amount sufficient to assume the restoration or improvement of the property.

**§ 128-7. Termination of right of insured to assert claim.**

If the insured fails to notify the Town of Rotterdam of its intention to repair or restore the affected premises, as required in § 128-5 of this chapter, or fails to file a completed application pursuant to this chapter or fails to enter an agreement with the Comptroller or comply therewith within the time set forth, the right of the insured to assert a claim against the insurance proceeds, except to the extent it exceeds the amount of the lien, shall terminate.

**§ 128-8. Fund for fire insurance proceeds.**

There shall be established in the office of the Comptroller a fund for the deposit of fire insurance proceeds to be held and applied in accordance with this chapter. Such funds shall not be held together with the general tax levies in the general fund.

**§ 128-9. Disposition of proceeds.**

Until such termination, any insurance proceeds received by the Town of Rotterdam shall be deposited in a special fund and shall be retained therein. Upon termination of the insured's right to claim against the proceeds, the proceeds and any interest accrued thereon shall be applied to the liens affecting the premises in a manner to be determined by the Comptroller and may be transferred to the general fund.

**§ 128-10. Continuance of liens in effect until paid.**

The lien or liens against the affected premises upon which the special lien against proceeds is based shall continue in full force and effect, except to the extent that such lien or liens are or have been paid.

**§ 128-11. Purpose of agreements; repairs not Town project.**

Any agreement entered into by the Comptroller pursuant to this chapter shall be for the purpose of preserving and evidencing the right of release of the special lien created by this chapter and shall be subject solely to the provisions of this chapter. Any repair or restoration performed in anticipation of a release of insurance proceeds shall not be deemed to be a public work or Town project nor to have been done pursuant to a Town contract.

**§ 128-12. Power of Comptroller to promulgate rules and adopt approved forms.**

The Comptroller shall be empowered to promulgate rules and regulations and to adopt approved forms to be used by applicants.

**CHAPTER 130. FIRES AND FIRE PREVENTION**

- § 130-1. Title.
- § 130-2. Conflict with state provisions.
- § 130-3. Applicability.
- § 130-4. Definitions.
- § 130-5. Open fires.
- § 130-6. Bonfires.
- § 130-7. (Reserved)
- § 130-8. Inspection of public places
- § 130-9. Enforcement.
- § 130-10. Penalties for offenses.

**CHAPTER 130. FIRES AND FIRE PREVENTION**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 5-23-1990 by L.L. No. 11-1990. Amendments noted where applicable.]

**GENERAL REFERENCES**

Alarms — See Ch. 71.

**§ 130-1. Title.**

This chapter shall be known as "Fires and Fire Prevention."

**§ 130-2. Conflict with state provisions.**

Where the provisions of this chapter conflict with any provisions of the Uniform Fire Prevention and Building Code, the New York State Uniform Fire Prevention and Building Code shall apply.

**§ 130-3. Applicability.**

This chapter shall apply to the territory within the corporate limits of the Town of Rotterdam.

**§ 130-4. Definitions.**

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

**BUILDING INSPECTOR/CODE ENFORCEMENT OFFICER**

The duly appointed Building Inspector/Code Enforcement Officer of the Town of Rotterdam. Editor's Note: Amended at time of adoption of Code; (see Ch. 1, General Provisions, Art. I).

**COMMISSIONER**

The Commissioner of the New York State Department of Environmental Conservation.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

The New York State Department of Environmental Conservation entrusted with the enforcement of open fires.

**FIRE CHIEF**

The person holding the Chief Engineer position in any fire district in the Town of Rotterdam.

**GARBAGE**

The animal and vegetable waste resulting from the handling, preparation and serving of food.

**OPEN FIRE**

Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

**REFUSE**

All waste material, including but not limited to garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

**RUBBISH**

Solid or liquid waste material, including but not limited to paper and paper products, rags, trees or leaves, needles and branches therefrom, vines, lawn and garden debris, furniture, cans, crockery, plastics, cartons, chemicals, paint, grease, sludge, oils and other petroleum products, wood, sawdust, demolition material, tires and automobiles and other vehicles and parts for junk, salvage or disposal. "Rubbish" shall not include garbage, incinerator residue, street sweeping, dead animals or offal.

**§ 130-5. Open fires.**

A. Pursuant to 6 NYCRR Part 215 it shall be unlawful for any person or corporation to start any open fire in an open area for the purpose of burning garbage, refuse or rubbish associated with either residential or commercial activities.

B. The Town Board of the Town of Rotterdam may, at will, petition the Commissioner to consider open fires in a designated area within the territorial limits of the Town of Rotterdam. The contents of the petition to the Commissioner shall include:

- (1) Geographical boundaries.
- (2) Population density.
- (3) Meteorological characteristics of such area.
- (4) Materials to be burned.
- (5) Proposed control methods.
- (6) Reasons why burning in an open fire should be allowed in such area.

**§ 130-6. Bonfires.**

It shall be unlawful to start bonfires in streets or other public places.

**§ 130-7. (Reserved)**

Editor's Note: Former § 130-7, Fire scenes, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 130-8. Inspection of public places**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Fire Chief of each district in the Town of Rotterdam and/or any certified volunteer fireman acting as his deputy is hereby authorized to enter into any public building or buildings, grill, tavern, store or any other structure used for business purposes for the purpose of making any observation or inspection of the premises and report any violation of the provisions of this chapter or the New York State Uniform Fire Prevention and Building Code to the Building Inspector/Code Enforcement Officer of the Town of Rotterdam.

**§ 130-9. Enforcement.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The enforcement of the provisions contained within this chapter is hereby designated to the Town Building Inspector/Code Enforcement Officer and/or any police officer of the Town of Rotterdam.

**§ 130-10. Penalties for offenses.**

Any violation of the provisions contained within this chapter shall be punishable by a fine of not more than \$1,000 or imprisonment for a term not to exceed one year, or both.

**CHAPTER 130. FIRES AND FIRE PREVENTION**

- § 130-1. Title.
- § 130-2. Conflict with state provisions.
- § 130-3. Applicability.
- § 130-4. Definitions.
- § 130-5. Open fires.
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**CHAPTER 130. FIRES AND FIRE PREVENTION**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 5-23-1990 by L.L. No. 11-1990. Amendments noted where applicable.]

**GENERAL REFERENCES**

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**§ 130-1. Title.**

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**§ 130-2. Conflict with state provisions.**

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**§ 130-3. Applicability.**

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The duly appointed Building Inspector/Code Enforcement Officer of the Town of Rotterdam. Editor's Note: Amended at time of adoption of Code; (see Ch. 1, General Provisions, Art. I).

**COMMISSIONER**

The Commissioner of the New York State Department of Environmental Conservation.

## **DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

The New York State Department of Environmental Conservation entrusted with the enforcement of open fires.

### **FIRE CHIEF**

The person holding the Chief Engineer position in any fire district in the Town of Rotterdam.

### **GARBAGE**

The animal and vegetable waste resulting from the handling, preparation and serving of food.

### **OPEN FIRE**

Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

### **REFUSE**

All waste material, including but not limited to garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

### **RUBBISH**

Solid or liquid waste material, including but not limited to paper and paper products, rags, trees or leaves, needles and branches therefrom, vines, lawn and garden debris, furniture, cans, crockery, plastics, cartons, chemicals, paint, grease, sludge, oils and other petroleum products, wood, sawdust, demolition material, tires and automobiles and other vehicles and parts for junk, salvage or disposal. "Rubbish" shall not include garbage, incinerator residue, street sweeping, dead animals or offal.

#### **§ 130-5. Open fires.**

A. Pursuant to 6 NYCRR Part 215 it shall be unlawful for any person or corporation to start any open fire in an open area for the purpose of burning garbage, refuse or rubbish associated with either residential or commercial activities.

B. The Town Board of the Town of Rotterdam may, at will, petition the Commissioner to consider open fires in a designated area within the territorial limits of the Town of Rotterdam. The contents of the petition to the Commissioner shall include:

- (1) Geographical boundaries.
- (2) Population density.
- (3) Meteorological characteristics of such area.
- (4) Materials to be burned.
- (5) Proposed control methods.
- (6) Reasons why burning in an open fire should be allowed in such area.

#### **§ 130-6. Bonfires.**

It shall be unlawful to start bonfires in streets or other public places.

#### **§ 130-7. (Reserved)**

Editor's Note: Former § 130-7, Fire scenes, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

#### **§ 130-8. Inspection of public places**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Fire Chief of each district in the Town of Rotterdam and/or any certified volunteer fireman acting as his deputy is hereby authorized to enter into any public building or buildings, grill, tavern, store or any other structure used for business purposes for the purpose of making any observation or inspection of the premises and report any violation of the provisions of this chapter or the New York State Uniform Fire Prevention and Building Code to the Building Inspector/Code Enforcement Officer of the Town of Rotterdam.

#### **§ 130-9. Enforcement.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The enforcement of the provisions contained within this chapter is hereby designated to the Town Building Inspector/Code Enforcement Officer and/or any police officer of the Town of Rotterdam.

#### **§ 130-10. Penalties for offenses.**

Any violation of the provisions contained within this chapter shall be punishable by a fine of not more than \$1,000 or imprisonment for a term not to exceed one year, or both.

## **CHAPTER 134. FLOOD DAMAGE PREVENTION**

- § 134-1. Findings.
- § 134-2. Purpose.
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- § 134-4. Word usage and definitions.
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- § 134-13. General standards.
- § 134-14. Specific standards.
- § 134-15. Floodways.
- § 134-16. Appeals board; variances.

(a)

## **CHAPTER 134. FLOOD DAMAGE PREVENTION**



**[HISTORY. Adopted by the Town Board of the Town of Rotterdam 1-13-1988 by L.L. No. 1-1988. Editor's Note: This local law also superseded former Ch. 134, Flood Damage Prevention, adopted 6-20-1984 by L.L. No. 5-1984, as amended. Amendments noted where applicable.]**

(b) GENERAL REFERENCES

Subdivision of land — See Ch. 249.

(c) § 134-1. Findings.

The Town Board of the Town of Rotterdam finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Rotterdam 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.

(d) § 134-2. 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.

(e) § 134-3. 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 the 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, sewer lines, 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.

(f) § 134-4. Word usage and definitions.

A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning 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 to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD**

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**

See "basement."

**COASTAL HIGH-HAZARD AREA**

The area subject to highvelocity 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 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.

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

**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 HAZARD BOUNDARY MAP (FHBH)**

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**

See "regulatory floodway."

**FLOOR**

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

**MANUFACTURED HOME**

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

**MEAN SEA LEVEL**

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**

See "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**

See "base flood."

**PRINCIPALLY ABOVE GROUND**

At least 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 § 134-12B 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 of the manufactured home to its permanent site.

**STRUCTURE**

A walled and roofed building, 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 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 of use in a manner that would otherwise be prohibited by this chapter.

- (g) § 134-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Rotterdam of the State of New York.

- (h) § 134-6. Basis for establishing areas of special flood hazard.

#### **[Amended 12-13-1989 by L.L. No. 21-1989; 3-12-2003 by L.L. No. 5-2003]**

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 Rotterdam of Schenectady County, New York," dated December 15, 1983, with accompanying Flood Insurance Rate Maps index No. 360740 0001-0014 effective June 15, 1984, as amended by LOMR effective March 17, 2003, FEMA case #02-02-027P, revising FIRM panel 0009B, and Flood Boundary and Floodway Maps Index No. 360740 0001-0014 effective June 15, 1984, are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the office of the Town Clerk of the Town of Rotterdam.

- (i) § 134-7. Interpretation; conflict with other laws.

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 highest standards, shall govern.

- (j) § 134-8. 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 \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Rotterdam 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 § 134-16 will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

- (k) § 134-9. 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 area of special flood hazard or uses permitted within such areas shall be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Rotterdam, 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.

- (l) § 134-10. Designation of local administrator.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Building Inspector/Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

- (m) § 134-11. Development permit required.

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 § 134-6. 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 and 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 the 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 § 134-13C(1).
- (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 134-14.
- (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.

(n) § 134-12. 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 application 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 § 134-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 134-6, 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 § 134-13D(4), in order to administer § 134-14, Specific standards, and § 134-15, Floodway.

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 the 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 §§ 134-13 and 134-14.
- (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 § 134-6 and/or Subsection B above, when available, shall be used to accurately delineate the area 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 area 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 § 134-8 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 § 134-8 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, 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.

(3) All certifications shall be based upon the inspections conducted subject to Subsection G above and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachments analysis which may have been required as a condition of the approved permit.

(o) § 134-13. 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 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 sewage 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 50 lots or five 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 area of special flood hazard set forth in § 134-12A(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 § 134-6 or Subsection D(4) above and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 134-12B, the requirements of § 134-15, Floodways, shall apply.

(p) § 134-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 134-6, Basis for establishing areas of special flood hazard, and § 134-12B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
  - (c) 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. 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 the basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

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

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
- (c) 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) If the structure is to be floodproofed:

- (a) 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
- (b) 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.

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

C. 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 the basement, elevated to or above the base flood elevation as may be determined in § 134-12B or two 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 the basement, elevated at least two 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 openings having a total net area of not less than one 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 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.

(q) § 134-15. Floodways.

Located within areas of special flood hazard are areas designated as "floodways." (See definition in § 134-4.) 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 §§ 134-6 and 134-12B, 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.

(r) § 134-16. Appeals board; variances.

A. Appeals board.

(1) The Zoning Board of Appeals as established by the Town of Rotterdam 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 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 in Subsection A(4) above 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 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) above have been fully considered. As the lot size increases beyond the 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 lowest floor elevation.

#### CHAPTER 137. FOOD-HANDLING ESTABLISHMENTS

§ 137-1. Definitions.

§ 137-2. License required.

§ 137-3. Certificate of registration procedures.

§ 137-4. Application for certificate of registration.

§ 137-5. Expiration and revocation of certificate of registration.

§ 137-6. Fees.

§ 137-7. Penalties for offenses.

§ 137-8. Discontinuance of local inspection and licensing program.

#### CHAPTER 137. FOOD-HANDLING ESTABLISHMENTS

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 1-2-1975 by L.L. No. 1-1975. Amendments noted where applicable.]

##### GENERAL REFERENCES

Fees — See Ch. 126.

Zoning — See Ch. 270.

##### § 137-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

##### FOOD-HANDLING AND SERVICE FOOD ESTABLISHMENTS

All persons, firms, business agencies and organizations of any nature which are subject to the Service Food Establishment Inspection Program of New York State Department of Health under Section II.106 of Title 10 of Codes, Rules and Regulations of the State of New York.

##### PERSON

Person, firm, corporation or association.

##### RESTAURANT

Any restaurant, coffee shop, cafeteria, short-order cafe, kitchen of an eleemosynary institution, luncheonette, tavern, club, diner, sandwich shop or stand, soda fountain, caterer, mobile vehicular purveyor of food and/or drink and all other eating or drinking establishments, or purveyors of prepared foods for consumption on the premises or elsewhere and whether permanent or temporary and whether serving the public or industrial or commercial employees in the Town of Rotterdam, as well as kitchens where food and drink is prepared and/or sold for immediate consumption on the premises or elsewhere. This definition does not apply to a private boardinghouse which serves less than 10 persons.

##### TOWN CLERK

The Town Clerk of the Town of Rotterdam.

##### § 137-2. License required.

It shall be unlawful for any person to operate a restaurant, food-handling or service food establishment in the Town of Rotterdam without first having applied and received, or who does not possess, an unrevoked or unsuspended license from the New York State Department of Health pursuant to the appropriate codes, statistics, rules and regulations of the State of New York.

##### § 137-3. Certificate of registration procedures.

A. It shall be unlawful for any person to operate a restaurant, food-handling or service food establishment in the Town of Rotterdam who does not also possess an unrevoked or unsuspended certificate of registration from the Town Clerk. Only persons who comply with the requirements of this chapter shall be entitled to receive and retain such a certificate of registration. The applicant for a certificate of registration shall file with the Town Clerk a written application therefor, upon forms furnished by the Town Clerk, together with the prescribed processing fee.

B. The certificate of registration must be obtained within 30 days of the receipt of the New York State Health Department license, and before the date of commencement of operation of said restaurant, food-handling or service food establishment.

C. The Town Clerk shall periodically request from the appropriate regional office of the New York State Department of Health an updated and complete list of licenses issued for restaurants, etc., established or operating in the Town of Rotterdam. Conversely, the Town Clerk shall supply and furnish the New York State Department of Health and the Rotterdam Police Department, for their records, with true copies of all applications for certificates of registration as soon after filing as practicable.



D. Following review and investigation by the Town Clerk, which may, when necessary, be conducted with the assistance of the Rotterdam Police Department, the certificate of registration, including possible conditions, shall be issued by the Town Clerk on payment of the required processing fee. No certificate of registration is to be issued unless a New York State Department of Health license is in full force and effect for the applicant.

**§ 137-4. Application for certificate of registration.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The application for a certificate of registration shall contain the name, address and age of the applicant; the name of the owner and of the operator of the restaurant, etc.; and whether or not the applicant is an American citizen; the trade name and/or name or location of premises sought to be registered; the number of the New York State Department of Health license, the name of the issuing officer, the date of issuance and the expiration date of the license. The application for certificate of registration shall also contain a statement as to whether or not the applicant has ever been convicted of a misdemeanor and/or a felony, or a violation of the New York State Code rules, regulations or health statutes. The application should also contain the date of issuance of the certificate of registration, number of same and expiration date, and the date of issuance by the Town Building Inspector/Code Enforcement Officer of a certificate of occupancy and the number of persons permitted on the premises at any given time.

**§ 137-5. Expiration and revocation of certificate of registration.**

A. All certificates of registration shall expire simultaneously with the expiration date of the license issued by the New York State Department of Health.

B. The certificate of registration is not transferable to another person. In the event of an unauthorized transfer or sale of the business to some person other than the original applicant, or in the event that the business is moved to another location, the certificate shall automatically lapse unless the owner or operator of the restaurant, etc., first obtains a New York State Department of Health license for the new location.

C. Upon revocation or suspension of the New York State Department of Health license, notice should be given by the owner or operator of the restaurant, etc., and the certificate of registration would automatically be revoked, lapsed or suspended.

D. In the event of revocation, lapse or suspension of a certificate no rebate nor pro rata share of the processing fee shall be returned. No licensing shall be necessary to revoke, lapse or suspend a certificate of registration when the state license has been lapsed, revoked or suspended.

E. A certificate of registration may also be revoked or suspended, after hearing by the Supervisor of the Town of Rotterdam, after complaint or conviction of a violation of any local laws, ordinances, state statutes, codes, rules and regulations, or a violation of any of the provisions of this chapter or the giving of, false or erroneous information on the application for the issuance of the certificate of registration.

**§ 137-6. Fees.**

**[Amended 1-25-1989 by L.L. No. 1-1989]**

A. Fees as set forth in Ch. 126, Fees, shall be paid by applicants for certificates of registration herein provided for or for any reissue or renewal thereof:

(1) Soda fountains, where no food except soda, drinks or ice cream is served.

(2) Restaurants, food-handling or service food establishments, except soda fountains where no food is served.

B. In the event of denial of certification, the fee shall be returned. An appeal from the Town Clerk's refusal to certify shall be made pursuant to § 137 of the Town Law and a hearing held by the Supervisor.

**§ 137-7. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person violating any provision of this chapter shall be subject to a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Each week of continued violation shall constitute a separate offense or additional violation.

**§ 137-8. Discontinuance of local inspection and licensing program.**

Pursuant to Field Memorandum 73-1, New York State Department of Health, the Town Board of the Town of Rotterdam does hereby elect to discontinue the local program of health inspections and licensing of restaurants, food-handling, eating, drinking and service food establishments, and the Town Board hereby elects the option to refer this responsibility and function to the New York State Department of Health, Service Food Establishment Inspection program, under Title 10 of Codes, Rules and Regulations of the State of New York, to be performed by the appropriate regional office of the New York State Department of Health.

**CHAPTER 142. GAMES OF CHANCE**

§ 142-1. Authorization.

§ 142-2. Incorporation of provisions; purpose.

§ 142-3. Passage at referendum.

§ 142-4. Conduct of games on Sunday.

**CHAPTER 142. GAMES OF CHANCE**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 11-5-1980 by L.L. No. 12-1980. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Bingo — See Ch. 83.

**§ 142-1. Authorization.**

The Town Board of the Town of Rotterdam pursuant to the authority granted to municipalities by Article 9-A of the General Municipal Law of the State of New York, does hereby adopt Local Law No. 12 of the year 1980 approving and authorizing the conduct within the Town of Rotterdam of games of chance by authorized organizations upon the obtaining of a license therefor from the Town Clerk of the Town of Rotterdam in accordance with and pursuant to the provisions of Article 9-A of the General Municipal Law and the rules and regulations promulgated by the Racing and Wagering Board of the State of New York.

**§ 142-2. Incorporation of provisions; purpose.**

A. The Town Board of the Town of Rotterdam does hereby adopt and enact, as part of this chapter, the provisions of the General Municipal Law of the State of New York and the rules and regulations of the Racing and Wagering Board of the State of New York, as adopted and amended from time to time, and the same are incorporated by reference and made a part hereof as though more specifically set forth herein.

B. The purpose of this chapter is to implement the provisions of Article 9-A of the General Municipal Law and the rules and regulations of the Racing and Wagering Board of the State of New York as they apply to games of chance conducted by authorized organizations within the Town of Rotterdam.

**§ 142-3. Passage at referendum.**

This chapter was subject to a mandatory referendum held on November 4, 1980, and the proposition therefor was approved by a majority vote of the qualified electors of the Town of Rotterdam voting thereon at a general election.

**§ 142-4. Conduct of games on Sunday.**

**[Added 7-10-1981 by L.L. No. 10-1981; amended 3-12-1986 by L.L. No. 4-1986]**

The conduct of games of chance on Sunday is hereby authorized, subject to the limitations and restrictions set forth in Article 9-A of the General Municipal Law.

**CHAPTER 145. GARAGE SALES**

- § 145-1. Title.
- § 145-2. Purpose.
- § 145-3. Definitions.
- § 145-4. Permit required; fee; conditions.
- § 145-5. Permit applications.
- § 145-6. Hours.
- § 145-7. Advertisement.
- § 145-8. Exceptions.
- § 145-9. Enforcement.
- § 145-10. Penalties for offenses.
- § 145-11. Construal of provisions.

**CHAPTER 145. GARAGE SALES**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 11-16-1977 by L.L. No. 13-1977. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fees — See Ch. 126.

Hawking, peddling and soliciting — See Ch. 150.

**§ 145-1. Title.**

This chapter shall be known as the "Law Regulating and Restricting Garage Sales."

**§ 145-2. Purpose.**

Such rules and regulations as set up in this chapter are designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only in keeping with the character of the neighborhood where this activity is carried on and with the Zoning Laws of the Town of Rotterdam, New York. The intent of this chapter is to eliminate perpetual, prolonged and extended garage sales in residential areas. Such sales if carried indefinitely tend to become retail businesses in residential areas and zones, create a nuisance and usually violate the zoning regulations of the Town of Rotterdam. The provisions of this chapter arise from the need to limit, regulate, restrict and control garage sales.

**§ 145-3. Definitions.**

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

**GARAGE SALES**

A. The sale or offering for sale of 10 or more new, used or secondhand items of personal property at any one residential premises at any one time.

B. Includes all sales in residential areas entitled "garage sales," "yard sales," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale.

**GOODS**

Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

**PERSON**

Includes individuals, partnerships, family groups, voluntary associations and corporations.

**TOWN OF ROTTERDAM**

Includes all residential dwellings located within any type of zone, zoned areas, zoning districts, whether or not said areas or zones are residential, business or otherwise, within the geographic boundaries of the Town of Rotterdam.

**§ 145-4. Permit required; fee; conditions.**

A. It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Town of Rotterdam without first obtaining a garage sale license from the Rotterdam Town Clerk after filing an application containing the information hereinafter specified.

B. The fee for such license shall be as set forth in Ch. 126, Fees.

**[Amended 1-25-1989 by L.L. No. 1-1989]**

C. Such license shall be issued to one person or for one specific premises or location only once within a two-week period. No more than two licenses for garage sales shall be issued for the same premises or to the same person in any twelve-month period.

D. No license shall be issued for a garage sale for longer than three consecutive days.

E. Each license issued under this chapter must be prominently displayed on the garage sale premises throughout the entire period of the licensed sale.

F. In case of inclement weather whereby a scheduled garage sale cannot be held, another license shall be issued by the Town Clerk to the one person or the one specific premises at no additional cost and under the same rules and regulations as the original license. It shall be the responsibility of the person obtaining the original license to request from the Town Clerk an additional license due to inclement weather.

G. In the case of Town residents who sell their homes or are in the process of selling their homes, extensions for garage sales will be granted upon application to the Town Clerk and subject to approval of the Building Inspector/Code Enforcement Officer for the Town of Rotterdam. In general, an extension for garage sales for a period not to exceed one month will be granted. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 145-5. Permit applications.**

An application for a garage sale license permit pursuant to this chapter shall include the following information:

A. The name of the person, persons, firm, group, corporation, association or organization conducting the sale.

B. The name of the owner and the occupant or tenant of the property on which the sale is to be conducted.

C. The consent of the owner and/or occupant to hold the sale if the applicant is other than owner or occupant.

D. The location, street address, etc., of the premises where the sale is to be conducted.

E. The number of days of the sale, limited to three consecutive days and the date or dates of such sale.

F. The date and nature of any past sales held by the same applicant or on the same premises in the last twelve-month period.

G. The relationship or connection the applicant may have with any person, etc., conducting such sale.

H. Whether or not the applicant has been issued any vendor's license to hold such sale by any local, state or federal agency.

I. Whether adequate off-street parking would be available if the premises of the sale is located on a county or state highway or congested Town street.

J. The application shall contain an affirmation or sworn statement by the applicant or person securing the application that the information given is full and complete and known by the applicant to be so.

**§ 145-6. Hours.**

All garage sales held pursuant to these provisions shall be conducted between the hours of 9:00 a.m. and 6:00 p.m., only on the day or days for which the license was issued.

**§ 145-7. Advertisement.**

A. Garage sales may be advertised through the newspapers or other media.

B. A sign no longer in size than two feet by two feet may be installed on the property where the sale is being conducted. The sign shall be displayed only during the sale and shall be removed within 24 hours after the sale is concluded.

C. No sign or other display advertising the sale shall be placed on the public right-of-way or on private property other than where the sale is conducted. No lighted or illuminated signs shall be used.

**§ 145-8. Exceptions.**

This chapter shall not be applicable to:

- A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed nine in number. Notwithstanding any provisions of this chapter, any person may sell up to nine secondhand articles without being subject to the provisions of this chapter.
- D. Any publisher of a newspaper, magazine or other publication or other communications media who publishes or broadcasts anything in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with.
- E. Any sale conducted by any legitimate business or commercial or industrial establishment, properly zoned under the zoning regulations of the Town of Rotterdam and any other sale conducted by a business or commercial or industrial establishment under the protection of the nonconforming use section of the zoning laws, or by any other vendor, dealer, etc., when the sale is conducted in a properly zoned area and not otherwise prohibited by the laws and ordinances of the Town of Rotterdam and State of New York or this chapter.
- F. Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

#### **§ 145-9. Enforcement.**

- A. This chapter shall be enforced by the Building Inspector/Code Enforcement Officer for the Town of Rotterdam. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. It shall be the duty of the Building Inspector/Code Enforcement Officer to investigate any violation of this chapter coming to his attention, whether by complaint or arising from his own personal knowledge. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- C. If, after investigation, a violation is found to exist, the Building Inspector/Code Enforcement Officer shall prosecute a complaint before a Town Justice of the Town of Rotterdam, pursuant to the provisions of this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. It shall be the duty of the Rotterdam Police Department to bring to the Building Inspector/Code Enforcement Officer's attention for further investigation any alleged violations which the Police Department becomes aware of during the course of its normal duties. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- E. The person to whom the garage sale license was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.
- F. No such person shall permit any loud or boisterous conduct on said premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.
- G. All such persons shall obey reasonable orders from any member of the Rotterdam Police Department or the appropriate voluntary fire department, in or to maintain the public health, safety and convenience.

#### **§ 145-10. Penalties for offenses.**

##### **[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person, firm, association, corporation or other entity conducting any such sale or similar activity without being properly licensed therefor, or who shall violate or fail to comply with any provisions adopted pursuant to this chapter or any other rules, terms, regulations or provisions adopted pursuant to this chapter shall be deemed to be in violation and the violator(s) shall be liable for a fine not to exceed \$250 and to imprisonment for a term not to exceed 15 days, or both, and each day that such sale or violation continues without being duly licensed shall be considered and shall constitute a separate violation.

#### **§ 145-11. Construal of provisions.**

It is not the intention of this chapter to change or amend the zoning laws, hawking and peddling laws and/or any other laws or ordinances of the Town of Rotterdam.

#### **CHAPTER 150. HAWKING, PEDDLING AND SOLICITING**

- § 150-1. Definitions.
- § 150-2. Exemptions from requirements.
- § 150-3. Application for exemption certificate.
- § 150-4. Information on application.
- § 150-5. Issuance of certificate.
- § 150-6. Out-of-town organizations.
- § 150-7. License required.
- § 150-8. Application for license.
- § 150-9. License for individuals; photo-identification card.
- § 150-10. Issuance of photo-identification card.

- § 150-11. Reasons for denial.
- § 150-12. Filing.
- § 150-13. License nonassignable.
- § 150-14. Investigation of facts.
- § 150-15. Expiration of license; fees.
- § 150-16. Renewals of license; fees.
- § 150-17. Revocation of license.
- § 150-18. Procedure upon revocation.
- § 150-19. Rules and regulations.
- § 150-20. Orders taken by solicitors.
- § 150-21. Warranty.
- § 150-22. Keeping of records.
- § 150-23. Penalties for offenses.

## **CHAPTER 150. HAWKING, PEDDLING AND SOLICITING**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-3-1985 by L.L. No. 6-1985. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Fees — See Ch. 126.

Advertising materials — See Ch. 68.

### **§ 150-1. Definitions.**

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

#### **HAWKER AND PEDDLER**

Includes, except as hereinafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle standing in a street, sells or barbers, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except as hereinafter exempted.

#### **PERSON**

Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind.

#### **PLACE OF BUSINESS**

A building, store, shopping center or mall in which persons transact business or deal in goods, wares, merchandise and services.

#### **SOLICITOR**

Includes, except as hereinafter expressly provided, any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares, merchandise, publications or services, except as hereinafter exempted, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery or for work to be done at the premises of the offeree.

#### **SOLICITOR OF FUNDS**

Includes, except as hereinafter provided, any person who goes from place to place or house to house or who stands in any street or public place asking, collecting or accepting pledges for money, funds, contributions or merchandise in lieu of money, funds or pledges for any purpose whatever.

### **§ 150-2. Exemptions from requirements.**

The persons described in this section shall be exempted from the requirements of obtaining a license as required by this chapter. However, every such person shall comply with all other provisions of this chapter, excluding the obtaining of a photo-identification card. The following shall be exempt:

A. Persons conducting sales pursuant to statute or by order of the court.

B. Any person selling personal property at wholesale to dealers in such articles.

C. Any honorably discharged member of the Armed Forces of the United States who has procured a license as provided in the General Business Law of the State of New York.

D. Persons soliciting, hawking, peddling or collecting anything for a not-for-profit organization or group located within the Town of Rotterdam organized for and devoted to the promotion and sponsorship of activities and events for charitable purposes or for the benefit of youth within the Town or for veterans of the Armed Forces of the United States or for the benefit of volunteer firemen. Also exempted are persons soliciting, hawking, peddling or collecting in connection with an activity sponsored by a school situate within the Town.

E. Vendors of first class newspapers.

[Added 6-13-1990 by L.L. No. 12-1990]

### **§ 150-3. Application for exemption certificate.**

All persons who are entitled to any exemption, or conducting activities which are exempt under § 150-2D, shall make application for an exemption certificate prior to engaging in any hawking, peddling or soliciting, except that persons conducting school-sponsored activities other than for the solicitation of money alone shall not be required to procure an exemption certificate.

### **§ 150-4. Information on application.**

The application for an exemption certificate shall be made to the Town Clerk on a form prescribed by the Town Clerk and shall contain the following information:

A. The name of the organization.

B. The reason for claiming and documentary proof substantiating entitlement thereto.

- C. The names and addresses of each individual to be engaged in soliciting, hawking or peddling.
- D. The area of the Town in which the soliciting, hawking or peddling will be carried on.
- E. The dates on which such activities will be carried on.
- F. Any further information required by the Town Clerk as proof of the applicant's entitlement to an exemption.

**§ 150-5. Issuance of certificate.**

If the Town Clerk determines that the applicant is entitled to an exemption, the Town Clerk shall issue an exemption certificate on a form prescribed by the Town Clerk, which certificate shall expire on the date specified therein.

**§ 150-6. Out-of-town organizations.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A person representing an out-of-town organization of the type enumerated in § 150-2D and intending to peddle, hawk or solicit within the Town shall be entitled to an exemption certificate upon submission of an application containing the information prescribed by § 150-4, except that such applicant must obtain a photo-identification card prescribed in §§ 150-8 and 150-9 and pay a fee therefor. Editor's Note: See Ch. 126, Fees.

**§ 150-7. License required.**

It shall be unlawful for any person within the territorial limits of the Town of Rotterdam to act as a hawker, peddler or solicitor or to solicit funds, as herein defined, without first having obtained and paid for and having in force and effect a license therefor or an exemption certificate issued by the Rotterdam Town Clerk.

**§ 150-8. Application for license.**

Every applicant for a license is required to submit to the Town Clerk a written application supplying under oath the following information:

- A. Whether he has ever been convicted of a crime and, if so, the offense and date of conviction.
- B. The particular business, trade, occupation or purpose for which the license is required or requested, stating such in detail.
- C. The manner or means of conveyance, if any, in which said business or trade, solicitation or collection shall be conducted.
- D. The manner of engaging in the hawking, peddling or soliciting (door-to-door, street corner, vehicle, etc.).
- E. The name, date of birth and residence of the applicant; if he has a driver's license, the state of issuance; and if a corporation is the applicant, the principal place of business and the name and address of the officer of the corporation upon whom process or other legal notice may be served. The applicant must produce whatever proof of identification as may be reasonably required by the Town Clerk.
- F. Such other information as may be required by the Town Clerk.

**§ 150-9. License for individuals; photo-identification card.**

Each person to be employed as a solicitor, hawker or peddler or solicitor of funds shall apply individually for a separate license, except persons who are exempt as provided by §§ 150-2 through 150-6. Further, in order for Rotterdam citizens to be able to readily identify all licensed hawkers, peddlers or solicitors, each individual applicant must procure and receive a photo-identification card from the Rotterdam Town Clerk, and said photo-identification card must be conspicuously displayed on the person of the hawker, peddler or solicitor's outer clothing. Upon request of any person or police officer, each hawker, peddler or solicitor shall produce and make available his photo-identification card for closer inspection.

**§ 150-10. Issuance of photo-identification card.**

The application for a license obtained from the Town Clerk shall be completed by the applicant and submitted to the Town Clerk. If the application is complete and if the applicant is not disqualified by reason of the information contained therein, the Town Clerk shall make up a photo-identification card. The license and the photo-identification card shall be issued to the applicant upon payment of the license fees prescribed by §§ 150-15 and 150-16.

**§ 150-11. Reasons for denial.**

The Town Clerk shall not issue a license if the applicant has been convicted of a felony within the past three years or a misdemeanor within the past year or if any information provided in the application is false. No person shall knowingly provide false information in an application for a license or exemption certificate.

**§ 150-12. Filing.**

The application and a copy of the license shall be filed in the Town Clerk's office. A copy of the application and a copy of the license shall be transmitted to the Rotterdam Police Department for filing.

**§ 150-13. License nonassignable.**

A license shall not be assignable. Any unauthorized use of a license by any person and the defacing or altering of a photo-identification card is prohibited.

**§ 150-14. Investigation of facts.**

The Town Clerk may hold any application for license or exemption pending investigation of facts presented. Such pending applications must be approved or rejected within five working days following the date of filing with the Town Clerk. The Town Clerk may demand of any applicant for license or exemption any reasonable verification or proof of facts to substantiate application. Failure of applicant to provide such required proofs shall be grounds to deny license or exemption.

**§ 150-15. Expiration of license; fees.**

[Amended 1-25-1989 by L.L. No. 1-1989; 5-12-1993 by L.L. No. 7-1993]

A. Parade license. A parade license shall only be used for one day for use during the day that the parade is officially scheduled and only on the parade route and shall further expire at 12:00 midnight on the date the said parade is officially scheduled. The fee for the issuance of the original parade license and photo-identification card shall be as set forth in Chapter 126, Fees.

B. All other licenses. All other licenses shall expire 30 days after the date of issuance. The fee for the issuance of the original license and photo-identification card shall be as set forth in Chapter 126, Fees.

**§ 150-16. Renewals of license; fees.**

**[Amended 1-25-1989 by L.L. No. 1-1989]**

The license may be renewed for thirty-day periods for 12 months from the date of the original license upon payment for each renewal application of a fee as set forth in Ch. 126, Fees. The renewal application shall be on a form prescribed by the Town Clerk.

**§ 150-17. Revocation of license.**

The Town Board of the Town of Rotterdam, upon complaint of violation of this chapter or other ordinance or any law, after investigation of the complaint by the Rotterdam Police Department, if appropriate, and a hearing upon five days' prior notice to the licensee or exempt person, may revoke any license or exemption certificate.

**§ 150-18. Procedure upon revocation.**

Upon the refusal of the Town Clerk to issue a license or exemption certificate to the applicant or upon the determination of the Town Board that a license or exemption certificate should be revoked, the procedure prescribed in § 137 of the Town Law of the State of New York shall be complied with.

**§ 150-19. Rules and regulations.**

A hawker, peddler or solicitor or solicitor of funds shall:

A. Not falsely or fraudulently misrepresent the quality or quantity of any article or articles offered for sale nor offer for sale unwholesome, tainted or diseased provisions or merchandise.

B. Keep the vehicle or receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well-covered and protected from dirt, dust and insects.

C. Not stand or permit the vehicle used by him to stand in one place for more than 10 minutes nor in front of any premises or business establishment if the owner, occupant or lessee objects.

D. Not blow a horn, ring a bell or use any other noise or device to attract public attention to his wares nor shout or cry out his wares.

E. Not permit any vehicle used by him to stop for any length of time so as to block or endanger vehicular or pedestrian traffic or to block a crosswalk.

F. Not create or maintain a booth nor stand or place barrels, boxes or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

G. Not hawk, peddle or solicit prior to 8:00 a.m. nor subsequent to 8:00 p.m. Monday through Friday nor prior to 9:00 a.m. nor subsequent to 5:00 p.m. on Saturday and Sunday. Home solicitations shall be only by appointment, with consent of an adult occupant to do so.

H. Not enter any dwelling or residence without first obtaining the consent of an adult occupant to do so.

I. Not stand, hawk, peddle or solicit or solicit funds on or near the premises of any business establishment, shopping center or mall without the written consent of the owner or individual, agency or organization responsible for the management and/or operation of the same.

J. Not sell, offer for sale or dispense any food, confectionary or ice cream directly from a vehicle while said vehicle is on a public street.

K. Not hawk, peddle, solicit, distribute samples, pamphlets, newspapers or any other materials while standing in or on any public roadway or right-of-way or in such proximity to such roadway or right-of-way as to hamper, distract or delay traffic or create a traffic hazard.

**§ 150-20. Orders taken by solicitors.**

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance of final delivery. One copy of the order so written shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

**§ 150-21. Warranty.**

For all sales, whether partial or final, for wares, etc., immediately delivered or promised for future delivery and containing a warranty or guaranty, such warranty and/or guaranty should be in writing and expressly spelled out.

**§ 150-22. Keeping of records.**

It shall be the duty of the Town Clerk to keep a record of all applications and of each license or exemption certificate granted under the provisions of this chapter, giving the number and date of each license or exemption certificate, the name and residence of the person licensed or exempted, the amount of the license fee paid and also the date of expiration or revocation of each license or exemption certificate. Copies of all records shall be supplied to the Rotterdam Police Department for its files and for whatever action is deemed necessary to protect the public.

**§ 150-23. Penalties for offenses.**

Any person who shall act as a hawker, peddler or solicitor or solicitor of funds, as defined herein, without a license or exemption certificate or who shall violate any provisions of this chapter or who, upon having had his license or exemption certificate revoked, shall continue to act as a hawker, peddler

or solicitor or solicitor of funds shall, upon conviction, be punished by a fine of not less than \$25 nor more than \$250, and each day on which such violation continues shall constitute a separate offense.

#### CHAPTER 154. HOUSING AND BUILDING STANDARDS

- § 154-1. Purpose.
- § 154-2. Adoption of code.
- § 154-3. Code enforcement officer.
- § 154-4. Powers and duties of officer.
- § 154-5. Acting officers.
- § 154-6. Inspectors.
- § 154-7. Restrictions on officers.
- § 154-8. Review Board; variances.
- § 154-9. Permits; applications.
- § 154-10. Certificates of occupancy.
- § 154-11. Inspections.
- § 154-12. Correction of violations.
- § 154-13. Recordkeeping.
- § 154-14. Stop-work orders.
- § 154-15. Penalties for offenses.

#### CHAPTER 154. HOUSING AND BUILDING STANDARDS

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 5-10-1989 by L.L. No. 9-1989. Editor's Note: This local law also repealed former Ch. 154, Housing Standards, adopted 12-2-1970 by L.L. No. 12-1970, as amended. Amendments noted where applicable.]**

##### GENERAL REFERENCES

Unsafe buildings — See Ch. 90.  
Fires and fire prevention — See Ch. 130.  
Plumbing — See Ch. 213.  
Zoning — See Ch. 270.

##### § 154-1. Purpose.

The purpose of this chapter is to provide a minimum level of protection from the hazards of fire, inadequate building construction and improper maintenance in residential and nonresidential buildings, both public and private, so as to establish uniform standards to reduce the threat to public health and safety for occupants and users of buildings.

##### § 154-2. Adoption of code.

The Town Board of the Town of Rotterdam does hereby adopt by reference, the New York State Uniform Fire Prevention and Building Code, pursuant to Article 18, §§ 370 through 383, of the Executive Law of the State of New York, as enacted by Chapter 707 of the Laws of 1981, effective January 1, 1984. Said code is made a part hereof without the inclusion of the text thereof herein.

##### § 154-3. Code enforcement officer.

**[Amended 7-22-1992 by L.L. No. 15-1992 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

Said code shall be enforced by the Building Inspector/Code Enforcement Officer, who shall be the chief code enforcement officer, and by the Assistant Building Inspector/Code Enforcement Officer or a duly appointed representative by the Rotterdam Town Board. The Plumbing Inspector is designated as a code enforcement officer for the purpose of enforcing Article 9 of the Uniform Code.

##### § 154-4. Powers and duties of officer.

Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the code enforcement officers shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations applicable to plans, specifications or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein and to the location, use and occupancy thereof.

##### § 154-5. Acting officers.

In the absence of the code enforcement officers or in the case of their inability to act for any reason, the Town Board of the Town of Rotterdam shall have the power to designate a person who is qualified by law to enforce the Uniform Code to act on behalf of the code enforcement officers and to exercise all the powers conferred upon them by this chapter.

##### § 154-6. Inspectors.

The Town Board of the Town of Rotterdam may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the code enforcement officers to make such inspections as may be required by the code enforcement officers. The compensation of such inspectors shall be fixed by the Town Board.

##### § 154-7. Restrictions on officers.

The code enforcement officers shall not engage in any activity inconsistent with these duties; nor shall they, during the terms of their employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for or in the supervision of the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Town of Rotterdam, except that this provision shall not prohibit any code enforcement officer or employee from engaging in any such activities in connection with the construction of a building or structure owned by them for their own personal use and occupancy or for the use and occupancy of members of their immediate families and not constructed for sale.

##### § 154-8. Review Board; variances.



A. Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the New York State Uniform Code, applications for variances consistent with the spirit of the code may be made to the Regional Board of Review in accordance with Part 440 of the New York Code of Rules and Regulations entitled, "Uniform Code: Board of Review," as promulgated by the New York State Department of State. The code enforcer shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters affecting the Town of Rotterdam.

B. Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this chapter or any rule or regulation hereunder which provision is not also required by the New York State Uniform Code, applications for variances consistent with the spirit of such law, rule or regulation may be made to the Rotterdam Zoning Board of Appeals.

#### **§ 154-9. Permits; applications.**

A. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal or demolition of any building or structure or any portion thereof, or install a solid fuel-burning heating apparatus, chimney or flue in any dwelling unit without first having obtained a permit from the Building Inspector/Code Enforcement Officer of the Town of Rotterdam. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. No permit shall be required for:

- (1) Necessary repairs which do not materially affect structural features;
- (2) Alterations to existing buildings, provided that the alterations:
  - (a) Cost less than \$10,000;
  - (b) Do not materially affect structural features;
  - (c) Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations and exits;
  - (d) Do not involve the installation or extension of electrical systems; and
  - (e) Do not include the installation of solid-fuel-burning heating appliances and associated chimneys and flues.

C. The application for a building permit and its accompanying documents shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.

D. The form of the permit and application therefor shall be prescribed by the Building Inspector/Code Enforcement Officer. The application shall be signed by the owner or his authorized agent of the building or work and shall contain at least the following: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) The name and address of the owner;
- (2) Identification and/or description of the land on which the work is to be done;
- (3) A description of use or occupancy of the land and existing or proposed building;
- (4) A description of the proposed work;
- (5) The estimated cost of the proposed work;
- (6) A statement that the work shall be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations; and
- (7) The required fee, as affixed by the Rotterdam Town Board and designated in Chapter 126 of the Code of the Town of Rotterdam entitled "Fees."

#### **[Amended 12-9-1992 by L.L. No. 34-1992]**

E. Such application shall be accompanied by such documents, drawings, plans, including plot plan, and specifications as the applicant shall deem adequate and appropriate for compliance with the local law, or as the Building Inspector/Code Enforcement Officer may require as being necessary or appropriate in his judgment. The applicant may confer with the Building Inspector/Code Enforcement Officer in advance of submitting his application to discuss the Building Inspector/Code Enforcement Officer requirements for the same. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

F. Any plans, including plot plan, or specifications which comprise a portion of the application, whether submitted subsequently upon requirement by the Building Inspector/Code Enforcement Officer, shall be stamped with the seal of an architect or professional engineer or land surveyor licensed in this state, and shall in all respects, comply with § 7209 of the Education Law of the State of New York as the same may be amended from time to time. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

G. The applicant shall notify the Building Inspector/Code Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work is determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

H. A building permit issued pursuant to this section shall be prominently displayed on the property or premises to which it pertains.

I. A building permit issued pursuant to this section may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.

J. It shall be the obligation of the owner to procure the building permit, and failure to do so shall subject him to prosecution as provided in § 154-15.

K. A building permit issued pursuant to this chapter shall expire one year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods, provided that:

- (1) The permit has not been revoked or suspended at the time the application for renewal is made;
- (2) The relevant information in the application is up to date;
- (3) The renewal fee is paid; and, in addition,
- (4) A permit may not be renewed after two successive renewals. Upon completion of the third year, a complete review of plans and specifications may be required for the remainder of the work to be completed.

#### **§ 154-10. Certificates of occupancy.**

A. No building erected subject to the Uniform Code and this chapter shall be used or occupied, except to the extent provided in this section, until a certificate of occupancy has been issued by the Building Inspector/Code Enforcement Officer upon request of the owner or his agent. No building similarly enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy may be issued, upon request, before the entire work covered by the building permit shall have been completed, provided that such portions as have been completed may be occupied safely without endangering life or the public health and welfare. The temporary certificate of occupancy may be issued for a period of 60 days or portion thereof at the discretion of the Building Inspector/Code Enforcement Officer and may be renewed not to exceed a maximum of 90 days. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. No certificate of occupancy shall be issued except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use; compliance with all other Town and other applicable laws, ordinances, rules and regulations, including site plan requirements, variances and special use permit conditions, if any; and upon payment of the appropriate fee.

D. It shall be the obligation of the owner to procure the certificate of occupancy, and failure to do so shall subject him to prosecution as provided in § 154-15.

#### **§ 154-11. Inspections.**

A. Work for which a building permit has been issued shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including but not limited to building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing and heating and air conditioning. It shall be the responsibility of the owner to inform a code enforcement officer that the work is ready for inspection and to schedule such inspection.

B. Existing buildings not subject to inspection under Subsection A of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly and the common areas of multiple dwellings, every year; all buildings or structures open to the general public and all other buildings, at intervals consistent with local conditions or by bona fide complaint. Notwithstanding any requirement of this subsection to the contrary, no regular periodic inspections of occupied dwelling units shall be required; provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

#### **§ 154-12. Correction of violations.**

A. The inspections required by § 154-11 of this chapter must be performed by a code enforcement officer and inspectors, if any, appointed by the Town Board to assist him. A code enforcement officer is authorized to order, in writing, the correction of any condition in violation of the Uniform Code or other applicable law, ordinance, rule or regulation found in, on or about any building. Such orders shall be served upon the owner and upon the party responsible for creating the condition in person or by certified or registered mail sent to the owner at the address set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. Any owner and/or the party responsible for creating such condition, who fails to correct the condition within the specified time, shall be subject to a penalty as set forth in § 154-15.

B. A person subject to inspection under § 154-11 may be required by the chief code enforcement officer to have such inspection performed at his own cost and expense by a competent inspector acceptable to the chief code enforcement officer. Such inspector may be a registered architect, licensed professional engineer or other person whose experience and training has been demonstrated to the satisfaction of the chief code enforcement officer. Such inspector shall certify the results of his inspection to the chief code enforcement officer.

#### **§ 154-13. Recordkeeping.**

A. The chief code enforcement officer shall keep permanent official records of all transactions and activities conducted by the code enforcement officers, 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 chief code enforcement officer shall annually submit to the Town Board of the Town of Rotterdam a written report of all business conducted.

#### **§ 154-14. Stop-work orders.**

A. Whenever a code enforcement officer has reasonable grounds to believe that work on any building or structure is proceeding without permit or is otherwise in violation or the provisions of any applicable law, code, ordinance or regulation or is not in conformity with any of the provisions of the application, plans or specifications on the basis on which a permit was issued or is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

B. Such stop-work order shall be in writing on a form prescribed by the chief code enforcement officer and shall state the reasons for the stop-work order, together with the date of issuance. A stop-work order shall be served upon the person to whom it is directed either by personal delivery or by posting the same upon a conspicuous portion of the building where the work is being performed, and sending a copy of the same to the person, firm or corporation by certified mail.

#### **§ 154-15. Penalties for offenses.**

A. Any person who shall willfully fail to comply with a written order of a 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 or 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 a code enforcement officer made thereunder or any person who shall violate any of the provisions of this chapter, the Uniform Code, 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 an offense and subject to punishment by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than one year, or both such fine and imprisonment. The imposition of one 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 violation 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. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. An action or proceeding in the name of the Town of Rotterdam, New York, may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this chapter, rule or regulation adopted pursuant to this chapter or any other applicable law, ordinance, rule or regulation or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

### **CHAPTER 169. JOGGING**

- § 169-1. Purpose.
- § 169-2. Definitions.
- § 169-3. Construal of provisions.
- § 169-4. Reflective material required after dark.
- § 169-5. Single-file formation required after dark.
- § 169-6. Joggers on roadway.
- § 169-7. Penalties for offenses.

### **CHAPTER 169. JOGGING**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-21-1982 by L.L. No. 5-1982. Amendments noted where applicable.]

#### **§ 169-1. Purpose.**

Because jogging for physical fitness and sport has accelerated in recent years and because joggers in the Town of Rotterdam often do not have the benefit of sidewalks or sufficient lighting and are, therefore, both a hazard to themselves and drivers of motor vehicles when jogging on roads, streets and highways during hours of darkness, the legislative intent of this chapter is to protect both the jogger and the drivers of motor vehicles from injury or lawsuits by mandating that reflective clothing be worn by the jogger and to develop rules and safety measures to protect the jogger and the drivers of motor vehicles within the Town of Rotterdam.

#### **§ 169-2. Definitions.**

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

##### **HIGHWAY**

A public thoroughfare, road, street or highway within the Town of Rotterdam used by motor vehicles, including both the paved portion and the shoulders, but excluding any sidewalks.

##### **HOURS OF DARKNESS**

Any time from 1/2 hour after sunset to 1/2 hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

##### **JOG or JOGGING**

The recreational activity of running at any pace for physical exercise or personal enjoyment.

#### **§ 169-3. Construal of provisions.**

This chapter shall not be construed to permit jogging where prohibited by any law of the State of New York.

#### **§ 169-4. Reflective material required after dark.**

It shall be unlawful to jog on any highway during the hours of darkness without wearing reflective material. Such material shall be worn between the waist and shoulders on the front and back of the person jogging and shall give an indication of the jogger's presence through reflected light from the headlamp beams of motor vehicles at a distance of at least 500 feet.

**§ 169-5. Single-file formation required after dark.**

It shall be unlawful for any two or more persons to jog side by side or abreast of each other, and not in single file, on any highway in the Town of Rotterdam from 1/2 hour after sunset to 1/2 hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

**§ 169-6. Joggers on roadway.**

Where sidewalks are not provided, any jogger who is jogging along or upon a highway shall, when practicable, jog only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. Upon the approach of any vehicle from the opposite direction, such jogger shall move as far to the left as is practicable.

**§ 169-7. Penalties for offenses.**

A fine of \$5 shall be imposed for each infraction of this chapter.

**CHAPTER 173. JUNKYARDS, AUTOMOBILE**

- § 173-1. Purpose.
- § 173-2. Definitions.
- § 173-3. License and certificate of approval required.
- § 173-4. Applications.
- § 173-5. Time and notice of hearing.
- § 173-6. Suitability of applicant.
- § 173-7. Location.
- § 173-8. Effect on environment.
- § 173-9. Issuance of license.
- § 173-10. License fees.
- § 173-11. Fencing.
- § 173-12. Established junkyards.
- § 173-13. Distance from churches, schools, hospitals and places of public assembly.
- § 173-14. Penalties for offenses.
- § 173-15. Effect on zoning provisions.

**CHAPTER 173. JUNKYARDS, AUTOMOBILE**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 1-26-1966. Amendments noted where applicable.]

**GENERAL REFERENCES**

Fees — See Ch. 126.  
Outside storage of vehicles and junk — See Ch. 264.  
Property maintenance — See Ch. 265.  
Vehicles and traffic — See Ch. 266.  
Zoning — See Ch. 270.

**§ 173-1. Purpose.**

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town of Rotterdam and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of citizens of the Town of Rotterdam necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junkyards as hereinafter defined is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this chapter.

**§ 173-2. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings indicated:

**JUNKYARDS**

Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, 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 therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles; 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 principle produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

**MOTOR VEHICLE**

All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

**§ 173-3. License and certificate of approval required.**

No person shall operate, establish or maintain a junkyard until he has obtained a license to operate a junkyard business and has obtained a certificate of approval for the location of such junkyard.

**§ 173-4. Applications.**

Application for the license and the certificate of approved location shall be made in writing to the Town Board; said application shall be accompanied by a certificate from the Planning Commission that proposed location is not within an established district restricted against such uses or otherwise contrary

to the prohibitions of the Town Zoning Ordinance. Editor's Note: See Ch. 270, Zoning. The application shall contain a description of the land to be included within the junkyard.

**§ 173-5. Time and notice of hearing.**

A hearing on the application shall be held not less than two nor more than four weeks from the date of the receipt of the application by the Town Board. 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 a newspaper having a circulation within the Town, which publication shall be not less than five days before the date of the hearing.

**§ 173-6. Suitability of applicant.**

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 a license to operate, establish or maintain a junkyard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this section.

**§ 173-7. Location.**

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 for the location of the junkyard. In passing upon the same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; 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.

**§ 173-8. Effect on environment.**

At the hearing regarding location of the junkyard, 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 its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable affect thereon. In this connection, the Town Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

**§ 173-9. Issuance of license.**

**[Amended 6-22-1966]**

After hearing, the Town Board shall within two weeks make a finding as to whether or not the application should 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 December 31 following the date of issuance of said license. 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 all provisions of this chapter are complied with during the license period, the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.

**§ 173-10. License fees.**

**[Amended 3-27-1974 by L.L. No. 2-1974; 3-12-1986 by L.L. No. 4-1986; 1-25-1989 by L.L. No. 1-1989]**

The annual license fee shall be as set forth in Ch. 126, Fees, to be paid annually on the first day of April each year. In the event that the application is not granted, the fee shall be returned to the applicant. The Town, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of the same.

**§ 173-11. Fencing.**

A. Before use, a new junkyard shall be completely surrounded with a fence at least eight feet in height which substantially screens and with suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than 75 feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of the same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all dismantling of the same within the vicinity of the junkyard shall be accomplished within the enclosure. Burning of such motor vehicles or parts or components thereof is prohibited.

B. Where the topography, natural growth of timber or other considerations accomplish the purpose of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license; provided, however, that such natural barrier conforms to the purposes of this chapter.

**§ 173-12. Established junkyards.**

**[Amended 6-22-1966 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

A. For the purposes of this chapter, the location of junkyards already established and in compliance with the Town Zoning Ordinance Editor's Note: See Ch. 270, Zoning. shall be considered approved and the owner thereof deemed suitable for the issuance of a license. Within 60 days from the effective date of this chapter, however, the owner shall furnish the Town Board the information as to location which is required in an application and a certificate of compliance of conformance to the Zoning Ordinance issued by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam, together with the license fee, and the Town Board shall authorize issuance of a license by the Town Clerk valid until the next December 31, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this chapter, including the fencing requirements set forth in § 173-11 of this chapter, subject to approval of the Building Inspector/Code Enforcement Officer.

B. With respect to the fencing requirements, such owner shall furnish to the Building Inspector/Code Enforcement Officer of the Town of Rotterdam, within 10 days from the effective date of this chapter, a written description of the fence, if any, presently enclosing the junkyard, including the height and material of which it is made. If there is no fence enclosing such established junkyard, the owner shall, within 60 days from

the effective date of this chapter, submit to the Building Inspector/Code Enforcement Officer a description of the fence proposed to be constructed pursuant to § 173-11, and the distance of such proposed fence from the nearest public highway. The Building Inspector/Code Enforcement Officer after consultation with the Town Board shall thereafter notify, in writing, such owner of the suitability of such existing fence, if any, or proposed fence. If such existing fence, if any, or proposed fence, is not deemed suitable to substantially screen the junkyard, the Building Inspector/Code Enforcement Officer shall recommend to the owner shall erect a suitable fence within 60 days from such notification.

**§ 173-13. Distance from churches, schools, hospitals and places of public assembly.**

Notwithstanding any of the foregoing provisions of this chapter, no junkyard hereafter established shall be licensed to operate if such yard or any part thereof shall be within 500 feet of a church, school, hospital, public building or place of public assembly.

**§ 173-14. Penalties for offenses.**

A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter. Each day such violation shall continue or be permitted to exist, after 10 days following notice, or if contested, conviction of such alleged violation, shall constitute a separate violation.

B. For every violation of any provision of this chapter the person violating the same shall be subject to a fine of not more than \$250 or imprisonment not exceeding 15 days, or by both such fine and imprisonment.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

C. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.

**§ 173-15. Effect on zoning provisions.**

This chapter is not deemed to supersede any provision of the Town Zoning Ordinance Editor's Note: See Ch. 270, Zoning, relative to junkyards as now existing or to be amended.

**CHAPTER 177. LOCOMOTIVES**

- § 177-1. Purpose.
- § 177-2. Justification.
- § 177-3. Definitions.
- § 177-4. Idling of locomotives prohibited.
- § 177-5. Enforcement.
- § 177-6. Penalties for offenses.
- § 177-7. Exceptions.

**CHAPTER 177. LOCOMOTIVES**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 12-10-2003 by L.L. No. 23-2003. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Noise — See Ch. 188.

**§ 177-1. Purpose.**

The purpose of this chapter is to protect the health, safety, and welfare of Town residents and the public at large from the noise, nuisance and detrimental health impacts associated with idling diesel locomotives.

**§ 177-2. Justification.**

Idling locomotives produce large quantities of diesel fuel exhaust and fumes. Idling locomotives also produce large quantities of noise which serve to disturb or annoy reasonable persons of normal sensitivities. The United States Environmental Protection Agency has identified diesel exhaust and fumes as a likely cancer-causing agent detrimental to the health, safety, welfare and well-being of persons. Noise impacts are also identified as a detrimental impact upon the health, safety, welfare, and well-being of persons. Municipalities in this state are authorized to enact legislation to protect the health, safety, welfare, and well-being of its residents and the public at large.

**§ 177-3. Definitions.**

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

**IDLING**

Instances where a diesel engine is running but the vehicle which it powers is not engaged in motion.

**LOCOMOTIVE**

A self-propelled engine, usually electric or diesel powered, that pulls or pushes freight or passenger railroad cars along railroad tracks.

**OWNER**

Any entity that owns title to and/or maintains a lease or other property interest in a locomotive.

**PERSON IN CHARGE**

That person having custody, control and/or responsibility for a diesel locomotive. Persons responsible for operating a locomotive shall also constitute a "person in charge."

**§ 177-4. Idling of locomotives prohibited.**

Between March 1 and December 1 of every year, no person in charge or owner shall allow a diesel locomotive engine, whether attended or unattended, to remain idling for a period of more than 30 minutes.

**§ 177-5. Enforcement.**

This chapter shall be enforced by the Rotterdam Police Department or any other law enforcement agency with geographical jurisdiction. This chapter may also be enforced by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam.

**§ 177-6. Penalties for offenses.**

A violation of this chapter shall subject a person to a fine of \$1,000 and/or up to a year in jail.

**§ 177-7. Exceptions.**

This chapter shall not apply to any locomotive in motion or otherwise actually engaged in interstate commerce. Stationary locomotives not in actual motion are not considered actively engaged in interstate commerce pursuant to this chapter. Active and actual engagement in interstate commerce shall constitute an affirmative defense to any prosecution under this chapter.

**CHAPTER 180. MASS GATHERINGS**

§ 180-1. Title.

§ 180-2. Purpose.

§ 180-3. Word usage and definitions.

§ 180-4. Permits; removal of waste material.

§ 180-5. Penalties for offenses.

**CHAPTER 180. MASS GATHERINGS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 6-17-1981 by L.L. No. 7-1981. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Carnivals and tent shows — See Ch. 98.

Noise — See Ch. 188.

Public entertainment — See Ch. 217.

**§ 180-1. Title.**

This chapter shall be known as the "Rotterdam Mass Gatherings Local Law."

**§ 180-2. Purpose.**

The Rotterdam Town Board, for the purpose of preserving the public peace and good order, preventing and suppressing riots, tumultuous assemblages, unnecessary crowds upon the public highways, unreasonably loud or disturbing noises and disorderly conduct within the Town of Rotterdam and for the purpose of promoting the health, safety and general welfare of the community, including the protection and preservation of the property of the Town and of its inhabitants and peace and good order, finds that it is in the public interest to enact this chapter.

**§ 180-3. Word usage and definitions.**

A. Word usage. Words in the present tense include the future; the singular number includes the plural; the masculine shall include the feminine; "shall" is mandatory; and "may" is permissive.

B. Definitions. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

**BUILDING**

A structure wholly or partially enclosed with exterior walls and a roof, of permanent or temporary nature, affording shelter to persons, animals or property.

**MASS GATHERING**

A gathering of more than 1,000 persons within a twelve-hour period at a gathering conducted essentially out of doors.

**PERSON**

Any individual, firm, company, association, society, corporation or group.

**STRUCTURE**

A combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, stages, prop forms, radio towers, sheds, storage bins, tents, billboards, space signs, bleachers, ramps and seats.

**§ 180-4. Permits; removal of waste material.**

A. No person shall use, allow, let or permit to be used land for a mass gathering, or hold or promote by advertising or otherwise a mass gathering, until a written permit authorizing such mass gathering has been issued by the Rotterdam Town Clerk after authorization of such permit by the Rotterdam Town Board.

B. Application for such permit shall be by verified petition of the applicant, addressed to the Town Board and filed by the Town Clerk at least 60 days prior to the date of the mass gathering. The Town Board shall act upon the application within 45 days of such filing. Such application shall include the following information:

(1) A statement of the name, age and residence address of the applicant and, if the applicant is a corporation, the names and addresses of its directors and officers. If the applicant does not reside within the Town of Rotterdam, the application shall state the name and address of an agent who shall be a natural person residing in or having a place of business in Schenectady County, New York, who is authorized by the applicant and who shall agree by verified statement to accept notices for summonses issued with respect to the application, the conduct of the mass gathering and the provisions of this chapter.

(2) A statement containing the name and address of the record owner of the property and of any persons having the right to occupy said premises or any part thereof under a written lease, license or permit.

(3) A statement of the proposed dates and hours of such mass gathering; the maximum dates and hours of such mass gathering; the proposed maximum number of persons who will be permitted to attend the mass gathering; the maximum proposed number of motor vehicles which will be permitted at said mass gathering at any one time and in total; the measures and facilities proposed to limit the number of persons attending to the maximum number proposed; the purpose of the mass gathering; the nature of any entertainment to be provided thereat and the names and addresses of any entertainers to be provided by the applicant or its agent; and the admission fee to be charged, if any.

(4) A survey prepared by a licensed engineer or land surveyor of the premises upon which the mass gathering is to be conducted and of any premises to be used for motor vehicle parking or otherwise in connection therewith, together with a statement of the zoning district of such property, the names and addresses of the record owners of adjoining properties, the abutting streets or highways, showing the size and location of existing and proposed buildings or structures to be used in connection with said mass gathering, together with a statement or drawing to scale of the type and materials of each proposed or existing building or structure.

(5) A plan or drawing to scale prepared by a licensed engineer or land surveyor showing the method and manner in which:

(a) Sanitary facilities are to be provided for the disposal of sewage, garbage, trash and other debris.

(b) The method and manner of providing adequate and suitable off-street parking for motor vehicles for persons attending such mass gathering, including the layout of such parking area or areas, the surface or pavement thereof, the manner of designating parking spaces for individual motor vehicles and access drives, the proposed illumination planned for such areas, a statement of the proposed method of suppressing dust and a description of any maintenance equipment or vehicles.

(6) A statement containing the type, size, wattage, number and location of any sound amplifier or loudspeaker, sound truck or other similar sound equipment.

(7) A statement specifying the method of preparation, service and distribution of any foods and beverages to be prepared, sold or distributed at the mass gathering or in connection therewith by the applicant or his agents or licensees, together with a statement of the method of disposing of garbage, trash, rubbish or any other refuse arising therefrom. If any food or beverage is to be prepared, sold, served or distributed, a plan or drawing to scale must be attached to the application showing the buildings or structures from which the food or beverage is to be prepared, served, sold or distributed.

(8) A statement specifying whether any private security guards or police will be engaged and, if so, the number and duties to be performed, including the hours to be worked and areas of responsibility, and their minimum employment qualifications.

(9) A statement specifying the precautions to be utilized for fire protection, including a plan or drawing to scale specifying the location of fire lanes and water supply for fire control.

(10) A statement specifying the facilities and personnel to be available for the emergency treatment of any person who may require medical or nursing attention.

(11) A statement specifying whether any camping or housing facilities are to be available and, if so, a plan drawn to scale showing the intended number and location of the same.

C. No permit shall be issued until a public hearing has been held by and before the Rotterdam Town Board to consider such application. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper of the Town of Rotterdam.

D. Issuance of permit; procedure upon finding items inadequate.

(1) No permit shall be issued until the Town Board shall find the following:

(a) The application filed with the Town Clerk contains all of the information and attachments hereinbefore required.

(b) Toilet facilities adequate in number and suitable in design are proposed for the mass gathering. Such facilities are to be so located as to be conveniently available and shall be so constructed and maintained that they will not be offensive. Such facilities shall be arranged to be separate for each sex.

(c) Adequate provision is made for the collection and disposal of solid wastes, garbage and trash.

(d) Adequate provision is made for off-street parking, including an adequate system of access drives with suitable surface or pavement and night illumination of the same with a safe and proper electrical supply and emergency electrical supply for such night illumination.

(e) Adequate provision is made for the proper disposal of existing and reasonably potential surface water.

(f) An adequate sound-amplification system may be provided which will enable persons attending the mass gathering to hear transmissions therefrom without creating unreasonable noise on properties outside the mass gathering areas.

(g) The facilities and plans for the preparation, service and distribution of foods and beverages to be sold or distributed at the mass gathering would provide an adequate and sanitary supply of wholesome food to the persons reasonably expected to attend the mass gathering, and the method of disposing of garbage, trash, rubbish and other refuse therefrom is adequate to prevent hazard to health and nuisance on the premises or on adjoining premises.

(h) The applicant's plan for providing private security guards or police is adequate in the number of security guards or police to be provided, the minimum employment qualifications of such guards or police and the hours during which the same will be present at the site of the mass gathering.



(i) The applicant's outdoor lighting and illumination plan provides necessary lighting on the mass gathering premises without creating unreasonable illumination of adjoining premises and adjoining highways, and such plan includes adequate emergency electrical generating facilities on the premises in the event of a power failure.

(j) The applicant's plan for emergency medical and nursing treatment is adequate.

(k) The applicant's plan for camping or housing facilities to be available for persons attending such mass gathering provides an adequate number of reasonable facilities.

(l) The applicant has made adequate provision for fire prevention and fire protection.

(m) Adequate provision is made by fencing to protect adjoining properties.

(n) The mass gathering site is served by public highways sufficient in number and adequate in type and width to prevent unreasonable traffic congestion within the Town of Rotterdam.

(o) The proposed mass gathering would not unreasonably interfere with the rights of owners and occupants of adjoining and neighboring lands to reasonably use and enjoy such adjoining and neighboring lands, and such mass gathering would not create a public nuisance.

(2) If the Town Board determines that any of the items enumerated in Subsection D(1)(a) through (o) are inadequate in the interests of public health, morals and welfare, or because of noncompliance with state, county or Town laws, ordinances, codes, rules or regulations, it shall advise the applicant in what manner the same are inadequate and specify minimum acceptable requirements with respect to those terms.

E. No permit shall be issued until all persons interested in the lands upon which such mass gathering is to be held shall furnish the Town with written authorization for the Town and its agents to go upon such property at any time from and after the filing of such application and until 20 days after the end of such mass gathering for the purpose of inspecting such premises, the facilities provided and to be provided thereon and the cleaning of said premises and adjoining premises after the termination of the mass gathering. Such authorizations shall be irrevocable during such period.

F. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damage to person or property with limits of not less than \$500,000/\$1,000,000 for bodily injury or death, and limits of not less than \$500,000 for property damage, sufficient to save the Town harmless from any liability or cause of action which might arise by reason of the granting of the permit, and not cancellable without 10 days' prior written notice to the Town. The applicant shall further provide a security deposit of \$500 with the Town to insure the removal of trash and other waste material as hereinafter provided, which deposit shall be returned to the applicant within 10 days from the date of the termination of the assembly after deduction therefrom of all expenses caused by the applicant's noncompliance to remove said trash and other waste material.

G. Within five days from the end of such mass gathering, all trash, papers, garbage and other waste material shall be removed from the mass gathering premises, and such premises shall be restored to the same condition in which it was found at the time of the filing with the Town of Rotterdam Town Clerk of the application for such mass gathering. All trash, papers, garbage and other refuse shall be removed from the public highways within five days of the termination of such mass gathering for a distance to be specified by the Town Board in the permit granted the applicant.

H. Any permit hereunder may be revoked by the Town Board upon a finding that the applicant has failed to provide the facilities specified in its application or required by the Town or in the event that the Town shall find that the facilities to be provided by the applicant cannot be reasonably provided within the time remaining until the scheduled date of the mass gathering.

#### **§ 180-5. Penalties for offenses.**

A. Any person who shall violate any of the provisions of this chapter or of the terms of any permit issued hereunder shall be punishable, upon conviction thereof, by a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

B. In addition to any penalty provided by law, the Town Board may maintain an action or proceeding in the name of the Town in any court of competent jurisdiction to compel compliance with or to restrain violation of this chapter.

#### **CHAPTER 184. (RESERVED)**

**[Former Ch. 184, Motorcycles, adopted 10-4-1972 by L.L. No. 8-1972, as amended, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]**

#### **CHAPTER 188. NOISE**

- § 188-1. Legislative intent; construal of provisions.
- § 188-2. Nonapplicability.
- § 188-3. Unnecessary or unreasonable noise.
- § 188-4. Unnecessary noises enumerated.
- § 188-5. Warning of violation.
- § 188-6. Violations and penalties.

#### **CHAPTER 188. NOISE**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 8-25-1993 by L.L. No. 15-1993. Amendments noted where applicable.]

#### GENERAL REFERENCES

Alarms — See Ch. 71.

Mass gatherings — See Ch. 180.

Public entertainment — See Ch. 217.

#### § 188-1. Legislative intent; construal of provisions.

A. It is hereby declared to be the policy of the Town of Rotterdam to prevent excessive, unnecessary or unusually loud noises. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Town of Rotterdam and its inhabitants.

B. This section shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of any Town department or the right of such department to engage in any necessary or proper activities. Nothing herein shall abridge the powers and responsibilities of any Police Department or law enforcement agency to enforce the provisions of this chapter.

#### § 188-2. Nonapplicability.

This chapter shall not apply to the operation or use of any organ, radio, bell, chimes or other instrument, apparatus or device by any church, synagogue or school.

#### § 188-3. Unnecessary or unreasonable noise.

A. The creation of any unreasonably loud, disturbing or unnecessary noise is prohibited.

B. Said noise shall be prohibited when it is of such character, intensity and duration or of a type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health, comfort or welfare of any individual or would cause or create a risk of public inconvenience.

#### § 188-4. Unnecessary noises enumerated.

The following acts and the causing thereof are declared to be loud, disturbing or unnecessary noises in violation of this chapter, but the enumeration herein shall not be deemed to be exclusive:

A. Horns, signaling devices. The sounding of any horn or other signal device on any automobile, motorcycle, bus or other vehicle while stationary, except as a danger signal when an approaching vehicle is apparently out of control or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary period of time.

B. Noisy vehicles. No person shall:

(1) Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud, unnecessary grating, grinding, rattling or other noise;

(2) Operate any vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires or revving the motor of such vehicle; or

(3) Modify or cause to be modified the muffler, exhaust system or other noise-control device of any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noise-control devices of any vehicle operated in the Town of Rotterdam shall be maintained and in good working order. No person shall operate or permit to be operated a vehicle where the muffler, exhaust system or other noise-control device has been so modified or has not been maintained.

C. Discharge of exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, motor vehicle or boat engine or motor, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

D. Construction, demolition, excavation. The erection (including excavating), demolition, alteration or repair of any building other than between 6:00 a.m. and 9:00 p.m., except in case of an urgent necessity in the interest of public safety and then only with a permit from the Town Building Inspector/Code Enforcement Officer, which permit may be renewed for a period of three days or less while the emergency continues. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Noise near schools, other institutions. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

F. Drums, loudspeakers, similar devices. The use of a drum, loudspeaker or any other sound-producing instrument or device for the purpose of attracting public attention by the creation of noise, except where authorized by special permit to be issued by the Chief of Police, who shall make reasonable rules and regulations therefor.

G. Sound reproduction.

(1) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound so as to produce unreasonable or unnecessary noise at any time, except for activities open to the public or for the public benefit and for which permission has been granted by the Town of Rotterdam.

(2) Said sound reproduction shall be per se unreasonable and unnecessary if produced:

(a) Between the hours of 11:00 p.m. and 6:00 a.m. the following day in such a manner as to create noise that can be heard inside any residence, regardless of whether the windows of said residence are open.

(b) When operated in or on a motor vehicle on a public highway or in a boat on public waters or by a person on public or private property that can be heard 50 feet from such device.

(c) In such a manner as to create noise when operated by any passenger on a common carrier.

H. Shouting. No person shall shout, yell, call, hoot, whistle or sing on public streets or in public places in such a manner and for such a period of time as to be unreasonable under the circumstances.

I. Noise from tools, machinery and heavy equipment in the construction, repair or alteration of property. The use of domestic or industrial tools, machinery and equipment of any kind in construction, repair or alteration of property and resulting in loud grinding, hammering, sawing and similar noise shall be prohibited:

(1) Between the hours of 9:00 p.m. and 6:00 a.m. the following day, if said noise can be heard inside any residence, regardless of whether the windows of such residence are open.

(2) At any other time if said noise is unnecessary or unreasonable under the circumstances.

J. Noise in the conduct of any business. The creation of noise in the operation, conduct and/or maintenance of any business, factory, plant yard or manufacturing establishment (except as otherwise provided in this chapter), including but not limited to excavating, blasting, grinding, breaking, crushing or processing of any substance (where permitted), shall be prohibited:

(1) Between the hours of 9:00 p.m. and 6:00 a.m. the following day, if said noise can be heard inside any residence, other than in the building where the premises are located, regardless of whether the windows of said residence are open.

(2) At any other time if said noise is unnecessary or unreasonable under the circumstances.

K. The operation of restaurants, taverns, bars and discos.

(1) No restaurant, tavern, bar, nightclub, disco or other similar use, whether public or private, shall be conducted so that music or other noise caused by and/or emanating from said use can be heard:

(a) Inside any residence between the hours of 11:00 p.m. and 12:00 noon the following day, other than in the building where the premises are located, regardless of whether the windows of such residence are open.

(b) At any other time if said noise is unnecessary or unreasonable under the circumstances.

(2) Any owner, operator or proprietor of such a business use or other owner, licensee or person in control of any private premises shall so limit the level of noise emanating from premises.

(3) Further, it shall be the duty of any such person to disburse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in loud or disorderly conduct adjacent to or near the premises or to immediately notify the Town of Rotterdam Police of such conduct.

L. Fraternities and sororities, dormitories, private clubs, meeting halls, private residences. No noise from parties, entertainment, music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from said use can be heard:

(1) Between the hours of 11:00 p.m. and 12:00 noon the following day, inside any residence, regardless of whether the windows of such residence are open.

(2) At any other time if said noise is unnecessary or unreasonable under the circumstances.

#### **§ 188-5. Warning of violation.**

A. In those cases of unreasonable noise, other than violations of § 188-4A, B and C, the person or persons responsible shall be advised of any conduct prohibited herein by the Town of Rotterdam Police or the Town Building Inspector/Code Enforcement Officer or their duly authorized representatives. After such warning, if any party shall continue or repeat said conduct or similar conduct, he shall be in violation of this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. It shall be sufficient if said warning is oral and/or in person or over the telephone.

C. No such warning shall be required in any case of a violation of § 188-4A, B and C of this chapter.

#### **§ 188-6. Violations and penalties.**

If any party shall knowingly violate the provisions of this chapter or engage in conduct in violation of this chapter, he shall be punished by a fine not to exceed \$250. Each incidence of any violation of a provision herein shall constitute a separate offense.

### **CHAPTER 194. PARKS AND PLAYGROUNDS**

#### **§ 194-1. Prohibited acts.**

- § 194-2. (Reserved)
- § 194-3. Permits for group activities.
- § 194-4. Hours.
- § 194-5. Authority for issuance of permits.
- § 194-6. Promulgation and enforcement of rules and regulations.
- § 194-7. Penalties for offenses.
- § 194-8. Riverfront Bike/Hike Trail.
- § 194-9. Plotterkill Preserve.
- § 194-10. Nature Trail.

## **CHAPTER 194. PARKS AND PLAYGROUNDS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 8-17-1977 by L.L. No. 11-1977; amended in its entirety 5-7-1980 by L.L. No. 5-1980. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Alcoholic beverages — See Ch. 72.

Snowmobiles — See Ch. 240.

### **§ 194-1. Prohibited acts.**

The following acts by any person within the confines of any of the parks, playground or public places of the Town of Rotterdam are hereby prohibited:

- A. Climbing trees or cutting, breaking, injuring, defacing or disturbing any tree, shrub, plant, rock, building, monument, fence, bench or other structure, apparatus or property; plucking, pulling up, cutting, taking or removing any tree, shrub, bush, plant or flowers; gathering or taking any fruit or nut; or cutting, writing or marking upon any building, monument, fence, bench, table or other structure, apparatus or property.
- B. Injuring, defacing or destroying any notices, rules or regulations posted for the government of the park or playground.
- C. Cutting or removing any wood, turf, grass, soil, rock, sand or gravel.
- D. Making or kindling a fire for any purpose except by permit.
- E. Indulging in riotous, boisterous, threatening, immoral or indecent conduct.
- F. Using any abusive, threatening, profane, immoral, indecent or suggestive language.
- G. Selling or offering for sale any merchandise, article or thing whatsoever except through duly authorized concessions.
- H. Throwing or disposing of any bottle, tin can, broken glass, paper, clothes, rubbish or offal of any description except in receptacles provided for that purpose.

### **§ 194-2. (Reserved)**

Editor's Note: Former § 194-2, Possession and consumption of alcoholic beverages, as amended, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 72, Alcoholic Beverages.

### **§ 194-3. Permits for group activities.**

No individual or organization shall hold or conduct any picnic, celebration, parade, service or exercise without first obtaining a permit, and it shall be unlawful for any person to take part in any picnic, celebration, service or exercise held or conducted contrary to the provisions hereof. Further, such permit may include permission for an individual or organization desiring to have, distribute or consume alcoholic beverages in a park or playground area within the Town of Rotterdam. A permit including permission to have, distribute or consume alcoholic beverages shall be issued only upon the following conditions:

- A. Such individual or organization, by its duly authorized officer, must agree, in writing, to assume full responsibility for supervising the conduct of the group or individuals benefiting from such permit, and to properly clean up and restore the premises, after use, to its prior condition.
- B. Such individual or organization must further agree, in writing, that adequate precautions shall be taken to ensure that minors will not be served or allowed to consume alcoholic beverages at the permitted event or gathering.
- C. No alcoholic beverages shall be distributed or consumed other than on the specific premises described in the permit and only during the time stated therein.
- D. No permit shall be issued to any individual or organization which has previously been issued a permit and has failed to comply with the provisions hereof.

### **§ 194-4. Hours.**

Each park or playground shall be closed each night between the hours of 9:00 p.m. prevailing time and sunrise the following morning, and the loitering, lounging or being present in any park or playground at any time within said hours shall be deemed a violation of this rule, except by permit.

### **§ 194-5. Authority for issuance of permits.**

All permits provided for hereunder shall be issued through the Department of Parks and Recreation, subject to the approval of the Town Board.

### **§ 194-6. Promulgation and enforcement of rules and regulations.**

It is hereby granted to the Director of Parks and Recreation the authority to make and enforce reasonable rules and regulations for use of the parks and playgrounds, the violation of which rules and regulations shall be considered to be a violation of this chapter and shall be subject to the penalties herein provided.

**§ 194-7. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

The violation of any of the provisions of this chapter shall be punishable by a maximum fine of a sum not exceeding \$250 plus costs of prosecution, or by imprisonment in the Schenectady County Jail for a period not exceeding 15 days, or both.

**§ 194-8. Riverfront Bike/Hike Trail.**

A. All motorized vehicles, except for recognized emergency, maintenance and patrol vehicles, are expressly prohibited on the Riverfront Bike/Hike Trail during the months commencing April first and terminating November first of each year. Snowmobiles may use the Riverfront Bike/Hike Trail as indicated in Subsection B, provided that there exists a minimum of four inches of snow on the trail at the time of use.

B. Snowmobiles are the only motorized vehicles that will be permitted on the western portion of the Riverfront Bike/Hike Trail in the Town of Rotterdam, the area designated commencing at Scrafford Lane, eastward, to the mouth of the Plotterkill at the Triple Arch Bridge (Baan's Orchard), during the months commencing November first of each year and terminating on April 1 of the following year. Signs will be posted in this area indicating permitted use of snowmobiles.

C. All rules, regulations and restrictions contained within this chapter shall apply to the Riverfront Bike/Hike Trail in the Town of Rotterdam with the exception that § 194-4 of this chapter shall not apply to the Riverfront Bike/Hike Trail in the Town of Rotterdam.

**§ 194-9. Plotterkill Preserve.**

A. All motorized vehicles, except for recognized emergency, maintenance and patrol vehicles, are expressly prohibited in the Plotterkill Preserve, with the exception of snowmobiles which are restricted to a designated area located in the northwestern corner of the preserve which is accessible through private property.

B. Hunting is prohibited.

C. All rules, regulations and restrictions contained within this chapter shall apply to the Plotterkill Preserve with the exception of § 194-4 of this chapter regarding hours of closure, which shall be limited to the hours between dawn and dusk.

**§ 194-10. Nature Trail.**

**[Added 8-24-1994 by L.L. No. 15-1994]**

A. The Town of Rotterdam Nature Trail, and designated parking areas used in connection therewith, are public places, and the rules, regulations, restrictions and prohibitions contained in this chapter applicable to parks, playgrounds and public places apply to use of the Nature Trail and said parking areas.

B. In addition, the following regulations shall apply:

- (1) Domestic animals are not permitted on the Nature Trail except for use by the handicapped.
- (2) Motorized vehicles are not permitted on the Nature Trail except for recognized handicapped, emergency, maintenance and patrol vehicles.
- (3) Parking of vehicles at any location other than in parking areas designated for the users of the Nature Trail is prohibited.
- (4) Bicycles are not permitted on the Nature Trail.
- (5) Hunting, fishing and trapping are not permitted on or from the Nature Trail.

C. Entrance to the Nature Trail and to the parking areas designated for users of the Nature Trail is prohibited between the hours of dusk to dawn.

**CHAPTER 198. PERSONAL PROPERTY**

- § 198-1. Purpose.
- § 198-2. Designation of public officer.
- § 198-3. Appraisal by dealer.
- § 198-4. Derelict automobiles and property having no value.
- § 198-5. Property having salvage value.
- § 198-6. Property requiring special care.
- § 198-7. Perishable property.
- § 198-8. Duration of custody.
- § 198-9. Disposition of sale proceeds.
- § 198-10. Receipts for found property.
- § 198-11. Maintenance of records.
- § 198-12. Notices to owners and finders of lost property.
- § 198-13. Recording of found property.
- § 198-14. Records of claiming of found property.
- § 198-15. Proceeds to be paid into general fund.
- § 198-16. Finder of property.

**CHAPTER 198. PERSONAL PROPERTY**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 2-17-1964. Amendments noted where applicable.]**

## **GENERAL REFERENCES**

Vehicles and traffic — See Ch. 266.

### **§ 198-1. Purpose.**

The following rules and regulations for administering the provisions of Article 7-B of the Personal Property Law, and Article 13-A of the General Municipal Law, be and are hereby adopted effective immediately.

### **§ 198-2. Designation of public officer.**

The Lieutenant in charge of the detective division of the Rotterdam Police Department is hereby designated as the public officer to accept and keep custody of found property and found instruments, and to conduct all sales and auctions as hereinafter provided for.

### **§ 198-3. Appraisal by dealer.**

Found property prior to public auction shall be appraised by a dealer in such property and a value placed thereon as to the net sum likely to be realized at a public sale thereof of any article valued on its face at more than \$100.

### **§ 198-4. Derelict automobiles and property having no value.**

Derelict automobiles and other found property having no value may be destroyed by the police or donated to charitable organizations as scrap metal.

### **§ 198-5. Property having salvage value.**

Property having salvage value only may be sold by the police in such manner as may be reasonable in the circumstances.

### **§ 198-6. Property requiring special care.**

Property which requires special care may be kept by the police in public or private facilities which the police deem appropriate for the purpose of preserving it, and may be sold by the police at public auction when the cost of keeping it amounts to 1/2 its value.

### **§ 198-7. Perishable property.**

Perishable property shall be sold by the police as soon as possible in such manner as may be reasonable in the circumstances.

### **§ 198-8. Duration of custody.**

Lost property, and the proceeds of sale pursuant to §§ 198-5, 198-6 and 198-7 above, shall be kept in the custody of the police for the following periods unless sooner delivered to the owner as hereinafter provided:

- A. Property having a value of \$500 or less: six months.
- B. Property having a value of more than \$500, but less than \$5,000: one year.
- C. Property having a value of \$5,000 or more: three years.

### **§ 198-9. Disposition of sale proceeds.**

Proceeds of all sales under these rules and regulations after the payment of expenses of the sale and expenses of keeping or storing the property prior to sale shall be kept in a special account by the Lieutenant in charge of the detective division, who shall thereafter turn same over to the Supervisor for deposit in the general fund, upon the expiration of the limitation of time set forth herein.

### **§ 198-10. Receipts for found property.**

Any person surrendering found property or a found instrument for deposit with the police, shall be given a receipt identifying the transaction of deposit and identifying the property or instrument.

### **§ 198-11. Maintenance of records.**

Records shall be maintained as to where all property is found, such as a public street or highway or on private property with the name of the occupant of said private property.

### **§ 198-12. Notices to owners and finders of lost property.**

Notices to owners and finders of lost property shall be given by the Lieutenant in charge of the detective division as provided in § 253, Subdivision 8, and § 254 of the Personal Property Law.

### **§ 198-13. Recording of found property.**

A record of all found lost property shall be made by the officer who originally receives same in accordance with these rules.

### **§ 198-14. Records of claiming of found property.**

A record shall be kept of the disposition of all found lost property of value, as to who claimed same, address of such person and date when claimed.

### **§ 198-15. Proceeds to be paid into general fund.**

The proceeds of all sales of property as hereinbefore provided for shall be paid into the general fund of the Town of Rotterdam, from the special account of the Lieutenant in charge of the detective division, after the expiration of the time provided in § 198-8 hereof.

### **§ 198-16. Finder of property.**

For the purposes of these rules and regulations, a person reporting lost property to the police shall not be considered the finder thereof unless such person asserts said claim at time of notification of location of said property to the police.

## **CHAPTER 213. PLUMBING**

- § 213-1. Conflict with state provisions.
- § 213-2. Permit required.
- § 213-3. Submission of plans.
- § 213-4. Plans to be in compliance.

- § 213-5. Amended plans and supplementary permits.
- § 213-6. Alterations and changes requiring permits.
- § 213-7. Additions to system; installation of air-conditioning, water-treatment and water-operated devices.
- § 213-8. General standards.
- § 213-9. Permit fees.
- § 213-10. Correction and replacement of defective work.
- § 213-11. Appeals.
- § 213-12. Penalties for offenses.

## **CHAPTER 213. PLUMBING**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 2-16-1953. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Excavations and open wells — See Ch. 121.  
 Fees — See Ch. 126.  
 Sewers — See Ch. 230.

#### **§ 213-1. Conflict with state provisions.**

**[Added 3-12-1986 by L.L. No. 4-1986]**

Where the provisions of this chapter conflict with any provision of the New York State Uniform Fire Prevention and Building Code, the provisions of the New York State Uniform Fire Prevention and Building Code shall apply.

#### **§ 213-2. Permit required.**

Before any plumbing work requiring authorization according to the provisions of this code shall be started, a permit shall be obtained from the Plumbing Inspector. This permit shall be obtained by the owner or agent who is to do the plumbing work.

#### **§ 213-3. Submission of plans.**

No permit shall be issued until plans showing in necessary detail the proposed work have been submitted to the Plumbing Inspector and those plans have been checked to assure that the work will conform to the provisions of this code.

#### **§ 213-4. Plans to be in compliance.**

If the plans indicate that any provision of this code is not being complied with, they shall be rejected, and no permit issued until they have been revised to comply with this code.

#### **§ 213-5. Amended plans and supplementary permits.**

If, in the course of the work, it is found necessary to make any change from the approved plans, then amended plans shall be submitted and a supplementary permit shall be issued to cover the change.

#### **§ 213-6. Alterations and changes requiring permits.**

Permits shall be required for alterations or changes to a plumbing system except as otherwise provided in this section. Repairs involving only the working parts of a faucet or valve, or the clearance of stoppages or stopping of leaks, shall not be considered to be alterations or changes. The replacement of a faucet or valve with a new one of the same type may be made without a permit, provided that no changes are made in the piping to the fixture.

#### **§ 213-7. Additions to system; installation of air-conditioning, water-treatment and water-operated devices.**

A. Any additions to a plumbing system shall require a permit.

B. The Board of Health Editor's Note: The Town Board acts as the Board of Health. shall make such rules and regulations for the installation of air-conditioning systems, water-treatment equipment and water-operated devices as may be deemed necessary to properly protect the water-supply system.

#### **§ 213-8. General standards.**

A. All work in connecting the supply pipes and fixtures under this code shall be done only by the owner or his employee or agent and by no other persons.

B. The plumbing and drainage of all buildings, both public and private, should be executed in accordance with these rules and regulations, and all repairs and alterations in the plumbing and drainage of all buildings heretofore constructed shall be executed in accordance with these rules and regulations.

C. Plans and specifications, with suitable drawings and descriptions of said plumbing and drainage shall, in each case, be submitted to and placed on file with the Plumbing Inspector.

D. All alterations, repairs (except leaks in waste or supply pipes, repairing valves or faucets), extensions to the plumbing, changing the location or styles of or replacing any fixtures or traps, shall be reported to the Plumbing Inspector on blanks furnished.

E. All plumbing and drainage not of buildings, and connected with or intended to be connected with the public sewers or septic tanks shall be executed in accordance with plans previously filed with the Plumbing Inspector, and approved by him, and shall conform to these rules and regulations wherever the same are applicable.

F. The Plumbing Inspector shall inspect the constructions and alterations of all plumbing work performed in the Town of Rotterdam. He shall make the inspection of work done under these regulations and issue a certificate of compliance therewith upon the request of the owner or his employee

performing the work, or architect or agent, when the work has been fully performed in compliance with these rules and has stood a satisfactory test.

G. No work shall be covered or concealed until after it has been examined by the Inspector, and notice in writing must be sent to the Inspector when the work is sufficiently advanced for inspection.

H. All plumbing and drainage conditions shall comply with the provisions of these rules and regulations except as the same may be modified upon recommendations of the Plumbing Inspector. When the work is completed, and before it is covered from view, the Plumbing Inspector must be notified in writing.

**§ 213-9. Permit fees.**

**[Amended 4-7-1971 by L.L. No. 2-1971; 1-25-1989 by L.L. No. 1-1989]**

Permit fees for plumbing work shall be assessed by the Plumbing Inspector at the time he issues plumbing permits, according to the rate schedule as set forth in Ch. 126, Fees.

**§ 213-10. Correction and replacement of defective work.**

**[Amended 4-7-1971 by L.L. No. 2-1971]**

If, upon inspection, the Plumbing Inspector or his representative finds a violation of any provisions of this Plumbing Code, he shall have the authority to direct the owner forthwith to correct defective work and replace any pipe or fixture installed in violation of the code. Any owner or contractor neglecting or failing to carry out the directions of the Plumbing Inspector to correct said defective work and to replace any pipe or fixture installed in violation of the code within five days from date of receipt of such directions, verbally or by mail, shall be guilty of an offense and, in addition thereto, all supply of water to said premises shall be shut off upon order of the Plumbing Inspector without further notice and without any recourse on the part of the owner, his tenants or representatives for any damages by reason of such action.

**§ 213-11. Appeals.**

**[Amended 4-7-1971 by L.L. No. 2-1971]**

In the event that the owner feels aggrieved with any ruling, determination or direction made by the Plumbing Inspector as to the performance of the work under the provisions of this code, he shall have the right to file an appeal from such ruling, decision or determination to the Board of Health of the Town of Rotterdam. Such appeal shall be filed within 48 hours in the office of the Town Clerk of the Town of Rotterdam and shall request the review of the action of the Plumbing Inspector. If no appeal is filed within the time provided herein, the decision, order or determination of the Plumbing Inspector shall become final and conclusive on the owner.

**§ 213-12. Penalties for offenses.**

**[Amended 4-7-1971 by L.L. No. 2-1971]**

A. Any person violating any provision of these rules and regulations shall be guilty of an offense and, upon conviction, shall be liable to, and punished by, except as otherwise provided in these rules and regulations, a fine not exceeding \$250 or imprisonment for a term not to exceed 15 days, or both.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

B. In addition to the foregoing, the Town Board of the Town of Rotterdam shall have the right to institute the action or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violations of any such ordinance, rule or regulation, notwithstanding that the ordinance, rule or regulation may provide a penalty or other punishment for such violation.

C. Any violation of the New York State Uniform Fire Prevention and Building Code or any rule or regulation adopted pursuant thereto shall be punishable by a fine of not more than \$1,000 or imprisonment for a term of not more than one year, or both.

**[Added 3-12-1986 by L.L. No. 4-1986]**

**CHAPTER 217. PUBLIC ENTERTAINMENT**

§ 217-1. Purpose; legislative authority.

§ 217-2. Clothing requirements for females.

§ 217-3. Clothing requirements for males.

§ 217-4. Adherence to requirements by owners and operators.

§ 217-5. Penalties for offenses.

**CHAPTER 217. PUBLIC ENTERTAINMENT**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-17-1974 by L.L. No. 6-1974. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Carnivals and tent shows — See Ch. 98.

Mass gatherings — See Ch. 180.

**§ 217-1. Purpose; legislative authority.**

The Town of Rotterdam, New York, has determined that certain regulations in the field of public entertainment are needed and are necessary in order to promote the general good, health and welfare of its citizens, including the children of the community. Said Town, therefore, invokes the privilege and authority given to it under the provisions of the Penal Law of the State of New York and the general powers granted to said Town.



**§ 217-2. Clothing requirements for females.**

It shall be unlawful for any female person to appear, work, entertain, act or display herself in any cabaret, dance hall, bar, tavern, lounge, discotheque, restaurant and any other public place in the Town of Rotterdam, New York, clothed or costumed in such a manner that the portion of her breast below the top of the areola is not covered with a fully opaque covering or in such a manner that her genitals, pubic area or buttocks are not covered with a fully opaque covering.

**§ 217-3. Clothing requirements for males.**

It shall be unlawful for any male to appear, work, entertain, act or display himself in any cabaret, dance hall, bar, tavern, lounge, discotheque, restaurant and any other public place in the Town of Rotterdam, New York, clothed or costumed in such a manner that his genitals, pubic area or buttocks are not covered with a fully opaque covering.

**§ 217-4. Adherence to requirements by owners and operators.**

It shall be unlawful for any person to knowingly conduct, maintain, own, lease, manage, operate or furnish any cabaret, dance hall, bar, tavern, lounge, discotheque, restaurant and any other public place in the Town of Rotterdam, New York, where a female person or male person is not clothed, costumed or covered as required in §§ 217-2 and 217-3 of this chapter.

**§ 217-5. Penalties for offenses.**

Any person found guilty of violating any of the sections of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed \$250 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment.

**CHAPTER 222. RACETRACKS**

**§ 222-1. Purpose.**

**§ 222-2. Definitions.**

**§ 222-3. Permit required.**

**§ 222-4. Permit applications.**

**§ 222-5. Permit fees, limitations, transferability and revocation.**

**§ 222-6. Operation.**

**§ 222-7. Penalties for offenses.**

**CHAPTER 222. RACETRACKS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 8-14-1963. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fees — See Ch. 126.

Vehicles and traffic — See Ch. 266.

**§ 222-1. Purpose.**

By the enactment of this chapter, the Town Board of the Town of Rotterdam declares its intent in so doing to be to regulate and control the operation of certain racetracks involving go-cart races, stock car races and similar racing events between motor vehicles, motorcycles, motor scooters, midget autos and other vehicles. It is enacted in the interests of the inhabitants of the Town of Rotterdam so as to protect the life and property of persons in the vicinity of such events, to prevent unreasonable loud noises, dust and dirt sometimes produced by such tracks which could be detrimental to the peace, welfare and good order of the people of the Town of Rotterdam, and to prevent the disturbance of the peace and quiet of the Town from the operation of such tracks. In addition it is the further purpose of the Town Board in enacting this chapter to promote the health, safety, morals and general welfare of the Town of Rotterdam. Therefore, recognizing the above and the need for regulating the racetracks above described and in the exercise of its police power in these regards, the Town Board of the Town of Rotterdam does hereby enact the following chapter.

**§ 222-2. Definitions.**

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

**PERSON**

Any individual, association, partnership, corporation or other body, group or unit or combination thereof.

**RACETRACK**

Any ground, area or track upon which races, contests or demonstrations of skill or stunts are conducted for the enjoyment or entertainment of the public or for the gratification of the contestants which employ go-carts, stock cars, motor scooters, midget autos, motorcycles, motor vehicles or other vehicles propelled by a force other than human energy.

**§ 222-3. Permit required.**

No person shall operate in the Town of Rotterdam any racetrack as defined herein without possessing a permit to operate the same as hereinafter provided.

**§ 222-4. Permit applications.**

Any person desiring to operate a racetrack, as defined herein, in the Town of Rotterdam, may apply to the Town Clerk thereof for a permit therefor. Each such applicant shall execute under oath an application for such permit to be supplied to him by the Town Clerk containing the following information:

A. Whether he is a citizen of the United States over 18 years of age.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

B. Whether he has ever been convicted of a felony or misdemeanor.

C. Whether he has had any previous experience in the operation of racetracks as defined herein and such other facts or evidence deemed necessary to establish that he is a person fit, qualified and capable of operating a racetrack, as defined herein, so as to protect the safety, health, morals and welfare of the Town and its inhabitants.

D. A description of the type of racetrack he intends to operate.

E. The number of employees he intends to employ.

F. The name and address of the owner or owners of the land and the nature of his right of occupancy.

G. A statement that if granted the permit applied for he will operate the racetrack pursuant to the requirements hereinafter set forth and that upon his failure to do so such permit may be revoked herewith.

**§ 222-5. Permit fees, limitations, transferability and revocation.**

**[Amended 1-25-1989 by L.L. No. 1-1989]**

The fee for the permit to operate a racetrack, as defined herein, shall be as set forth in Ch. 126, Fees. A yearly permit shall be effective from the date of its issuance until the 31st day of December of the year of its issuance, after which a new application must be made for a permit if the permittee desires to continue to operate the track. Such permit may not be sold, assigned, transferred or otherwise disposed of. Such permit may be revoked by the Town Board after a public hearing thereon at which the permittee shall have an opportunity to be heard. Upon revocation of such permit, the permittee shall desist the operation of the racetrack for which the permit was issued.

**§ 222-6. Operation.**

A. The permittee must personally operate, manage and be responsible for the operation of the racetrack for which the permit is granted.

B. The permittee shall at all times maintain in full force and effect a public liability insurance policy in amounts not less than \$500,000 for damages in which one person is killed or injured and not less than \$1,000,000 for damages in which more than one person is killed or injured. Such policy shall bear an endorsement thereon extending the benefits thereof to the interests of the Town of Rotterdam as they may appear or as they may subsequently be determined to exist.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

C. The permittee may operate the racetrack for which the permit is granted on weekdays only between the hours of 9:00 a.m. and 11:00 p.m., and on Sundays only between the hours of 2:00 p.m. and 11:00 p.m.

D. The permittee shall not at any time allow the operation of the racetrack for which the permit is granted to be conducted in such a manner as to cause unreasonably loud or disturbing noises of such a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people of the Town of Rotterdam or in such a manner as to cause disturbing, noisy, riotous or tumultuous conduct within the Town. Loudspeakers, announcing devices, horns and other noise-producing devices shall not at any time be operated in such manner as to disturb the occupants of the premises in the vicinity of the racetrack and shall be so toned down or muffled or subdued that the sound therefrom shall not carry more than 500 feet from the perimeter of the track in all directions.

E. The permittee shall not at any time allow the operation of the racetrack for which the permit is granted to be conducted in such manner as to allow the creation and dispensing through the air to the adjoining areas of the Town of noxious odors, fumes, smoke or dust of such density or concentration as to be detrimental to the health, peace, welfare and good order of the people of the Town or as to hurt, destroy or deface the property of the inhabitants of the Town. If any event is being conducted at any time upon the racetrack for the operation of which a permit has been issued hereunder when the ground or surface of the track or of the approaches thereto is so dry as to cause dirt or dust to be stirred up either by the racing vehicles or by vehicles transporting spectators to or from the racetrack and to be blown or to drift to adjacent areas, the permittee shall sprinkle the track and its approaches with water or other substance so as to settle such dust or dirt.

**§ 222-7. Penalties for offenses.**

A. Any person who operated a racetrack in the Town of Rotterdam without having applied for and been granted a permit to operate the same pursuant to the provisions hereof, and any person granted a permit hereunder who commits or allows any act in violation of any of the provisions of this chapter shall be deemed to have committed an offense against this chapter and shall be liable for said violation of the penalty therefor.

B. For every violation of any provision of this chapter the person violating the same shall be subject to a fine of not more than \$250 or imprisonment not exceeding 15 days, or by both such fine and imprisonment.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

C. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the permit.

D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$500 for each such offense. Such penalty shall be collectible by and in the name of the Town.

**[Amended 3-12-1986 by L.L. No. 4-1986]**

E. In addition to the above-provided penalties and punishment the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

**CHAPTER 225. RECORDS, PUBLIC ACCESS TO**

§ 225-1. Adoption of rules and regulations.

§ 225-2. Designation of officers.

§ 225-3. Statutory exceptions; types of records available.

§ 225-4. Deletion of identifying details.

- § 225-5. Provisions to guide officers.
- § 225-6. Notice.
- § 225-7. Fees; hours.

## **CHAPTER 225. RECORDS, PUBLIC ACCESS TO**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 3-1-1978. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Fees — See Ch. 126.

#### **§ 225-1. Adoption of rules and regulations.**

The Town Board of the Town of Rotterdam hereby adopts the following rules and regulations as the rules and regulations of the Town of Rotterdam with respect to the Freedom of Information Law, as amended by Chapter 933 of the Laws of 1977 of the State of New York, which rules and regulations have been promulgated by the Committee on Public Access to Records on January 10, 1978, pursuant to the new Freedom of Information Law [Public Officers Law, § 89, Subdivision 1(b)] as follows:

Statutory authority: Public Officers Law, § 89, Subdivision 1(b)iii

#### **§ 225-2. Designation of officers.**

The Town Board of the Town of Rotterdam hereby designates and appoints the following persons Editor's Note: The specific names of the designated officers shall be on file in the office of the Town Clerk. as the named officers for the respective positions herein as follows:

A. Records access officers:

- (1) Supervisor.
- (2) Town Clerk.

B. Fiscal officer: Comptroller.

C. Hearing officer: Assistant Town Attorney.

D. Appeals officer: Deputy Supervisor.

#### **§ 225-3. Statutory exceptions; types of records available.**

A. The following records are excepted by statute:

- (1) Records which are specifically exempted from disclosure by state or federal statute.
- (2) Records which, if disclosed, would constitute an unwarranted invasion of personal privacy.
- (3) Records which, if disclosed, would impair contract awards or collective bargaining negotiations.
- (4) Records which are trade secrets or maintained for the regulations of a business which, if disclosed, would cause substantial injury to competition.
- (5) Records compiled for law enforcement purposes and which, if disclosed, would:
  - (a) Interfere with law enforcement investigations or judicial proceedings;
  - (b) Deprive a person of a right to fair trial;
  - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - (d) Reveal criminal investigative techniques or procedures (except routine techniques and procedures).
- (6) Records which, if disclosed, would endanger the life or safety of any person.
- (7) Inter- or intraagency materials which are not:
  - (a) Statistical or factual tabulations or data;
  - (b) Instructions to staff that affect the public; or
  - (c) Final agency policy determinations.
- (8) Examination questions or answers, prior to the final administration of such questions.

B. It will be recalled that under the present or existing law, only the following records are available:

- (1) Final opinions made in the adjudication of cases.

- (2) Statements of policy and interpretation adopted by an agency and any documents constituting statistical or factual tabulations leading to the formulation of the policy.
- (3) Minutes of meetings and public hearings.
- (4) Internal or external audits and statistical or factual tabulations.
- (5) Administrative staff manuals and instructions to staff that affect members of the public.
- (6) Police blotters and booking records.
- (7) Payrolls.
- (8) Final determinations and dissenting opinions.
- (9) Any other records required by any other provision of law to be made available.

**§ 225-4. Deletion of identifying details.**

The following identifying details shall be deleted as unwarranted invasion of personal privacy as follows: The law states that an "unwarranted invasion of personal privacy" includes:

- A. Disclosure of employment, medical or credit histories or personal references of applicants for employment.
- B. Disclosure of items involving the medical or personal records of a client or patient in a medical facility.
- C. Sale or release of lists of names and addresses, if such lists would be used for commercial or fundraising purposes.
- D. Disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the party and such information is not relevant to the work of an agency requesting or maintaining it.
- E. Disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency.

**§ 225-5. Provisions to guide officers.**

The officers mentioned herein shall be guided in the exercise of their duties and responsibilities with respect to the Freedom of Information Law as follows:

- A. The new law specifically exempts from its coverage the Legislature and the Judiciary, who are not covered by the old law.
- B. The new law does require that the State Legislature make certain enumerated documents available.
- C. A significant provision of the new law also is that it requires an agency which denies access to a particular record fully to explain, in writing, the reasons for denial. Additionally, in any judicial proceeding, the burden of proof is placed upon the agency to establish that the record sought to be obtained and denied is exempted from the statute.
- D. The new law continues the Committee on Public Access to Records with all its functions. The Committee is empowered to promulgate guidelines concerning the deletion of identifying details for the withholding of records otherwise available in order to prevent unwarranted invasions of personal privacy. In the absence of such guidelines, any agency may delete identifying details when it makes records available.
- E. The law specifically states that disclosure shall not be construed to constitute an unwarranted invasion of personal privacy when:
  - (1) Identifying details are deleted;
  - (2) The person to whom a record pertains consents in writing to disclosure; or
  - (3) When, upon presenting reasonable proof of identity, a person seeks access to records pertaining to him.

**§ 225-6. Notice.**

The Town Clerk of the Town of Rotterdam is hereby directed to cause the following public notice to be published in the official newspapers of the Town of Rotterdam and to post said public notice in a conspicuous location on the official bulletin board of the Town of Rotterdam as designated by statute as follows. Editor's Note: The exact wording of said public notice is on file in the office of the Town Clerk.

**§ 225-7. Fees; hours.**

**[Added 3-12-1986 by L.L. No. 4-1986; amended 1-25-1989 by L.L. No. 1-1989]**

Records are available at the office of the Town Clerk during regular business hours upon payment of a fee as set forth in Ch. 126, Fees.

- § 228-2. License required.
- § 228-3. Application; approval.
- § 228-4. Fees.
- § 228-5. Permissible locations.
- § 228-6. Conditions for issuance of license; revocation.
- § 228-7. Term of license; renewals.
- § 228-8. Penalties for offenses; enforcement.
- § 228-9. Exceptions.

## **CHAPTER 228. SEASONAL SALES**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 11-24-1993 by L.L. No. 23-1993. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Advertising materials — See Ch. 68.  
 Carnivals and tent shows — See Ch. 98.  
 Garage sales — See Ch. 145.  
 Hawking, peddling and soliciting — See Ch. 150.  
 Zoning — See Ch. 270.

#### **§ 228-1. Intent.**

It is the intent of this chapter to permit and establish regulations and procedures for seasonal outdoor sales of Christmas trees, produce, holiday decorations and certain other seasonal activities conducted for financial gain.

#### **§ 228-2. License required.**

- A. It shall be a violation of this chapter for any person to store or sell Christmas trees, holiday decorations, produce and other seasonal sales out-of-doors in the Town of Rotterdam without having a license therefor.
- B. It shall be a violation of this chapter for any owner to allow his property to be used for the storage and sale of Christmas trees, related holiday decorations, produce and other seasonal sales out-of-doors by any person or persons who do not have a license therefor.

#### **§ 228-3. Application; approval.**

- A. All applications for a license that allows the outdoor storage and sale of Christmas trees, related holiday decorations, produce and other seasonal sales shall be made to the Town Building Inspector/Code Enforcement Officer on a form prescribed by him. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. The application shall be accompanied by a plan, drawn to 40-scale, identifying the size of the lot, where such storage and sales are to take place and also showing provisions for site access and parking, and buildings or structures thereon.
- C. The Building Inspector/Code Enforcement Officer shall transmit the application and all materials to the Rotterdam Planning Commission, which shall act upon the application as prescribed in Chapter 270, Zoning, Article XVII, Site Plan Approval. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

#### **§ 228-4. Fees.**

The application shall be subject to fees as prescribed in Chapter 270, Zoning Article XVII, Site Plan Approval.

#### **§ 228-5. Permissible locations.**

Any outdoor seasonal sales may be permitted on any lot in the Town of Rotterdam that meets the specifications for issuance of a license.

#### **§ 228-6. Conditions for issuance of license; revocation.**

- A. The Planning Commission may approve an application and direct the Building Inspector/Code Enforcement Officer to issue a license if it finds that the lot is suitable for the sale in terms of vehicular access, parking and pedestrian safety, and further provided that such use of the lot will not generate hazardous traffic or fire conditions. All vehicular parking must be off-street, and adequate utilities must be provided for the use. The Planning Commission shall grant only one seasonal business activity per license application. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be, produced from the seasonal sales.
- C. Signs shall not exceed one foot square and must be denoted on the required plan.
- D. The license may be revoked at any time if the licensee deviates from the plan as submitted and/or if the sale is deemed to create a public health or safety hazard. If the license is revoked, all sales shall be terminated until a new license is obtained, subject to the provisions of §§ 228-3 through 228-6.
- E. The Planning Commission may impose any condition upon the application it deems appropriate and necessary to ensure congestion on any public street is avoided.
- F. Only one license for seasonal business activities may be issued for a specific premises per year.

#### **§ 228-7. Term of license; renewals.**

All licenses shall be issued for a period not to exceed 120 days and are renewable pursuant to the terms of this chapter. Renewals shall be subject to the Planning Commission review prior to their reissuance.

**§ 228-8. Penalties for offenses; enforcement.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person committing an offense against any provision of this chapter shall be guilty of a violation which shall be punishable by a fine of not less than \$250 nor more than \$500 for each offense. Enforcement of the provisions of this chapter shall be by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam.

**§ 228-9. Exceptions.**

This chapter shall not apply to garden shops or nurseries which are open for business during the other parts of the year or commercial establishments which may be subject to Article XVII of Chapter 270 of the Rotterdam Zoning Code.

CHAPTER 230. SEWERS

**CHAPTER 230. SEWERS**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam as indicated in part histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Excavations and open wells — See Ch. 121.

Fees — See Ch. 126.

Plumbing — See Ch. 213.

Subdivision of land — See Ch. 249.

**PART 1. Sewer Rent**

**[12-19-1973 by L.L. No. 10-1973]**

**ARTICLE I. Sewer District No. 2**

**§ 230-1. Rates.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Local Law No. 10 for the year 1973 is hereby adopted and the following sewer rents are hereby established in Sewer District No. 2 and extensions, effective January 1, 1974, to be paid by users as follows:

A. Residential rates. Residential rates shall be annual for each family unit, a family unit being defined as a single-family dwelling, each apartment or flat contained in a multiple-residence dwelling and each apartment or flat contained in a single-family dwelling.

B. Commercial rates. The rate for commercial establishments utilizing metered water shall be at the rate for each family unit. "Family unit" shall mean every 75,000 metered gallons of water used for the most recent annual rating.

**§ 230-2. Payment; late charge.**

Said charges shall be payable in advance to the Receiver of Taxes during January of each year and if unpaid by January 31, late charges of 1% per month shall be added to the original obligation until the account shall have been returned to the County of Schenectady as an unpaid sewer rent assessment. The first billing as per said rates shall be made by the Receiver of Taxes when mailing and preparing the January 1974 Town and county tax files.

**§ 230-3. Calculation of rates in subsequent years.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Rates in subsequent years shall be set forth in the annual budgets of Sewer District No. 2 and its extensions when such budgets are adopted. They may vary the rate depending upon the budget expenditures and other anticipated revenues, if any; however, the rate per family unit shall be fixed by dividing the number of family units into the proposed amount to be raised by tax in each year.

**PART 2. Sewer Connection and Use**

**[7-3-1984 by L.L. No. 8-1984]**

**ARTICLE II. Definitions**

**§ 230-4. Definitions; word usage.**

**[Amended 12-9-1992 by L.L. No. 35-1992; 2-26-2003 by L.L. No. 3-2003]**

A. As used in the Part 2, the following terms shall have the meanings indicated:

**ACT or THE ACT**

The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.

**APPROVAL AUTHORITY**

The Director in a National Pollutant Discharge Elimination System state with an approved state pretreatment program and the Administrator of the Environmental Protection Agency in a non-National Pollutant Discharge Elimination System state or National Pollutant Discharge Elimination System state without an approved state pretreatment program.

**AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER**

(1) A principal executive officer of at least the level of Vice President, if the industrial user is a corporation.

(2) A general partner or proprietor, if it is a partnership or proprietorship, respectively.

(3) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

**BOD (denoting "biochemical oxygen demand")**

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

**BUILDING DRAIN**

That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three feet outside the inner face of the building wall.

**BUILDING INSPECTOR**

The Building Inspector of the Town of Rotterdam or his duly authorized assistants.

**BUILDING SEWER**

The extension from the building drain to the public sewer or other place of disposal.

**CATEGORICAL STANDARDS**

National Categorical Pretreatment Standards or pretreatment standard.

**COMBINED SEWER**

A sewer receiving both surface runoff and sewage.

**COMMISSIONER OF HEALTH**

The Director of the Schenectady County Department of Health or his/her duly authorized assistants.

**CONTROL AUTHORITY**

The approval authority, defined above, or the Director, if the Town has an approved pretreatment program under the provisions of 40 CFR Part 403.11.

**COOLING WATER**

The water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DEPARTMENT**

The Department of Public Works, the Town of Rotterdam, NY.

**DIRECT DISCHARGE**

The discharge of treated or untreated wastewater directly to the waters of the State of New York.

**DIRECTOR**

The Town Engineer.

**ENVIRONMENTAL PROTECTION AGENCY or EPA**

The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

**FLASH POINT LIMITATION OF 140° F. OR 60° C.**

Prohibits discharges of pollutants with closed-cap flashpoint of less than 140° F. or 60° C.

**GARBAGE**

Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from handling, storage and sale of produce.

**GRAB SAMPLE**

A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**HOLDING TANK WASTE**

Any waste from holding tanks, such as chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**INDIRECT DISCHARGE**

The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. § 1317) into the publicly owned treatment works (including holding tank waste discharged into the system).

**INDUSTRIAL USER**

A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act (33 U.S.C. § 1342)

**INDUSTRIAL WASTES**

The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

**INTERFERENCE**

The inhibition or disruption of the publicly owned treatment works treatment processes or operations, which contributes to a violation of any requirement of the Town's State Pollutant Discharge Elimination System permit. The term includes prevention of sewage sludge use or disposal by the publicly owned treatment works in accordance with Section 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the publicly zoned treatment works.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD**

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT**

A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD**

Any regulation developed under the authority of 307(b) of the Act and 40 CFR Part 403.5.

**NATURAL OUTLET**

Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**NEW SOURCE**

Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

**NYSDEC**

The New York State Department of Environmental Conservation or its duly authorized representative.

**PASS THROUGH**

A discharge which exits the publicly owned treatment works into waters of the United States of America in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works facility and/or National Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of the violation).

**PERSON**

Any individual, firm, company, association, society, corporation or group.

**pH**

The logarithm of the reciprocal of the weight to hydrogen ions in grams per liter of solution.

**POLLUTANT**

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

**POLLUTION**

The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

**POTW TREATMENT PLANT or SEWAGE TREATMENT PLANT**

That portion of the publicly owned treatment works designed to provide treatment to wastewater.

**PRETREATMENT REQUIREMENTS**

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an industrial user.

**PRETREATMENT or TREATMENT**

The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means except as prohibited by 40 CFR Part 403.6(d).

**PROPERLY SHREDDED GARBAGE**

The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

**PUBLICLY OWNED TREATMENT WORKS (POTW) or SEWAGE WORKS**

A treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the Town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Part 2, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town who are, by contract or agreement with the Town, users of the Town's POTW.

**PUBLIC SEWER**

A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

**SANITARY SEWER**

A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**SIGNIFICANT INDUSTRIAL USER**

Any industrial user of the Town's wastewater disposal system who has a flow greater than 5% of the flow in the Town's wastewater treatment system; has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act or New York State statutes and regulations; or is found by the Town, or New York State Department of Environmental Conservation or the United States Environmental Protection Agency (EPA), to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of residuals, the system's effluent quality or air emissions generated by the system; or is a categorical industry as defined by the EPA.

**SPDES**

State Pollutant Discharge Elimination System.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC)**

A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President Office of Management and Budget, 1972, or its most recent edition.

**STATE**

The State of New York.

**STORM DRAIN or STORM SEWER**

A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

**STORMWATER**

Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**SUSPENDED SOLIDS**

Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

**TOWN**

Town of Rotterdam, New York.

**TOWN ENGINEER**

Engineer or person responsible for operation of the Department of Public Works and the POTW.

**TOXIC POLLUTANT**

Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the United States Environmental Protection Agency under the provision of Clean Water Act Section 307(a) or other Acts.

**USER**

Any person who contributes, causes or permits the contribution of wastewater into the Town's POTW.

**WASTEWATER**

The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**WASTEWATER CONTRIBUTION PERMIT or WASTEWATER DISCHARGE PERMIT**

As set forth in § 230-33.2 of this Part 2.

**WATERCOURSE**

A channel in which a flow of water occurs, either continuously or intermittently.

**WATERS OF THE STATE**

All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof

B. Word usage. "Shall" is mandatory; "may" is permissive.

**ARTICLE III. General Restrictions**



**§ 230-5. Policy statement: unpolluted water.**

**[Amended 2-26-2003 by L.L. No. 3-2003]**

A. It is one explicit purpose of these rules, regulations and ordinances to deter, prevent and eliminate, as far as possible, the introduction of unpolluted waters into the Town of Rotterdam sanitary sewer system and all sewers tributary thereto. However, it is recognized that in certain areas the immediate enforcement of these rules, regulations and ordinances against existing subsurface drainage connections would be unfeasible and unreasonable.

B. This statement shall not be construed to mitigate in any way the enforcement of these rules and regulations and ordinances against the construction of any new sanitary sewers or against any new connections discharging unpolluted waters to the Town of Rotterdam sanitary sewage system, or sewers tributary thereto, or to the alleviation of unreasonable flows of unpolluted waters; nor shall this statement of policy be used as a reason for not making any changes which may be ordered by governmental regulatory agencies.

**§ 230-6. Discharge of sewage to natural outlets.**

**[Amended 2-26-2003 by L.L. No. 3-2003]**

It shall be unlawful to discharge to any natural outlet within the Town of Rotterdam or in any area under the jurisdiction of said Town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Part 2.

**§ 230-7. Construction of certain facilities restricted.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

**§ 230-8. (Reserved)**

Editor's Note: Former § 230-8, Installation and connection of toilet facilities, was repealed 2-26-2003 by L.L. No. 3-2003.

**ARTICLE IV. Private Sewage Disposal**

**§ 230-9. Connection required.**

Where a public sanitary or combined sewer is not available under the provisions of Article III, § 230-8, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

**§ 230-10. Permits.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

Before commencement of construction of a new or reconstruction, replacement, addition or demolition of an existing private sewage system, the owner or his designated agent shall first obtain a written permit signed by the Town Engineer. The application for such permit shall be made on a form furnished by the Town of Rotterdam, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Town Engineer. A permit and inspection fee, as affixed by the Rotterdam Town Board and designated in Chapter 126, entitled "Fees," shall be paid to the Town at the time the application is approved.

**§ 230-11. Inspection by Town Engineer.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Town Engineer. He shall be allowed to inspect the work at any stage of construction and, in any event, the owner or his designated agent applying for the permit shall notify the Town Engineer when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Town Engineer.

**§ 230-12. Compliance with state recommendations required; subsurface soil absorption facilities; discharge into natural outlet prohibited.**

A. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York and/or NYSDEC.

B. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 8,000 square feet on maps filed after June 14, 1955, within a public water supply district and 20,000 square feet if the lot is outside of a public water district.

C. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**§ 230-13. Connection to public sewer; abandonment of private facilities.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article III, § 230-8, a direct connection shall be made to the public sewer in compliance with this Part 2 and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with clean bank-run gravel or dirt.

**§ 230-14. Owner's responsibilities.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

**§ 230-15. Effect on additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

**§ 230-16. (Reserved)**

Editor's Note: Former § 230-16, Time period for connection to public sewer, was repealed 2-26-2003 by L.L. No. 3-2002.

## **ARTICLE V. Building Sewers and Connections**

### **§ 230-17. Permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

### **§ 230-18. New sewer connections, permit applications and fees.**

**[Amended 1-25-1989 by L.L. No. 1-1989; 12-9-1992 by L.L. No. 35-1992; 8-14-1996 by L.L. No. 8-1996 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

All new sewer connections are subject to a sewer connecting fee as set forth in Chapter 126, entitled, "Fees." There shall be two classes of building sewer permits for residential and commercial service and for service to establishments producing industrial wastes and defined to be a significant industrial user. Industrial users shall make application by providing the information requested at the end of this section. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Town Engineer. A permit and inspection fee as set forth in Chapter 126, Fees, shall be paid to the Town at the time the application is approved. A sewer connection fee, as set forth in Chapter 126, entitled "Fees," shall be paid before discharge into the building sewer occurs. Industrial user permits shall conform to and be subject to the following:

- A. The maximum time period for the permit to discharge shall be five years, with provisions for permit extensions.
- B. The permit's terms and conditions may be subject to modification and change by the Town.
- C. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.
- D. An industrial discharger shall apply for a permit modification if production or process is changed so that the wastewater characteristics or flow is altered.
- E. The issued permit shall contain a list of conditions of the permit or of the ordinance which, upon violation of, would result in revocation of the permit.
- F. Permit applications shall include information concerning volume, constituents and characteristics of wastewater, flow rates, each product produced by type, amount and rate of production and description of activities, facilities and plant process on the premises, including all materials processed and types of materials which are or could be discharged.
- G. The conditions of wastewater discharge permits shall be uniformly enforced by the Town in accordance with this Part 2 and applicable state and federal regulations. The permits shall be expressly subject to all provisions of this Part 2 and all other regulations, user charges and fees established by the Town and applicable state and federal regulations.
- H. Permits shall contain specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

### **§ 230-19. Connection, repair and cleaning costs to be borne by owner; indemnification of Town.**

- A. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- B. The owner shall also be responsible for the repair and cleaning of the building sewer from the building to the Town of Rotterdam's public sanitary sewer line or public sanitary sewer manhole.

**[Added 3-25-1998 by L.L. No. 5-1998]**

- C. If the owner fails to repair and/or clean the sewer within 10 days of the owner's receipt of a written notice from the Town to do same, the Town may cause the required repair and/or cleaning to be performed, and the cost thereof shall be added to the next general tax bill of the owner issued by the Town.

**[Added 3-25-1998 by L.L. No. 5-1998]**

### **§ 230-20. Sewers to be separate; exceptions.**

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

### **§ 230-21. Old building sewers.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Town Engineer, to meet all requirements of this Part 2.

### **§ 230-22. Additional construction standards.**

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code Editor's Note: See Ch. 154, Housing and Building Standards, and Ch. 213, Plumbing, or other applicable rules and regulations of the Town.

### **§ 230-23. Elevation of connection; low building drain.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a generally approved means and discharged to the building sewer.

**§ 230-24. Connection of surface runoff and groundwater sources prohibited.**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected, directly or indirectly, to a public sanitary sewer.

**§ 230-25. Connection standards.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Town Engineer before installation.

**§ 230-26. Notification and supervision of connection.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The applicant for the building sewer permit shall notify the Town Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Town Engineer or his representative.

**§ 230-27. Guarding of excavations; restoration.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town Superintendent of Highways.

**ARTICLE VI. Use of Public Sewers**

**§ 230-28. Discharge of unpolluted waters to sanitary sewer prohibited.**

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

**§ 230-28.1. Point of discharge.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

No person shall discharge substances directly into a manhole or other sanitary opening in a sanitary sewer, other than through an approved building sewer.

**§ 230-28.2. Holding tank waste.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

No person shall discharge any holding tank waste into a manhole or other opening in a sanitary sewer. All holding tank waste discharged within the Town of Rotterdam POTW system shall be discharged at a facility at locations designated by the Town Engineer. Each separate load of holding tank waste shall be registered with the operator of the treatment facility. The user shall pay the applicable charges and fees and shall meet such other conditions as required by the Department. The Department shall have the right to inquire about the type of waste, the approximate volumes and the origin of holding tank wastes. The transporter of such wastes shall also have a waste hauler's permit from the NYSDEC.

**§ 230-29. Permitted discharge of unpolluted water.**

**[Amended 12-9-1992 by L.L. No. 35-1992; 2-26-2003 by L.L. No. 3-2003]**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated by the Town Engineer. Industrial cooling water or unpolluted process waters may be discharged, upon issuance of a permit as described in § 230-33.1 of this chapter, to a storm sewer or combined sewer.

**§ 230-30. Prohibited discharges.**

**[Amended 2-26-2003 by L.L. No. 3-2003]**

A. No user shall contribute or cause to be contributed, directly, or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the Town of Rotterdam POTW, whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards or requirements. A user may not contribute the following substances to the Town of Rotterdam POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease and garbage with particles greater than 1/2 inch in any dimension.
- (3) Any wastewater having a pH less than 5.5 or greater than 9.5, unless a permit is specifically issued to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, to produce toxic effect in the receiving waters of the POTW or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW treatment plant effluent or any other product of the treatment plant, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the treatment plant cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act or the Toxic Substances Control Act; or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its New York State Pollutant Discharge Elimination System permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction to the POTW system which exceeds 40° C. (104° F.) unless a permit is issued to accommodate such temperature.

(10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW treatment plant or is in contravention of permit conditions.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town Engineer in compliance with applicable state or federal regulations.

(12) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32° F. and 104° F. (0° C. and 400° C).

(13) Any garbage that has not been properly shredded.

(14) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

B. When the Town Engineer determines that a user(s) is contributing to the POTW any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the Town Engineer shall advise the user(s) of the impact of the contribution on the POTW pursuant to procedures in § 230-43 et seq. of this Part 2.

C. Federal Categorical Pretreatment Standards. Upon the promulgations of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this Part 2 for sources in that subcategory, shall immediately supersede the limitations imposed under requirements under 40 CFR Part 403.12.

#### **§ 230-31. Restricted wastes.**

##### **[Amended 12-9-1992 by L.L. No. 35-1992]**

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Town Engineer, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Town Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plan and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher than 150° F. (65° C.) or in such quantities that the temperature of the treatment works influent exceeds 104° F. (40° C.).

B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32° and 150° F. (0° and 65° C.).

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the Town Engineer.

D. Any waters or wastes containing strong acid iron-pickling wastes or concentrated plating solutions, whether neutralized or not.

E. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substance or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Town Engineer for such materials.

F. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Town Engineer as necessary after treatment of the composite sewage to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by applicable local, state or federal regulations.

H. Any waters or wastes having a pH in excess of 9.5.

I. Materials which exert or cause:

- (1) Unusual concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries and lime residues, or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate.
- (2) Excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (4) Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.

J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

#### **§ 230-32. Limitations.**

**[Amended 12-9-1992 by L.L. No. 35-1992; 2-26-2003 by L.L. No. 3-2003]**

A. No user shall discharge wastewater to the sanitary sewer system when any of the pollutant concentrations exceed the following specified limits. These concentrations shall be applied to wastewater effluents at a point just prior to discharge into the Town sewer system. With the express written consent of the Director of Water and Wastewater, users with multiple discharge outfalls may combine waste streams by calculation to report on wastewater characteristics.

B. No person shall discharge or permit the discharge or infiltration into the Town sewer system of wastes containing the following pollutants in excess of the listed concentrations unless prior approval is granted by the Town Engineer:

- (1) Wastes containing more than 300 milligrams per liter of five-day biochemical oxygen demand.
- (2) Wastes containing more than 350 milligrams per liter of total suspended solids.
- (3) Wastes containing more than 160 milligrams per liter of total organic carbon.
- (4) Wastes containing more than 500 milligrams per liter of chemical oxygen demand.
- (5) Wastewater in volumes constituting greater than 5% of the mean flow influent to the Town's POTW treatment plant.

#### **§ 230-32.1. Applicability of state standards.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Part 2.

#### **§ 230-32.2. Right of revision.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

The Town reserves the right to establish by local law more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 230-5 of this chapter.

#### **§ 230-32.3. Excessive discharge.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

No user shall ever increase the use of process water of, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the Town or state.

#### **§ 230-32.4. Approval of connections.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

No connection with or opening into any sewer, manhole or appurtenances thereto shall be made without the written approval of the Town Engineer. The connection of a building sewer into any Town sewer shall conform to the requirements of the applicable Town regulations.

#### **§ 230-32.5. New or increased discharges.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Written approval by the Town Engineer is required for all new discharges from industrial users added to the Town sewer system. The Town Engineer reserves the right to deny or condition new or increased contributions of wastes or changes in wastewater constituents and characteristics, to require

an industrial user to obtain an industrial wastewater discharge permit as specified in § 230-33.1, to require the development of a schedule of compliance for an industrial user for the installation of technology required to meet pretreatment standards and requirements and/or to require the industrial user to submit to the Department self-monitoring reports.

**§ 230-33. Authority of Town Engineer.**

**[Amended 12-9-1992 by L.L. No. 35-1992; 2-26-2003 by L.L. No. 3-2003]**

A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, containing any substances or possessing characteristics enumerated in this Part 2 or which, in the judgment of the Town Engineer, may have a deleterious impact on the POTW, POTW treatment plant, receiving waters, or POTW treatment plant process residuals, or which may otherwise create a hazard to health, life or constitute a public nuisance, the Town Engineer may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes; and/or
- (5) Require the discharger to apply for an industrial waste discharge permit.

B. If the Town Engineer permits the introduction of said waste into the POTW, whether following pretreatment or an alternative discharge program, the design and installation of the plans and equipment, or implementation of the discharge program, shall be subject to the review and approval of the Town Engineer and subject to the requirements of all applicable codes, ordinances and laws.

**§ 230-33.1. Permit required.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A. It shall be unlawful to discharge, without a state or Town permit (as applicable), to any natural outlet within the Town of Rotterdam or in any area under the jurisdiction of said Town and/or to the POTW any wastewater except as authorized by the Town Engineer in accordance with the provisions of this Part 2.

B. Each industrial user whose wastewater flow and/or wastewater strength is different from that of domestic waste (defined as having a concentration of any parameter in excess of those listed in § 230-32 of this Part 2) or discharges EPA priority pollutants, NYSDEC substances of concern or any other substance which the Town Engineer deems to be of concern must obtain an industrial waste discharge permit prior to connection or discharge to the Town POTW. Each industrial user, as determined by the Town Engineer, currently connected must obtain an industrial waste permit within 180 days after the effective date of this Part 2.

**§ 230-33.2. Application for permit.**

**[Added 2-23-2003 by L.L. No. 3-2003]**

A. Industrial users required to obtain an industrial waste discharge permit shall complete and file with the Department an application in the form prescribed by the Town Engineer at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user may be required to submit, in units and terms appropriate for evaluation, the following information:

- (1) Legal name, address and location of the person, corporation or legal entity responsible for subject establishment.
- (2) The name, address and location of subject establishment.
- (3) The name and telephone number of the person to contact regarding both industrial waste characteristics and the permit application, if different from Subsection A(1) preceding, and the SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (4) Wastewater constituents and characteristics, including but not limited to those mentioned in this Part 2, as determined by a laboratory certified by the State of New York; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(c) of the Act and contained in 40 CFR Part 136, as amended.
- (5) The time and duration of contribution.
- (6) The average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
- (7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation.
- (8) A description of all activities, facilities and plant processes directly related to sewer discharges. This description shall include all those materials which are or could reasonably be expected to be discharged based upon:
  - (a) Hazardous materials as defined by regulations promulgated under the Resource Conservation and Recovery Act (42 U.S.C. § 6901).
  - (b) New York State regulations for solid waste management facilities (6 NYCRR Part 360) and accompanying guidelines.

(c) Priority pollutants as defined by the Clean Water Act.

(d) New York State substances of concern.

(e) Materials deemed to be of concern to the Town of Rotterdam's POTW.

(f) Any other applicable federal, state or local statute, regulation or ordinance.

(g) The most recent versions of the regulations in Subsection A(8)(a) through A(8)(F) preceding, as applicable.

(9) Where known, the nature and concentration of any pollutants in the discharge, which are limited by any Town, state or federal pretreatment standards, a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable treatment standards.

(10) If additional pretreatment and/or O&M will be required to meet the pretreatment standards and the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions may apply to this schedule:

(a) The schedule may contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in Subsection A(10)(a) shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Town Engineer, including, as a minimum, whether or not it complied with the increment progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Town Engineer.

(11) Each product produced by type, amount, process or processes and rate of production.

(12) The type and amount of generic raw materials processed (average and maximum per day).

(13) The number and type of employees and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.

(14) Completion of a NYSDEC industrial chemical survey.

B. The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue an industrial waste discharge permit, subject to terms and conditions provided herein.

### **§ 230-33.3. Permit conditions.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Industrial waste discharge permits shall be expressly subject to all provisions of this Part 2 and all other applicable local laws, regulations, charges and fees established by the Town. The conditions of the industrial waste discharge permit may contain the following:

A. Effluent limitations or other appropriate limitations when toxic substances are present in the user's wastewater discharge.

B. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number types and standards for analytical tests and reporting schedules.

C. Requirements for submission of reports for conditions of noncompliance.

D. Requirements for submission of technical reports or discharge reports.

E. Pretreatment requirements.

F. Requirements for installation and maintenance of inspection and sampling facilities.

G. Schedules for compliance with this Part 2 and other applicable Town local laws.

H. Limits on the average and maximum wastewater constituents, flow rates and time of discharge.

I. Requirements for maintaining and retaining plant records relating to wastewater discharge, to be limited to three years unless specified in the industrial waste discharge permit and affording the Town access thereto and copying thereof.

J. Requirements for notification of the Town Engineer of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

K. The computation and requirement for payment of the industrial waste surcharge or any other applicable fees or charges.

L. Requirements for the submission of information concerning the disposal of waste material separated from the authorized discharge.

**§ 230-33.4. Duration of permit; renewal; modification.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A. Industrial waste discharge permits shall be issued for a specified period of time, not to exceed five years. A permit may be issued for a period less than one year or may be stated to expire on a specific date.

B. In order to renew a permit, the permittee shall have paid all fees relating to this Part 2 no later than 120 days prior to the expiration of the existing permit.

C. The terms and conditions of the permit may be subject to modification and change by the Department during the life of the permit as limitations or requirements as identified in this Part 2 are modified or changed. The permittee shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**§ 230-33.5. Application for modification of permit.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A permittee requesting any modification of a permit shall do so at least 90 days prior to the date the permittee plans to implement the modification. Application to the Town Engineer for modification shall include any information as may be deemed necessary by the Town to evaluate the modification application.

**§ 230-33.6. Transfer of permit.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Industrial waste discharge permits are issued to a specific user for a specific operation. A permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation without the prior approval of the Town Engineer. In the event of any change in ownership of the industrial facility, the permittee shall notify the new owner of the existence of the permit by letter, a copy of which shall be forwarded to the Town Engineer. If the operations and processes are to remain the same, the permit may be approved by the Town Engineer for the new owner. A new industrial waste discharge permit application shall be made by the new owner and facility if any other changes are made other than the control of ownership.

**§ 230-33.7. Suspension, revocation or modification of permit.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Industrial waste discharge permits may be modified, suspended or revoked where the Town Engineer finds, after a hearing held in conformance with the procedures set forth in this Part 2:

A. A violation of any term of the permit or any order or determination of the Town Engineer promulgated under this Part 2 or other applicable Town local laws;

B. That the permit was obtained by misrepresentation or failure to disclose fully all relevant facts;

C. A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Refusal of reasonable access to the permittee's premises for the purpose of inspection or monitoring; or

E. Failure of the permittee to report significant changes in operations or wastewater constituents and characteristics.

**§ 230-33.8. Monitoring facilities.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A. Users who discharge, who propose to discharge or who, in the judgment of the Town Engineer, could discharge now or in the future wastewater with constituents and characteristics different from that produced by a domestic premises shall be required to install a monitoring facility.

B. When, in the judgment of the Town Engineer, there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the Town Engineer may require that separate monitoring facilities be installed for each discharge.

C. Monitoring facilities are to be constructed at a common location into which all flows from the user are combined. Sanitary wastewater may be excluded. Whenever the installation of a monitoring facility in a common location is impossible or impractical, the user shall construct and maintain, at the user's expense, in lieu of one common monitoring facility two or more monitoring facilities as required by the Town Engineer.

D. Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by the user. If sampling and metering equipment is also required by the Department, it shall be provided, installed, operated and maintained at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside of the building. If the monitoring facility is inside the user's fence, there shall be accommodation to allow safe and immediate access for the department personnel, such as a gate secured with a department lock. There shall be ample room in or near such facility to allow accurate sampling and composition of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user. In the event that no special monitoring facility is required, sampling shall be conducted at a point or points selected by the Town Engineer.



**§ 230-33.9. Inspection and sampling.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A. The Town Engineer and other authorized employees of the Department and employees of the EPA and NYSDEC bearing proper credentials and identification shall be permitted to enter all properties at all reasonable times for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain compliance with this Part 2. The Department shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, personnel from the Department will be permitted to enter without delay for the purposes of performing their specific responsibilities.

B. No representative is authorized to require information concerning an industrial process, except to the extent necessary to ascertain the kind and source of discharge to sewers. While on private property, the Town's representatives shall observe all established safety rules applicable to the premises. The Town shall indemnify a property owner against loss or damage to the owner's property and against third-party claims caused by representatives of the Town while upon the property, except for loss or damage or third-party claims caused by the negligence of the owner or the owner's failure to maintain safe conditions.

**§ 230-33.10. Pretreatment.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

A. Where necessary, in the opinion of the Town Engineer, users shall make wastewater acceptable under the limitations established by this Part 2 and by Section 307 of the Federal Act before discharging into the Town sewer system. Any facilities required to pretreat wastewater to a level acceptable to the Department shall be provided and maintained at the user's expense. Detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Town Engineer for review and shall be approved by the Town Engineer before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this Part 2. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Department. When pretreatment regulations are adopted by EPA or NYSDEC for any industry, then that industry must immediately conform to the EPA or NYSDEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by EPA or NYSDEC in accordance with Section 307 of the Federal Act. Additionally, such industries shall comply with any other stringent standards necessitated by local conditions as determined by the Town.

B. The Town may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the Town's pretreatment program.
- (2) Fees for monitoring, inspections and surveillance procedures.
- (3) Fees for reviewing accidental discharge procedures and construction.
- (4) Fees for permit applications.
- (5) Fees for filing appeals.
- (6) Fees for consistent removal by the Town of pollutants otherwise subject to federal pretreatment standards.
- (7) Other fees as the Town may deem necessary to carry out the requirements contained herein.

C. These fees related solely to the matters covered by this Part 2 are separate from all other fees chargeable by the Town.

**§ 230-34. Interceptors.**

**[Amended 12-9-1992 by L.L. No. 35-1992; 2-26-2003 by L.L. No. 3-2003]**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Building inspector and/or the Town Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Building Inspector and/or the Town Engineer and shall be located as to be readily and easily accessible for cleaning and inspection.

**§ 230-35. Maintenance of pretreatment and flow-equalizing facilities.**

Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**§ 230-36. Control manhole.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

When required by the Town Engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Town Engineer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

**§ 230-37. Methods for testing.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Part 2 shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health

Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

**§ 230-38. Special agreements.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor, by the industrial concern. No special agreements shall circumvent the Federal Categorical Pretreatment Standards.

**ARTICLE VII. Damaging of Sewer Works**

**§ 230-39. Prohibited acts; penalties for offenses.**

No person shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**ARTICLE VIII. Powers and Duties of Officials**

**§ 230-40. Authorization of officials.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The Town Engineer and other duly authorized employees of the Town or representatives of NYSDEC or USEPA bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, copying records, observation, measurement, sampling and testing in accordance with the provisions of this Part 2. The Town Engineer or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

**§ 230-41. Indemnification of company liability; observance of safety rules.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

While performing the necessary work on private properties referred to in Article VIII, § 230-40 above, the Town Engineer or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article VI, § 230-36.

**§ 230-42. Right of entry.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The Town Engineer and other duly authorized employees of the Town, NYSDEC or USEPA bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**ARTICLE IX. Penalties**

**§ 230-43. Notice of violations.**

Any person violating any provision of this Part 2, except Article VII, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

**§ 230-44. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person who shall continue any violation beyond the time limit provided for in Article IX, § 230-43, shall be guilty of an offense, and upon conviction thereof, shall be fined in the amount not exceeding \$250 or imprisonment for a term not to exceed 15 days, or both, for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**§ 230-45. Liability for expense, loss and damage.**

Any person violating any of the provisions of this Part 2 shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

**§ 230-46. Disposition of moneys.**

All moneys collected in fees and fines go into the Sewer District Fund.

**§ 230-47. False documentation and tampering with monitoring devices.**

Any person who knowingly makes any false statements, representation, record, report, plan or other documentation filed with the municipality or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Part 2 shall be subject to revocation of the discharge permit.

**ARTICLE X. Additional Industrial Waste Discharge Provisions**

**§ 230-48. General federal and state standards.**

In addition to other provisions of this Part 2, all industries which discharge liquid wastes to the Sanitary Sewer System must comply with federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, hereinafter referred to as the "Act," and any more stringent state standards.

**§ 230-48.1. Special arrangements.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

No statement in this Part 2 shall be construed as preventing any special agreement between the Town Engineer and any industrial concern whereby an industrial waste of unusual constituents or characteristics may be accepted by the Town Engineer for treatment subject to the proper payment by the industrial user. Under no circumstances shall a special agreement circumvent Federal Categorical Pretreatment Standards.

**§ 230-49. Specific standards.**

All significant industrial users shall:

- A. Comply with the pretreatment standards and any other applicable requirements promulgated pursuant to Section 307 of the Act.
- B. Submit a periodic report to the Town Engineer, at intervals not exceeding nine months, of specific actions taken to achieve full compliance with the requirements of Section 307 of the Act.

**[Amended 12-9-1992 by L.L. No. 35-1992]**

- C. Allow property entry by local, state or federal agents for the purpose of inspection, observation, measurement, sampling and testing.

**§ 230-50. Report on effluent.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

All significant industrial users shall submit a quarterly report to the Town Engineer on the quality and quantity of the effluents which they discharge to the sanitary sewer system. The Town Engineer may require other industries discharging wastes to the sanitary sewer system to submit a similar report on a periodic basis as required. Effluent samples shall be collected and analyzed by a laboratory acceptable to the Town Engineer, and the results shall be certified by said laboratory.

**§ 230-50.1. Analytical procedures.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

All measurements, tests and analyses of the constituents and characteristics of waters and wastes to which reference is made in this Part 2 shall be determined in accordance with the latest editions of Standard Methods for the Examination of Water and Wastewater, Methods for Chemical Analysis of Water and Waste of the EPA and the latest version of 40 CFR Part 136, Analysis of Pollutants.

**§ 230-51. Enforcement of pretreatment requirements.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The Town Engineer is hereby authorized to enforce all pretreatment requirements necessary to ensure compliance with the terms and conditions of the Town of Rotterdam State Pollution Discharge Elimination System permit issued pursuant to the Act.

**§ 230-52. Penalties for offenses.**

Violation of the provisions of this article shall subject the offender to civil and criminal penalties and fines in accordance with this Part 2 and the Act.

**§ 230-53. Accidental discharge.**

**[Amended 2-26-2003 by L.L. No. 3-2003]**

A. Each user shall provide protection from accidental and slug discharges of prohibited materials or other wastes regulated by this Part 2, or plans to minimize such occurrences should they occur. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and shall be approved by the Department before construction of the facility.

B. Users shall notify the Department immediately upon discharging wastes in violation of this Part 2 due to:

- (1) Breakdown of pretreatment equipment.
- (2) Accidents caused by human error or negligence or mechanical failure.
- (3) Other causes, such as acts of nature.

C. Such notification will enable countermeasures, to be taken by the Department to minimize damage to the Town sewers, treatment facilities, treatment processes and receiving waters.

D. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violations of this Part 2.

E. The Director shall be notified within five days of the date of occurrence by a detailed written statement describing the causes of the discharge and the measures being taken to prevent future occurrences.

F. Such notification will not relieve users of notice, as described in Subsection B preceding, or of liability for any expense, loss or damage to the sewer system, treatment facility or treatment process or for any fines imposed on the Department on account thereof under Section 309 of the federal Act or any liability for civil or criminal penalties.

**§ 230-54. Conformance to standards required.**

When pretreatment regulations are adopted by USEPA or NYSDEC for any industry, then that industry must immediately conform to the USEPA or NYSDEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of the PL 95-217. Additionally, such industries shall comply with any more stringent standards necessitated by local conditions as determined by the Town.

**§ 230-54.1. Modification of federal standards.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Where the Town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the Town may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95% of the samples taken when measured according to the procedures set forth in 40 CFR Part 403.7(c)(2), General pretreatment regulations for existing and new sources of pollution, promulgated pursuant to the Act. The Town may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR Part 403.7 are fulfilled and prior approval from the approval authority is obtained.

**ARTICLE XI. Sewer Surcharges**

**§ 230-55. Purpose.**

The purpose of the article is to prohibit or regulate the contribution of sewage, industrial wastes or other wastes which require greater expenditures at the treatment plant than are required for equal volumes of normal sewage.

**§ 230-56. Application of charges.**

Sewage surcharge charges shall be applied in accordance with the provisions of Article VI, §§ 230-33 and 230-34. Additional charges for monitoring expenses shall be applied as deemed appropriate.

**ARTICLE XII. Use of Septage Dump Station**

**§ 230-57. Septage waste material for septic tanks.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

Septage waste material removed from residential or commercial septic tanks is permitted to be discharged at the POTW of Sewer District No. 2, provided that the septage hauler obtains a septage dump permit from the Town Engineer and agrees to all permit requirements as specified by the Town Engineer and NYSDEC.

**§ 230-58. Industrial wastes prohibited.**

No industrial wastes are permitted to be discharged at the septage dump station.

**§ 230-59. Rejection of deliveries.**

**[Amended 12-9-1992 by L.L. No. 35-1992]**

The Town Engineer reserves the right to reject any and all septage deliveries if, in his opinion, plant operations may be adversely affected by continued operation of the septage dump station.

**§ 230-60. Septage hauler charges.**

**[Amended 1-25-1989 by L.L. No. 1-1989; 12-9-1992 by L.L. No. 35-1992]**

Septage haulers will be billed on a periodic basis established by the Town Engineer, and haulers may be required to establish a line of credit prior to issuance of a permit. Haulers will pay a charge as set forth in Chapter 126, Fees, for each 1,000 gallons discharged, and larger quantities will be rounded to the next higher five-hundred-gallon increment. A minimum charge will be levied for 1,000 gallons. Failure to pay within a twenty-day period will be grounds for permit revocation.

**§ 230-61. Responsibility of hauler.**

Septage haulers accept full responsibility for the septage discharged at the POTW and must ensure that said materials do not violate any article of this Part 2, particularly Article VI, Use of Public Sewers.

**§ 230-62. Revocation of permit.**

In addition to those penalties identified in Article IX, violations of any provision of Article XII will be grounds for immediate permit revocation.

**ARTICLE XIII. Enforcement**

**§ 230-63. Additional remedies.**

In addition to any other civil or criminal action by the Town to enforce this Part 2, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with and/or to restrain by injunction, the violation of any provision of this Part 2.

**§ 230-64. Punishment as prescribed by law.**

Every violation of this Part 2 shall be punishable as prescribed by law.

**§ 230-65. Confidential information.**

**[Added 2-26-2003 by L.L. No. 3-2003]**

Any information submitted to the Town pursuant to requests or requirements of this Part 2 shall be subject to claims of confidentiality as described in 40 CFR Part 2, with the following exceptions:

- A. The Town Engineer is the control authority rather than the EPA.
- B. As described in 40 CFR Part 403.14(b), effluent data shall be available to the public without restriction.

**CHAPTER 237. SLAUGHTERHOUSES**

- § 237-1. License required.
- § 237-2. License applications; inspection.
- § 237-3. General regulations.
- § 237-4. Duration of license; fee; renewal.
- § 237-5. Existing establishments.
- § 237-6. Revocation.
- § 237-7. Penalties for offenses.
- § 237-8. Definitions.

**CHAPTER 237. SLAUGHTERHOUSES**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 10-10-1957. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fees — See Ch. 126.  
Zoning — See Ch. 270.

**§ 237-1. License required.**

No slaughtering house, rendering works or reduction works or establishments shall be operated or maintained hereafter within the Town of Rotterdam, County of Schenectady, New York, unless and until such works and/or establishments have been duly licensed as hereinafter provided for.

**§ 237-2. License applications; inspection.**

A. Any person, firm, copartnership, association or corporation desiring to obtain permission to operate or maintain a slaughtering house, rendering or reduction works or establishment shall file with the Town Clerk a written application containing the name and residence of the applicant, together with a map showing the location of the slaughtering house, reduction or rendering works or establishment and all buildings and public highways within a radius of 1,000 feet of such premises. There shall also be submitted as a part of said application the plans and specifications of the building within which the slaughtering, rendering or reduction operation and purposes incidental thereto shall be carried on. Such plans and specifications shall show the material used in the construction of said building and shall also show the methods proposed for the disposal of waste and for the sanitary maintenance of said building.

B. Upon receipt of said application the Town Clerk will deliver the same to the Health Officer of the Town of Rotterdam and it shall be the duty of said Town Health Officer of the Town of Rotterdam and/or his duly authorized agent thereupon forthwith to inspect said establishment and/or works sought to be licensed as to conformance with the requirements hereinafter set forth and report the results of his said inspection to said Town Clerk.

**§ 237-3. General regulations.**

The following regulations shall apply to the operation or maintenance of slaughtering houses, rendering or reduction works and/or establishments in the Town of Rotterdam and no permission shall be granted for the operation thereof until said regulations are complied with.

A. The building constructed or to be constructed upon said premises shall conform in all respects as to construction and sanitary facilities prescribed by the laws of the State of New York and the rules and orders of the Department of Health thereof.

B. Said premises shall be located within the proper zoning district and, in addition, shall be at a distance of not less than 1,000 feet from any building used for school or church purposes.

C. All floors shall be of concrete, properly waterproofed, or of some material impervious to liquids, and shall be so constructed as to be easily cleaned.

D. The premises shall have adequate ventilation, and all windows and outer doors shall be adequately screened.

E. There shall be maintained a sufficient supply of hot and cold water under adequate pressure for washing and other operating purposes.

F. Adequate provisions shall be made for the disposal of all waste matter, and all waste matter shall be kept in metal containers equipped with tight covers and shall be regularly cleaned and sterilized.

G. In the case of rendering or reduction works, facilities shall be provided so that, during the cooking process, all odors and gases will be consumed or reduced.

H. The applicant shall file with the Town Clerk written permission for the Town Health Officer, or his duly authorized agent, to inspect the premises from time to time.

I. The operation of said establishments on the Sabbath Day is hereby prohibited and said premises may be operated on other days of the week only between the hours of 7:00 a.m. and 12:00 midnight; emergency slaughtering, however, at other times, may be permitted by the Health Officer and/or his duly authorized agent, to save an injured animal from further pain and suffering.

J. All trucks or other means of conveyance used to remove animal waste products not intended for human consumption from slaughterhouses in the Town of Rotterdam shall have watertight truck bodies or shall have appropriate watertight liners in said truck bodies, and the bodies of said trucks or conveyances shall be either completely enclosed or shall have securely fastened tarpaulins or other similar coverings attached to them so as to cover waste material from view and prevent the same from spilling on the ground upon either private property or on the public highway.

**[Added 9-6-1972 by L.L. No. 7-1972]**

**§ 237-4. Duration of license; fee; renewal.**

A. The license provided for in this chapter shall be issued by the Town Clerk, shall be for a period of one year from January 1, 1958, to December 31, 1958, and said license may be renewed annually thereafter as hereinafter provided for.

B. The annual fee for the license provided for in this chapter shall be as set forth in Ch. 126, Fees, payable at the time of the filing of the application.

**[Amended 3-12-1986 by L.L. No. 4-1986; 1-25-1989 by L.L. No. 1-1989]**

C. Written application for renewal licenses, in lieu of setting forth the information required in § 237-2 hereof, shall contain the name and residence of the applicant, the location of the establishment, a statement whether or not there have been any changes in the establishment since the issuance of the original license; and, if so, the nature of such change and/or changes.

**§ 237-5. Existing establishments.**

All slaughtering houses, rendering works, reduction works or establishments lawfully existing on the effective date of this chapter shall, nevertheless, be subject to all provisions of this chapter other than Subsection B of § 237-3.

**§ 237-6. Revocation.**

The Town Board may revoke any permission heretofore granted by the Town Clerk pursuant to this chapter upon proof that said slaughtering, rendering or reduction works or establishment is being operated in an unwholesome manner so that the same has become a menace to health or that the specifications contained in § 237-3 hereof are being violated. At least 10 days prior to any such revocation, the Town Clerk shall give notice to the applicant of the violation and, also, notify him of the time and place where the hearing and the revocation proceedings will be held. After such hearing, the Town Board may, by resolution, revoke said permission or may temporarily revoke said permission specifying in such temporary revocation the conditions which must be performed before any further operations are conducted.

**§ 237-7. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A violation of this chapter and/or any of the regulations herein contained shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment or by a penalty of not less than \$50 nor more than \$500 to be recovered in a civil action commenced by the Town of Rotterdam pursuant to the terms of this chapter. Each day a slaughtering house, rendering or reduction works or establishment is operated or maintained contrary to the provisions of this chapter shall constitute a separate and distinct violation, and such violation shall be punishable as above.

**§ 237-8. Definitions.**

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

**SLAUGHTERING HOUSE and SLAUGHTERING**

The slaughtering of beef, swine, sheep and other four-footed animals.

**CHAPTER 240. SNOWMOBILES**

**ARTICLE I. Operation on Private Lands**

§ 240-1. Purpose.

§ 240-2. Title.

§ 240-3. Definitions.

§ 240-4. General restrictions.

§ 240-5. Penalties for offenses.

**ARTICLE II. Operation in Parks**

§ 240-6. Prohibited actions.

§ 240-7. Penalties for offenses.

**CHAPTER 240. SNOWMOBILES**

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

**GENERAL REFERENCES**

Parks and playgrounds — See Ch. 194.

**ARTICLE I. Operation on Private Lands**

**[Adopted 1-18-1972 by L.L. No. 9-1972]**

**§ 240-1. Purpose.**

The purpose of this article is to protect the public health, welfare, safety, peace and tranquility by regulating the operation of snowmobiles within the Town of Rotterdam.

**§ 240-2. Title.**

This article shall hereafter be known and cited as the "Town of Rotterdam Snowmobiles Local Law."

**§ 240-3. Definitions.**

For the purpose of this article, the terms used herein are defined as follows:

**SNOWMOBILE**

A self-propelled vehicle designed for travel on snow or ice steered by skis or runners and supported in part by skis, belts or cleats.

**§ 240-4. General restrictions.**

It shall be unlawful for any person to drive or operate any snowmobile on private lands, irrespective of zoning, within the Town of Rotterdam within 300 feet of any dwelling or dwelling house between the hours of 10:00 p.m. and 7:00 a.m., where said dwelling or dwelling house is located in any but an agricultural zone.

**§ 240-5. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A failure to comply with the provisions of this article shall be deemed a violation, and the violator shall be liable to a fine of not more than \$250 or imprisonment for a term not to exceed 15 days, or both.

**ARTICLE II. Operation in Parks**

**[Adopted 3-12-1986 by L.L. No. 4-1986]**

**§ 240-6. Prohibited actions.**

The operation of snowmobiles within all public parks of the Town of Rotterdam, at any time of day or night, is hereby prohibited, except that snowmobiles are the only motorized vehicles that will be permitted on the western portion of the Riverfront Bike/Hike Trail in the Town of Rotterdam, the area designated commencing at Scrafford Lane, eastward to the mouth of the Plotterkill at the Triple Arch Bridge (Baan's Orchard), during the months commencing November first of each year and terminating on April first of the following year. Signs will be posted in this area indicating permitted use of snowmobiles.

**§ 240-7. Penalties for offenses.**

There is hereby imposed a fine not exceeding \$250 or imprisonment for a term not exceeding 15 days, or both, for violation of this article.

**CHAPTER 244. SOLID WASTE**

**ARTICLE I. Disposal**

**§ 244-1. Definitions.**

**§ 244-2. Applicability; use of land as disposal site restricted.**

**§ 244-3. General regulations.**

**§ 244-4. Transportation.**

**§ 244-5. Large articles.**

**§ 244-6. Deposit to be by direction of person in charge.**

**§ 244-7. Burning.**

**§ 244-8. Residence and business permits; waste originating outside Town.**

**§ 244-9. Waste collector permits.**

**§ 244-10. Temporary permits.**

**§ 244-11. Penalties for offenses.**

**§ 244-12. Inspections of trucks and carriers.**

**§ 244-13. Revocation of permit.**

**§ 244-14. Landfill disposal regulations.**

**ARTICLE II. Recycling**

**§ 244-15. Purpose.**

**§ 244-16. Definitions.**

**§ 244-17. Separation and collection of recyclables.**

**§ 244-18. Enforcement.**

**ARTICLE III. Yard Waste: Scavenging**

**§ 244-19. Nonrecyclable waste and yard waste packaging; scavenging.**

**ARTICLE IV. Penalties**

**§ 244-20. Penalties for offenses.**

**CHAPTER 244. SOLID WASTE**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fees — See Ch. 126.

Automobile junkyards — See Ch. 173.

Outside storage of vehicles and junk — See Ch. 264.

Zoning — See Ch. 270.

**ARTICLE I. Disposal**

**§ 244-1. Definitions.**

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

**GARBAGE**

Putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods and any other matter capable of fermentation.

**HAZARDOUS WASTE**

Any solid waste that is considered a hazardous waste using the classification and standards established and promulgated by the New York State Department of Environmental Conservation and/or the Environmental Protection Agency. In the case of a difference in classification, more stringent interpretation will be used.

**SANITARY LANDFILL**

A land disposal employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards and the design and operation requirements as promulgated by state and/or federal regulatory agencies.

**SOLID WASTE**

Any rubbish, garbage, refuse, sludge, building demolition and debris, or any solid, liquid or semisolid material resulting from industrial, commercial, residential, agricultural or community activities which has served its original intended use and is being discarded.

**TOWN ENGINEER**

A licensed professional engineer of the Town of Rotterdam overseeing the operation of the Town of Rotterdam Sanitary Landfill or a duly authorized representative appointed by the Rotterdam Town Board.

**WASTE COLLECTOR**

An individual, firm or corporation engaged in the business of collecting solid waste from residences, businesses or industries and transporting this material to a solid waste disposal site.

**§ 244-2. Applicability; use of land as disposal site restricted.**

A. This article shall apply to any lands now used or hereafter acquired or leased by said Town for the purpose of disposal of solid waste and/or use as a sanitary landfill.

B. Other uses prohibited. The use of any lands, other than those described in Subsection A hereof, within the Town of Rotterdam as a disposal site for solid waste, is hereby prohibited, except those sites that have been approved by the New York State Department of Environmental Conservation (DEC) and the Town of Rotterdam.

**§ 244-3. General regulations.**

A. No person, firm or corporation, for the purpose of final disposal thereof shall throw, deposit or cause to be thrown or deposited any solid waste thereof in or upon any lands within said Town of Rotterdam except upon the approved solid waste disposal sites as described in § 244-2A hereof.

B. No person, firm or corporation shall leave or deposit any form of solid waste of any kind upon any street, avenue, highway, park or public place within the Town of Rotterdam, except that householders and business places may place garbage and refuse, in proper covered containers, in front of their premises for authorized collection and removal to the public dumping grounds described in § 244-2A hereof.

C. No person, firm or corporation shall, for the purpose of final disposal, throw or cause to be thrown or deposited upon the sanitary landfill area described in § 244-2A hereof, any waste materials from septic tanks, cesspools or any other sewerage disposal. The disposal of any hazardous wastes at the sanitary landfill is hereby prohibited.

D. It shall be unlawful for solid waste containers which might attract flies and bugs and create a health menace to be left uncovered on any property, and the owner and/or occupant of such property shall be responsible and liable for any violation thereof.

E. No garbage or other solid waste which contains liquids or can ferment shall be placed in any container with a hole or holes therein.

F. The Town Board of the Town of Rotterdam may, by local law or contract with a private party, establish a schedule of charges and/or fees levied upon all garbage and refuse collectors, contractors, businesses, commercial enterprises and Town residents of Rotterdam using the sanitary landfill area. Said fees and/or charges will be set forth in Chapter 126 of the Code of the Town of Rotterdam, entitled "Fees." Outside municipalities or private commercial enterprises using or operating the Town sanitary landfill under contract with the Town of Rotterdam will be assessed and charged as set forth within the executed contract between the parties and be subject to the same rules and regulations as herein designated.

G. The above-described sanitary landfill area shall be open during the hours set by the Town Board, and posted at the direction of said Town Board. All entry upon and/or use of said sanitary landfill area, at times other than during the hours which it is open as aforesaid, is hereby prohibited, except for personnel of the Town authorized to enter upon and/or work at the sanitary landfill area during times when said sanitary landfill area is closed.

H. Waste collectors will not be permitted to dispose of solid waste at the landfill after 3:30 p.m. on those days that the sanitary landfill is open.

**§ 244-4. Transportation.**

A. All solid waste transported, brought and/or carried to the disposal site(s) of the Town of Rotterdam, shall be contained securely and battened down within or upon the vehicles transporting same. An open body shall be required to completely cover the solid waste with tarpaulin or other protective enclosing material to prevent any portion or part of solid waste being transported from falling from the vehicle. The landfill gate attendant is authorized to issue a summons to offenders who violate this section of this article.

B. All trucks, transporting solid waste, with or without rubbish, shall have watertight metal containers which shall be kept clean when not in use. If solid waste is not in watertight containers, the body of this vehicle itself must be reasonably tight. Vehicles must be kept in reasonably good mechanical and body condition. They must be kept as sanitary as the nature of the use permits. The commercial collector vehicles must bear the name of the collector's license number in letters at least six inches high. Each vehicle shall also bear the number of cubic yards it is rated for. A certificate issued from the Department of Public Works must be filed with the permit application showing physical compliance with this article.



**§ 244-5. Large articles.**

No person shall carry or leave or cause to be carried or left upon the premises mentioned in § 244-2A of this article any automobile, vehicle or other large article or any part thereof unless the same shall have been dismantled and the body thereof so cut and flattened out as to permit the same to be disposed of properly in accordance with the accepted standards of a landfill operation or as approved by the Town Engineer or his representative.

**§ 244-6. Deposit to be by direction of person in charge.**

No person shall deposit or cause to be deposited any substance of any kind on the disposal site herein designated, except at the places and in the manner directed by the person in charge of the premises under the authority of the Town Board, whether such direction shall be given personally or by another person by his authority or by a sign or signs erected upon the premises by his authority.

**§ 244-7. Burning.**

No material or substance of any kind shall be burned at the Town's solid waste disposal site(s), except by permission of the person in charge.

**§ 244-8. Residence and business permits; waste originating outside Town.**

A. All residents and business enterprises located within the Town and whose solid waste material originates within the Town who use their own vehicles or other means of conveying their solid waste to the sanitary landfill shall register and obtain a permit from the Town Clerk. The annual permit fee charged for businesses using their own vehicles will be the same charge as the rate charged for one disposal at the landfill, as specified in Chapter 126 of the Town Code, entitled "Fees."

B. The disposal at the Rotterdam sanitary landfill site(s) of any solid waste originating outside the boundaries of Schenectady County is hereby prohibited. The Town may accept solid waste from private or municipal entities within Schenectady County by special contract.

C. Resident permits shall be issued on or before the first day of January of any calendar year and shall be for the period covering January 1 to December 31 of such calendar year.

D. Permits must be properly affixed to the visor window of the permitted vehicle. The landfill attendant will require proof of identification that the vehicle is properly registered to a resident of Rotterdam.

E. Business enterprises not wholly located within the Town of Rotterdam may be limited on the maximum quantity of solid waste material accepted at the Town's disposal site. The Town Engineer may restrict quantities, using as a basis an equitable method such as percentage of property assessment within the Town relative to total property assessment or some other procedure that would fairly provide for the proper quantities generated within the Town.

**§ 244-9. Waste collector permits.**

A. A permit shall be issued by the Town Clerk to each waste collector upon the payment by the applicant of a fee as set forth in Chapter 126, Fees. Every waste collector who collects solid waste within the Town of Rotterdam must obtain a waste collector permit. Rental trucks may be substituted for regularly permitted trucks without fee while the same are out of order for repair, but they must carry the same identification markings as the trucks they replace if they are to be used for more than five days in succession; however, their use must be first reported to the Town Clerk no matter how long they are to be substituted.

B. Waste collectors shall not collect garbage and/or rubbish on Sundays or such days as the Town Board shall from time to time so direct. All waste collectors must unload solid waste only during those times and days established by the Town Board. No collection of garbage and/or rubbish shall be permitted at any location in the Town of Rotterdam between sunset on any given day and the hour of 6:00 a.m. official local time on the succeeding day. There shall be no collection of garbage and/or rubbish in a commercial area located within the boundaries of Patton Drive, Altamont Avenue, O'Brien Avenue and Hamburg Street in the Town of Rotterdam between sunset on any given day and the hour of 7:00 a.m. official local time on the succeeding day.

C. All permits shall be issued on or before and be effective as of January 1 of any year and shall be for the period covering January 1 to December 31 of such calendar year.

D. In addition to the other requirements of this article, all waste collector permit applications shall include or comply with the following:

(1) A schedule of rates to be charged and services to be rendered, together with the approximate hours of collection in each block or a map showing the approximate hours of collection in each area shown shall be furnished. The term "approximate" shall mean whether morning or afternoon hours and on what day. A separate schedule must be furnished for each vehicle.

(2) A statement shall be furnished of where the refuse will be deposited, if it is intended that a site outside the Town of Rotterdam will be used.

(3) Applications must be filed six weeks before a permit expires or is to become effective to allow for proper investigation and processing.

(4) All permit applications shall be investigated by the Town Engineer, who will advise the Town Clerk of his findings for further processing and issuance or denial of the permit.

(5) Permits described in § 244-9A are limited to collectors collecting in the Town of Rotterdam exclusively. All other permits are controlled by § 244-8.

(6) A roster of permittees and their employees shall be maintained by the Town Clerk for public inspection.

(7) A copy of this article shall be given to all collectors when requesting application forms. The application shall state that they have read this article. They shall agree to abide by rules of landfill operation as adopted from time to time by the Town Board consistent with the limitations and purposes of this article.

(8) Each collector shall file a certificate of a public liability policy of \$10,000/\$20,000 and a certificate of his vehicle liability policy with the Town Clerk and shall in his application agree to indemnify any person not to exceed \$1,000 for any single act of dishonesty in or about such person's place of abode by any of the collector's employees.

E. The disposal by any waste collector at the sanitary landfill of any solid waste originating outside the Town of Rotterdam is prohibited.

#### **§ 244-10. Temporary permits.**

A limited use, three-day permit, shall be issued for out-of-town businesses doing work within the Town of Rotterdam, subject to verification and approval by the Department of Public Works. The fee for this temporary permit will be as set forth in Chapter 126, Fees.

#### **§ 244-11. Penalties for offenses.**

A. Any waste collector who violates § 244-9E of the Town Code shall be guilty of a violation and, upon conviction thereof, be punishable by a maximum fine of \$250, and be prohibited from disposing of solid waste at the landfill for one month for the first offense and two months for the second offense, and three offenses automatically bans the waste collector from using the landfill again.

B. Any violation of this article, other than as provided in Subsection A, by any person shall constitute a violation and shall be punishable by a fine not less than \$250 and no more than the sum of \$500. Each subsequent violation will be punishable by a fine of not less than \$500 and no more than \$750.

#### **§ 244-12. Inspections of trucks and carriers.**

The Public Works Department of the Town of Rotterdam is charged with the inspection of all trucks and other carriers transporting garbage prior to issuance and renewal or during the period of time that permits are in effect; and also with the enforcement of all the other provisions of this article.

#### **§ 244-13. Revocation of permit.**

In addition to the penalties hereinbefore provided for, the Town Board may, after a public hearing thereon, at which the licensee or special permittee shall have an opportunity to be heard, revoke any permit issued under authority of this article to any applicant whom the Town Board shall determine to be an undesirable person or incapable of or unwilling to comply with the provisions of this article.

#### **§ 244-14. Landfill disposal regulations.**

A. Waste disposal. Any object over five feet in length may be refused admission if, in the opinion of the landfill attendant in charge, the object would obstruct proper functioning of the landfill.

B. Commercial haulers and/or collectors. Drivers of all commercial collectors' vehicles shall sign an appropriate charge sheet upon each admittance showing the charge incurred, and the waste collectors shall be billed on a regular periodic basis, not less frequently than monthly. Charges shall be payable within 10 days of billing, and collectors who do not pay within said period will be charged a penalty of 1 1/2% per month on the unpaid balance and shall be barred from further use of the dumping facility until their bills are paid. Repeated delinquency shall be grounds for cancellation of the collector's permit.

C. All vehicles which contain mixed loads of solid waste and construction and demolition debris (C&D) should be charged 1 1/2 times the C&D disposal rate, as set forth in Chapter 126 of the Town Code, entitled "Fees," unless the owner separates the material prior to disposal, which would qualify them to be charged the C&D rate, as set forth in Chapter 126 of the Town Code, entitled "Fees," for the entire load.

### **ARTICLE II. Recycling**

#### **§ 244-15. Purpose.**

The purpose of this article is to facilitate the disposal of solid waste generated within the Town of Rotterdam 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.

#### **§ 244-16. Definitions.**

As used in this article, the following words are intended to include and be defined as follows:

##### **BOARD**

The Town Board of the Town of Rotterdam.

##### **MULTIPLE RESIDENCE**

A building or parcel of land having four or more dwelling units.

##### **NEWSPAPERS**

Includes inserts; no magazines.

##### **NONRESIDENCE**

Any building or parcel of land not used as a residence or a multiple residence.

##### **PERSON**

Any individual, partnership, association, firm, corporation, company or any and all combinations acting in concert.

##### **RECYCLABLE MATERIALS**

Solid waste consisting of newspapers, plastic bottles, metal containers and glass containers (only clear, green and brown glass containers).

##### **RESIDENCE**

A building or parcel of land having three or fewer dwelling units.

##### **RESIDENT**

A person residing in a residence.

##### **SOLID WASTE**

All putrescible or nonputrescible materials or substances 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, yard and agricultural waste, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles, offal and sludges from air or water control facilities, but not including sewage and other highly dilute water-carried materials or substances and those in gaseous form.

##### **UNSEPARATED RECYCLABLE MATERIALS**

Recyclable materials, as specified herein, that are mixed with other solid waste.

**§ 244-17. Separation and collection of recyclables.**

A. It shall be the responsibility of all persons of the Town, prior to placement of solid waste for collection and removal, to source-separate recyclable materials from all other solid waste and place them out for collection in the following manner:

- (1) Glass and metal containers shall be clean and all contents shall be removed therefrom in the following manner: caps shall be removed, paper labels shall be removed from metal containers and cans must be flattened with ends cut off, if possible, and inserted inside.
- (2) Newspapers for collection shall be placed in containers or secured in such a manner as to be clean and dry.
- (3) Plastic bottles shall be clean and all contents shall be removed therefrom, including the caps.
- (4) Recyclables shall not be placed in the same container as or otherwise mixed with other forms of solid waste which consist of recyclable materials combined with other forms of solid waste.

B. On or after July 1, 1994, it shall be the responsibility of all persons of the Town, prior to placement of solid waste for collection and removal, to separate the following additional recyclable materials from all residential solid waste and place them out for collection in the following manner:

- (1) Corrugated cardboard, junk mail, brown paper bags and magazines for collection shall be placed in containers or secured in such manner as to be clean and dry.
- (2) Aseptic packaging, which includes milk cartons and juice boxes, must be clean and all contents shall be removed therefrom.

C. It shall be unlawful for any person to collect and dispose of solid waste which consists of recyclable materials combined with other forms of solid waste.

D. All persons owning or otherwise responsible for the management of nonresidences and multiple residences shall provide for the separate collection of recyclables and distinguish them from other forms of solid waste.

E. Other materials to be excluded from solid waste. Tires, white goods and scrap metals are not to be disposed of, collected as or mixed with solid waste. These items must be delivered to facilities registered with the State of New York, permitted or exempted from 6 NYCRR Part 360 permitting.

**§ 244-18. Enforcement.**

A. The Superintendent of Highways, the Sanitary Landfill Inspector 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 Rotterdam.
- (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 article.

B. The Superintendent of Highways, the Sanitary Landfill Inspector 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.

**ARTICLE III. Yard Waste: Scavenging**

**§ 244-19. Nonrecyclable waste and yard waste packaging; scavenging.**

A. Yard waste, which means leaves, grass clippings, garden debris, tree branches, limbs and brush, must be packaged for disposal in the following manner:

- (1) All leaves, grass clippings and certain garden debris must be placed in biodegradable brown paper bags prior to being left adjacent to the road along the front property line to be picked up by the Town Highway Department for disposal.
- (2) All such material delivered to the disposal site must either be packaged in biodegradable brown paper bags or not packaged for disposal.
- (3) All tree branches, brush and limbs must be cut to a maximum length not to exceed four feet, have a diameter not to exceed six inches and be tied together in bundles with cloth or rope prior to being left adjacent to the road along the front property line to be picked up by the Town Highway Department for disposal.
- (4) All yard waste placed adjacent to the road along the property line must be packaged in accordance with the requirements of this subsection. Any loose yard waste, including leaves, that is placed adjacent to the roadway that is not packaged appropriately is subject to the penalties of this article.

B. Nonrecyclable solid waste, with the exception of leaf and yard waste, shall be placed in clear plastic bags.

C. Scavenging within the Town of Rotterdam is prohibited.

**ARTICLE IV. Penalties**

**§ 244-20. Penalties for offenses.**

Violation of §§ 244-17 and 244-19 of this chapter shall be punishable as follows:

- A. For a first conviction: a fine of not less than \$50.
- B. For a second conviction: a fine of not less than \$100.
- C. For a third conviction: a fine of not less than \$200.
- D. After a third conviction, said person, firm or corporation shall be denied the use of the Rotterdam Sanitary Landfill.

CHAPTER 245. (RESERVED)

**[Former Ch. 245, Solid Waste Recycling, adopted 1-24-1990 by L.L. No. 1-1990, was superseded at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 244, Solid Waste.]**

CHAPTER 247. STREETS AND SIDEWALKS

ARTICLE I. Use

§ 247-1. Obstruction prohibited.

§ 247-2. Restrictions.

§ 247-3. Removal of obstacles.

§ 247-4. Penalties for offenses.

ARTICLE II. Construction and Repair of Sidewalks

§ 247-5. Permit required.

§ 247-6. Applicability.

§ 247-7. Location.

§ 247-8. Materials.

§ 247-9. Grades.

§ 247-10. Width and thickness; telephone poles.

§ 247-11. General provisions.

§ 247-12. Penalties for offenses.

ARTICLE III. Depositing of Snow

§ 247-13. Placement of snow or ice on municipal property.

§ 247-14. Penalties for offenses.

ARTICLE IV. Notification of Defects

§ 247-15. Notice required for maintenance of action.

§ 247-16. Maintenance of records.

§ 247-17. Time period for transmission to Clerk and Town Board.

§ 247-18. Effect on statutory provisions.

CHAPTER 247. STREETS AND SIDEWALKS

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

**GENERAL REFERENCES**

Delivery and service personnel — See Ch. 104.

Excavations — See Ch. 121.

Hawking, peddling and soliciting — See Ch. 150.

Jogging — See Ch. 169.

Subdivision of land — See Ch. 249.

**ARTICLE I. Use**

**[Adopted 4-16-1921]**

**§ 247-1. Obstruction prohibited.**

No person shall leave, place or deposit in any of the public highways, streets or sidewalks of the Town of Rotterdam any building material or any obstruction to the free and perfect use thereof; nor encumber the sidewalks or streets or highways with any articles of merchandise, boxes or other articles or obstruct the use of any streets, sidewalks or highways by the use of any motorcycle, bicycle, tricycle, pushcart or other vehicle so as to interfere with the free and unobstructed use of said highway, sidewalk or street, except if it is necessary for the purpose of going to and from a yard or lot.

**§ 247-2. Restrictions.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A. No person shall assemble with another person or persons upon any sidewalk, street or highway in the Town of Rotterdam or so congregate in groups so as to interfere with the free and unobstructed use of such street or highway or sidewalk or to congregate in any public place that may annoy or interfere with persons lawfully using such highway, street or sidewalk.

B. No person shall injure or interfere with or damage any trees that may be located within the bounds of the highway.

**§ 247-3. Removal of obstacles.**

**[Amended 7-9-2003 by L.L. No. 9-2003]**

The Town Highway Superintendent or any of his deputies or any peace officer is hereby authorized to remove any obstacle that may have been left or placed in any public place, highway, street or sidewalk, at any time an encroachment may be discovered.

**§ 247-4. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any person violating any of the provisions of this article shall, upon conviction before a Justice of the Town of Rotterdam, be fined in a sum not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both, for each offense.

**ARTICLE II. Construction and Repair of Sidewalks**

**[Adopted 3-12-1937]**

**§ 247-5. Permit required.**

No person, firm, corporation and/or its agents shall be permitted to construct, repair, alter or reconstruct sidewalks without first securing a permit from the Town Superintendent of Highways and complying with the conditions and specifications hereinafter set forth.

**§ 247-6. Applicability.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

This article shall cover and apply to all streets and highways in the Town of Rotterdam.

**§ 247-7. Location.**

A. The street side, that is, the inside edge of the walk, is to be exactly five feet, measured from the back of the curb; or 5 1/2 feet, measured from the face of the curb.

B. Construction is to be of portland cement, washed sand and washed No. 2 gravel mixed to a proportion of 1:2:4, or one bag of cement, two cubic feet of washed sand and four cubic feet of washed No. 2 gravel.

C. The reconstruction and repair of said sidewalks shall be made in good and workmanlike manner, and no deviation from the above specifications will be permitted.

**§ 247-8. Materials.**

Portland cement, washed sand and washed No. 2 gravel are to be the standard materials used, mixed to the aforementioned proportions of 1:2:4 or, namely, one bag of cement, two cubic feet of washed sand and four cubic feet of washed No. 2 gravel.

**§ 247-9. Grades.**

The grade of the street or inside edge of the sidewalk is to be exactly 1 1/4 inches above the curb immediately adjacent to it; whereas, the outside edge of the walk closest to the property line is to be 2 1/2 inches above that point in the curb directly adjacent to it.

**§ 247-10. Width and thickness; telephone poles.**

A. The standard width of the sidewalk is to be exactly five feet, thereby making the street side of the walk five feet from the back of the curb, and the property line side of walk is to be one foot from the aforementioned property line.

B. The thickness of said sidewalk or sidewalks is to be in no case less than four inches, but may be thicker if the property owner or contractor desires to make it so.

C. Telephone poles. The center of telephone poles shall be located two feet from back of curb or 2 1/2 feet from the face of the curb.

**§ 247-11. General provisions.**

Permits to construct, reconstruct or repair sidewalks shall be issued by Superintendent of Highways of the Town of Rotterdam. A permit, when so issued, shall be valid for 30 days. No charge shall be made for such permit. The permit may be revoked by the Superintendent of Highways for cause and/or failure to comply with specifications hereinbefore set forth. Revocation of the permit may be made orally or in writing. In the event that the permit is revoked, it shall be unlawful for the person holding said permit, the owner of premises and/or his agents and employees to continue with the construction, reconstruction or repair of the sidewalks. Notice shall be given to the Superintendent of Highways by the owner or his contractor of commencement of work. The Superintendent of Highways shall, within 48 hours from receipt of said notice, make an inspection of said work. Disputes as to grades, thickness of concrete, workmanship and proper manner of construction of sidewalks shall be decided by the Town Engineer. His decision shall be final unless the party aggrieved shall, within 10 days after the Engineer's decision, apply to the Town Board to review the same. No construction, repair or reconstruction of sidewalks shall be carried on after revocation of permit or pending the decision of the Town Engineer or the Town Board. The decision of the Town Board shall be final. Violations of this article shall be prosecuted by the Superintendent of Highways. No concrete shall be mixed or prepared on the street surface or curbing and such mixing or preparing concrete on the street surface or curbing is hereby declared a violation of this article.

**§ 247-12. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

Any violation of this article shall be punishable by a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.

**ARTICLE III. Depositing of Snow**

[Adopted 2-18-1970 by L.L. No. 4-1970; amended in its entirety 9-10-2003 by L.L. No. 17-2003]

**§ 247-13. Placement of snow or ice on municipal property.**

No person shall plow, shovel or otherwise place snow or ice on municipal property. For purposes of this section, municipal property shall include all parcels of property owned by any municipality. Municipal property shall also include all municipal rights-of-way, including all sidewalks thereon.

**§ 247-14. Penalties for offenses.**

Violation of this article shall be punishable by a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.

**ARTICLE IV. Notification of Defects**

[Adopted 6-20-1984 by L.L. No. 6-1984]

**§ 247-15. Notice required for maintenance of action.**

No action or special proceeding shall be prosecuted or maintained against the Town of Rotterdam for personal injury or damages to real or personal property alleged to have been sustained by reason of any street, highway, bridge, culvert, sidewalk or crosswalk being out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of snow or ice thereon, unless it appears that the written notice of the defective, unsafe, dangerous or obstructed condition, or the existence of snow or ice, was actually given to the Town Clerk or the Town Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to report or remove the defect, danger or obstruction complained of, or to cause the snow or ice to be removed, or the place otherwise made reasonably safe.

**§ 247-16. Maintenance of records.**

[Amended 7-9-2003 by L.L. No. 9-2003]

The Town Clerk and the Town Superintendent of Highways shall keep an indexed record, in a separate book, of all notices which it shall receive of the existence of such defective, unsafe, dangerous or obstructed conditions, or of such snow or ice, 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. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

**§ 247-17. Time period for transmission to Clerk and Town Board.**

The Town Superintendent of Highways shall transmit, in writing to the Town Clerk, within five days after the receipt thereof, all written notices received by him pursuant to this article and Subdivision 2 of § 65-a of the Town Law, to be presented to the Town Board within five days of the receipt or at the next succeeding Town Board meeting, whichever shall be sooner.

**§ 247-18. Effect on statutory provisions.**

This article shall supersede, in its application to the Town of Rotterdam, Subdivisions 1 and 3 of § 65-a of the Town Law.

**CHAPTER 249. SUBDIVISION OF LAND**

- § 249-1. Authorization of plat approval by Planning Commission.
- § 249-2. Declaration of policy.
- § 249-3. Effect on statutory provisions.
- § 249-4. Purpose.
- § 249-5. Definitions.
- § 249-6. Application for approval required.
- § 249-7. Sketch plan approval.
- § 249-8. Minor subdivision approval.
- § 249-9. Preliminary plat approval for major subdivisions.
- § 249-10. Final plat approval for major subdivisions.
- § 249-11. Required improvements.
- § 249-12. Filing of approved plat.
- § 249-13. Public streets and recreation areas.
- § 249-14. Compliance to standards required.
- § 249-15. General standards.
- § 249-16. Layout of streets.
- § 249-17. Street design.
- § 249-18. Street names.
- § 249-19. Construction of sidewalks; responsibility for maintenance and assumption of liability.
- § 249-20. Lots.
- § 249-21. Drainage systems.
- § 249-22. Open space; natural features.
- § 249-23. Contents of sketch plans.
- § 249-24. Contents and specifications of minor subdivision plats.
- § 249-25. Contents and accompanying data of major subdivision preliminary plats.
- § 249-26. Contents and accompanying data of major subdivision final plats.
- § 249-27. Variances and waivers.

Attachments:

249a Subdivision Design Details

**CHAPTER 249. SUBDIVISION OF LAND**

[HISTORY Adopted by the Town Board of the Town of Rotterdam 8-19-1970. Amendments noted where applicable.]

**GENERAL REFERENCES**

Environmental quality review — See Ch. 116.

Excavations and open wells — See Ch. 121.  
Fees — See Ch. 126.  
Flood damage prevention — See Ch. 134.  
Sewers — See Ch. 230.  
Streets and sidewalks — See Ch. 247.  
Naming and numbering of streets — See Ch. 250.  
Zoning — See Ch. 270.

**§ 249-1. Authorization of plat approval by Planning Commission.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

By authority of a resolution adopted by the Town of Rotterdam, pursuant to the provisions of Article 16 of the Town Law, and acts amendatory thereto, the Planning Commission has the power and authority to approve plats for subdivisions within the Town of Rotterdam.

**§ 249-2. Declaration of policy.**

It is hereby declared to be the policy of the Town of Rotterdam Planning Commission to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health, or peril from fire, flood or other menace. Proper provision shall be made for drainage, water, sewerage and other needed improvements. The proposed streets and development shall compose a convenient street system and shall be properly related to the Official Map and/or the Master Plan of the Town of Rotterdam as either may be adopted or accepted as guides for the future development of the town. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air, and to facilitate fire protection. In proper cases, park area of suitable location, size and character for playground or other recreational purposes shall be shown on the subdivision plat and dedication of and/or fees in lieu of land may be required for public uses serving the subdivision.

**§ 249-3. Effect on statutory provisions.**

Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

**§ 249-4. Purpose.**

In order that land may be subdivided in accordance with this policy, these regulations are hereby adopted.

**§ 249-5. Definitions.**

For the purpose of these regulations, certain words and terms used herein are defined as follows:

**COLLECTOR STREET**

A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**CUL-DE-SAC STREET**

A street or a portion of a street with only one vehicular outlet and having a turning loop or similar arrangement at the closed end.

**EASEMENT**

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**MAJOR STREET (ARTERIAL)**

A street which does not provide direct access to abutting properties and which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

**MAJOR SUBDIVISION**

Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or extension of municipal facilities.

**MASTER PLAN**

A comprehensive plan, prepared by the Planning Commission pursuant to Article 16 of the 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 any amendment to such plan or parts therein.

**MINOR STREET**

A street intended to serve primarily as an access to abutting properties.

**MINOR SUBDIVISION**

Any subdivision containing no more than four lots fronting on an existing 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 property and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance Editor's Note: See Ch. 270, Zoning, or these regulations.

**OFFICIAL MAP**

The map established by the Town Board pursuant to Article 16 of the Town Law, showing streets, highways and parks and drainage, both existing and proposed.

**PLANNING COMMISSION or COMMISSION**

The Planning Commission of the Town of Rotterdam.

**PRELIMINARY PLAT**

A drawing or drawings clearly marked "preliminary plat," showing the salient features of a proposed subdivision, as specified in § 249-24 of these regulations, submitted to the Planning Commission for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Commission of the layout of the proposed subdivision.

**SKETCH PLAN**

A sketch of a proposed subdivision showing the information specified in § 249-22 of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the layout and objectives of these regulations.

**STREET**

Includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

**STREET PAVEMENT**

The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH**

The width of right-of-way, measured at right angles to the center line of the street.

**SUBDIVIDER**

Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**SUBDIVISION**

The division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways and includes resubdivision.

**SUBDIVISION PLAT or FINAL 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 Commission for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Registrar.

**TOWN ENGINEER**

A duly designated engineer of the town.

**§ 249-6. Application for approval required.**

Whenever 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, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

**§ 249-7. Sketch plan approval.**

A. Submission of sketch plan. Any owner of land shall, prior to subdividing or resubdividing land, submit to the Chairman of the Planning Commission at least 10 days prior to the regular meeting of the Commission, two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § 249-22 for the purposes of classification and preliminary discussion.

B. Discussion of requirements and classification.

(1) The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Commission to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

(2) A determination is to be made at this time by the Planning Commission as to whether the proposed subdivision is a minor or major subdivision as defined in these regulations. The Commission may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with some or all of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in § 249-8 of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures in §§ 249-9, 249-10 and 249-11.

C. Study of sketch plan. The Planning Commission shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Commission.

D. Application fee. An application fee for a sketch plan shall be affixed by the Rotterdam Town Board and designated in Chapter 126 of the Code of the Town of Rotterdam, entitled "Fees."

**[Added 12-9-1992 by L.L. No. 32-1992]**

**§ 249-8. Minor subdivision approval.**

A. Application and fee.

**[Amended 1-21-1976; 12-9-1992 by L.L. No. 32-1992]**

(1) Within six months after classification of the sketch plan as a minor subdivision by the Planning Commission, the subdivider shall submit an application for approval of a minor subdivision plat. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Commission. Said application shall also conform to the requirements listed in § 249-23. Failure to comply with any of the above will require resubmission of the sketch plan to the Planning Commission for reconsideration, including the appropriate fee required under § 249-7D.

(2) All applications for plot approval for minor subdivisions shall be accompanied by a fee established by the Rotterdam Town Board and designated in Chapter 126 of the Code of the Town of Rotterdam, entitled "Fees."

(3) Administrative fees. The costs incurred for the review of an application by the Town Engineer, for consulting engineering fees or other consulting fees in conjunction with the Planning Board's review for a proposed application, including reviews required under the New York State Environmental Quality Review Act, Editor's Note: See Environmental Conservation Law § 8-0101 et seq. shall be charged to the applicant. The Planning Board shall obtain an estimate from any designated consultant for an amount sufficient to defray the costs of such services. The applicant shall enter into an escrow agreement with the Town of Rotterdam, and said agreement shall be executed by the Rotterdam Town Supervisor, upon authorization from the Rotterdam Town Board and recommendation of the Rotterdam Planning Commission. The Rotterdam Town Attorney shall prescribe the terms and appropriate form of the escrow agreement. Any portion of the estimated charges so collected by escrow agreement which is not expended by the Town shall be returned to the applicant.

B. Number of copies. Three copies of the minor subdivision plat shall be presented to the Chairman of the Planning Commission at least 10 days prior to a scheduled monthly meeting of the Planning Commission.

C. Subdivider to attend Planning Commission meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Commission to discuss the minor subdivision plat.

D. When officially submitted. The time of submission of the minor subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Commission, at least 10 days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by § 249-23 of these regulations, has been filed with the Secretary of the Planning Commission.

E. Public hearing. A public hearing shall be held by the Planning Commission within 30 days from the time of submission of the minor subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing.



F. Action on minor subdivision plat. The Planning Commission shall, within 45 days from the date of the public hearing, approve, modify and approve or disapprove the minor subdivision plat.

**§ 249-9. Preliminary plat approval for major subdivisions.**

**A. Application and fee.**

(1) 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 § 249-24 of this regulation. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of Article 16 of the Town Law and § 249-24 of these regulations, except where a waiver may be specifically authorized by the Planning Commission.

(2) Application fee. The application for conditional approval of the preliminary plat shall be accompanied by a fee, per lot, as affixed by the Rotterdam Town Board and designated in Chapter 126 of the Code of the Town of Rotterdam, entitled "Fees."

**[Amended 1-21-1976; 12-9-1992 by L.L. No. 32-1992]**

(3) Administrative fees. The costs incurred for the review of an application by the Town Engineer, for consulting engineering fees or other consulting fees in conjunction with the Planning Board's review for a proposed application, including reviews required under the New York State Environmental Quality Review Act, Editor's Note: See Environmental Conservation Law § 8-0101 et seq. shall be charged to the applicant. The Planning Board shall obtain an estimate from any designated consultant for an amount sufficient to defray the costs of such services. The applicant shall enter into an escrow agreement with the Town of Rotterdam, and said agreement shall be executed by the Rotterdam Town Supervisor, upon authorization from the Rotterdam Town Board and recommendation of the Rotterdam Planning Commission. The Rotterdam Town Attorney shall prescribe the terms and appropriate form of the escrow agreement. Any portion of the estimated charges so collected by escrow agreement which is not expended by the Town shall be returned to the applicant.

**[Added 12-9-1992 by L.L. No. 32-1992]**

B. Number of copies. Eight copies of the preliminary plat, stamped "PRELIMINARY PLAT" shall be presented to the Chairman of the Planning Commission at least 10 days prior to a regular monthly meeting of the Planning Commission.

**[Amended 4-5-1978]**

C. Subdivider to attend Planning Commission meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Commission to discuss the preliminary plat.

D. Study of preliminary plat. The Planning Commission shall study the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided and the timing of such development. 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 arrangement, the future development of adjoining lands as yet unsubdivided, the preservation of existing design features and the requirements of the Master Plan, the Official Map (if any), zoning regulations and the development of an attractive and convenient neighborhood.

E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Commission, 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 § 249-24 of these regulations, has been filed with the Chairman of the Planning Commission.

F. Action on preliminary plat. Such a preliminary plat shall be clearly marked "preliminary plat" and shall conform to the definition provided in Town Law § 276, Subdivision 4. The Planning Commission shall approve, approve with conditions or disapprove the preliminary plat in accordance with the procedures set forth in Town Law § 276, Subdivision 5.

**[Amended 4-5-1978 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

**§ 249-10. Final plat approval for major subdivisions.**

A. Application for approval. The subdivider shall, within six months after the conditional approval of the preliminary plat, file with the Planning Commission an application for approval of the subdivision plat in final form, using the approved application blank available from the Building Inspector/Code Enforcement Officer. If the final plat is not submitted within six months after the conditional approval of the preliminary plat, the Planning Commission may require resubmission of the preliminary and final plats.

**[Amended 1-21-1976 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Commission shall provide the Chairman of the Commission with a copy of the application and eight copies of the plat, the original and one true copy of all offers of cession, covenants and agreements, and two prints of all construction drawings, at least 10 days in advance of the regular monthly Planning Commission meeting at which it is to be officially submitted.

**[Amended 4-5-1978]**

C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Commission, at least 10 days prior to which the application for approval of the subdivision plat, complete and accompanied by all data required by § 249-25 of these regulations, has been filed with the Chairman of the Planning Commission. In addition, if the applicant elects to construct any or all required improvements [as specified in § 249-11A(2)], the Town Engineer must file a certificate with the Planning Commission stating that these improvements have been satisfactorily installed before the subdivision plat shall be considered officially submitted.

**[Amended 4-5-1978]**

D. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be endorsed and approved by the Town Engineer. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary town, county and state agencies. Endorsement and approval by the New York State Department of Health (pursuant to Public Health Law § 115 et seq. Editor's Note: See now Public Health Law § 1120 et seq. ), the New York State Department of Transportation (pursuant to Highway Law § 52 where a subdivision opens onto a state highway), the New York State Department of Environmental Conservation (pursuant to current requirements) and the County of Schenectady (where a subdivision opens onto a county highway) shall be secured by the subdivider before the signature of the officer authorized by the Planning Commission may be affixed to the subdivision plat drawing.

**[Amended 4-5-1978; 11-28-1990 by L.L. No. 25-1990]**

E. Approval of final plats.

**[Amended 4-5-1978 Editor's Note: Amended at time of adoption of Code, see Ch. 1, Art. I. ]**

(1) Submission of final plats. Final plats shall conform to the definition provided by this section.

(2) Final plats which are in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within 62 days of its receipt by the Clerk of the Planning Board.

(3) Final plats when no preliminary plat is required to be submitted; receipt of complete final plat. When no preliminary plat is required to be submitted, a final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

(4) Final plats; not in substantial agreement with approved preliminary plats, or when no preliminary plat is required to be submitted. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this section, or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this section the following shall apply:

(a) Planning Board as lead agency; public hearing; notice; decision

[1] Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

[a] If such Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within 62 days after the receipt of a complete final plat by the Clerk of the Planning Board; or

[b] If such Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.

[2] Public hearing; notice, length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

[3] Decision. The Planning Board shall make its decision on the final plat as follows:

[a] If such Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within 62 days after the date of the public hearing; or

[b] If such Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

[4] Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board

(b) Planning Board not as lead agency; public hearing; notice; decision.

[1] Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the Clerk of the Planning Board.

[2] Public hearing; notice, length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

[3] Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat as follows:

[a] If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.

[b] If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

F. The Planning Commission may have prepared by qualified professional staff or consultant, prior to approval of any proposed major subdivision plat, a cost-benefit analysis of the development pattern, including but not limited to the total public cost of projected services and the private contribution from the projected project, including tax revenue. Editor's Note: Original Subsection G, Action on Proposed Subdivision Plat, which immediately followed this subsection, was repealed 4-5-1978.

#### **§ 249-11. Required improvements.**

**[Amended 10-28-1992 by L.L. No. 30-1992]**

A. Improvements and irrevocable standby letter of credit. Before the Planning Commission grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) below:

(1) In an amount set by the Planning Commission, 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 an irrevocable standby letter of credit to cover the full cost of the required improvements. Any such irrevocable standby letter of credit shall comply with the requirements of Article 16 of the Town Law and shall be satisfactory to the Town Attorney, the Town Engineer and the Superintendent of Highways as to form, sufficiency, manner of execution and surety. A period of one year, or such other period as the Planning Commission may determine appropriate, not to exceed three years, shall be set forth in the irrevocable standby letter of credit, within which required improvement must be completed.

(2) The subdivider shall complete all required improvements to the satisfaction of a Town Engineer, the Town Superintendent of Highways and the Town Attorney who shall file with the Planning Commission a letter signifying the satisfactory completion of all improvements required by the Commission. For any required improvements not so completed, the subdivider shall file with the Town Clerk an irrevocable standby letter of credit covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such irrevocable standby letter of credit shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety. The dedication of a street or highway for public purposes shall be made in accordance with the Town Law, the Highway Law of the State of New York and the Town Code of the Town of Rotterdam.

(3) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer, the Town Superintendent of Highways and the Town Attorney and a map satisfactory to the Planning Commission 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 A(2), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Commission officer. However, if the subdivider elects to provide an irrevocable standby letter of credit or certified check for required improvements as specified in Subsection A(1), such irrevocable standby letter of credit shall not be released until such a map is submitted.

(4) In addition to the limitations imposed by Subsection A(3) above, the Planning Commission may require that any street improvement provided under Subsection A(1) is of satisfactory quality by stipulating a portion of the bond to be held until 12 months following installation of such facilities.

B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer, the Town Superintendent of Highways and the Town Attorney that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer, the Town Superintendent of Highways and the Town Attorney may, upon the approval of the Planning Commission, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Commission's approval and do not extend to a waiver or substantial alteration of the function of any improvements required by the Commission. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Commission at its next regular meeting.

C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall notify the Town Engineer and the Town Superintendent of Highway, in writing, of the time when he proposed to commence construction of such improvements so that said officials may arrange for inspections to be made to assure that all 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 Commission.

(1) Inspection fees. The Town Engineer may designate a consulting engineer and/or additional staff personnel to facilitate inspection of all required improvements. The subdivider shall be responsible for all fees associated with inspection of required improvements. The Town Engineer shall obtain an estimate from any designated consultant in an amount sufficient to defray the costs of such services. The subdivider shall enter into an escrow agreement with the Town of Rotterdam, and said agreement shall be executed by the Rotterdam Town Supervisor, upon authorization by the Rotterdam Town Board and recommendation from the Town Engineer. The Rotterdam Town Attorney shall prescribe the terms and appropriate form of the escrow agreement. Any portion of the estimated charges so collected by escrow agreement which is not expended by the Town shall be returned to the applicant.

**[Added 12-9-1992 by L.L. No. 32-1992]**

D. Proper installation of improvements. If the Town Engineer or the Town Superintendent of Highways finds, upon inspection of the improvements performed before the expiration date of the irrevocable standby letter of credit, 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, Building Inspector/Code Enforcement Officer and Planning Commission. The Town Board then shall notify the subdivider and, if necessary, the surety and take all necessary steps to preserve the town's rights under the irrevocable standby letter of credit. No plat shall be approved by the Planning Commission as long as the subdivider is in default on a previously approved plat. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 249-12. Filing of approved plat.**

A. Final approval and filing. The signature of the Chairman of the Planning Commission constituting final approval by the Planning Commission of a plat showing lots, blocks or sites, with or without streets or highways or the approval by such Commission of the development of a plat or plats are located if such plats are entirely or partially undeveloped, or the certificate of the Town as to the date of the submission of the final plat and the failure of the Planning Commission to take action thereon within the time prescribed, shall expire within 62 days from the date of such approval, or from the date such certificate is issued unless within such sixty-two-day period, such plat or a section thereof shall have been duly filed or recorded by the owner in the office of the County Clerk. In the event the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of each section with the Town Clerk. Such section shall encompass at least 10% of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Town Law § 265-a Subdivision 2.

**[Amended 4-5-1978]** Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Commission endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Commission and such Commission 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.

**§ 249-13. Public streets and recreation areas.**

A. Public acceptance of streets. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such subdivision plat.

B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Town of such area. The Planning Commission shall require the plat to be endorsed with appropriate notes to this effect. The Planning Commission may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

**§ 249-14. Compliance to standards required.**

In considering applications for subdivision of land, the Planning Commission shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Commission only under circumstances set forth in § 249-26 herein.

**§ 249-15. General standards.**

A. 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, erosion, slippage or other menace.

B. Conformity to Official Map and Master Plan. Subdivisions shall conform to the Official Map (if any) of the Town and shall be in harmony with the Master Plan.

C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications which may be obtained from the Town Engineer.

**§ 249-16. Layout of streets.**

A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Master Plan, and to accommodate the prospective traffic and afford access for fire-fighting, snow-removal and 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. Arrangement.

(1) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of any adjoining subdivision, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public service such as sewers, water and drainage facilities. Where, in the opinion of the Planning Commission, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

(2) Subdivisions containing 20 lots or more shall have at least two street connections with existing collector streets or streets on an approved subdivision plat for which a bond has been filed.

C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.

D. Special treatment along major (arterial) streets. When a subdivision abuts or contains an existing or proposed arterial street, the Commission shall require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. (See Sketch A.) Editor's Note: Sketch A of the Subdivision Design Details is included at the end of this chapter.

E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.

F. Dead-end streets. The creation of cul-de-sac or loop residential streets will be encouraged wherever the Commission finds that such type of development will not interfere with normal traffic circulation in the area. In the case of such streets, where needed or desirable, the Commission may require the reservation of a ten-foot-or-wider easement to provide for continuation of pedestrian traffic and utilities to the next street.

G. Block size. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Commission may require the reservation of a ten-foot-or-wider easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a paved footpath be included.

H. Intersections with collector, major (arterial) streets or roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.

I. Street jogs at intersections. Two parallel streets intersecting a third street with center-line-to-center-line distance of less than 125 feet shall be avoided. (See Sketch B.) Editor's Note: Sketch B of the Subdivision Design Details is included at the end of this chapter.

J. Angle of intersection. In general, all streets shall join each other so that, for a distance of at least 100 feet, the street is approximately at right angles to the street it joins. (See Sketch C.) Editor's Note: Sketch C of the Subdivision Design Details is included at the end of this chapter.

K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property.

L. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

#### **§ 249-17. Street design.**

A. Widths of rights-of-way and street pavements. Each Town right-of-way shall have a minimum width of 60 feet. The minimum pavement width of each street shall be 30 feet.

**[Amended 8-24-1988 by L.L. No. 5-1988]**

B. Required street improvements. Required street improvements shall meet standards established and published by the Town Engineer and the Town Superintendent of Highways. These include provisions for grading, subbase, wearing surface, construction methods, cold weather regulations and other standards.

**[Amended 10-28-1992 by L.L. No. 30-1992]**

C. Street drainage. Street and road culverts, headwalls or other appurtenances shall be installed by the developer where necessary. Where there is no natural stream or watercourse for the drainage of surface water from the proposed street or road, the developer shall secure rights-of-way and install stormwater drains to a natural waterway or as a Town Engineer directs. All street storm and sanitary sewers shall be constructed according to the grades on the plat submitted at the public hearing.

D. Utilities in streets.

(1) The Planning Commission shall require that underground utilities be placed in the street right-of-way between the street pavement and street right-of-way line wherever possible, to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections in the street to the property line of each lot within the subdivision for such required utilities before the street is paved. Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.

(2) Electric and telephone service shall be underground except that major electrical transmission lines may be placed on utility right-of-way at least 150 feet from any street except where such street is crossed at no less than a seventy-five-degree angle.

(3) Real property developers shall be required to install in the streets underground conduits for gas service, electric service and telephone service at their own expense, which shall be installed prior to the acceptance of street or their installation should be secured by a performance bond or deposit of other security. This regulation shall be enacted upon all major subdivisions of more than four lots.

**[Added 1-16-1974; amended 3-12-1986 by L.L. No. 4-1986]**

E. Utility easements and alignments.

(1) Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least 20 feet in width shall be provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements may be cleared or graded and shall be part of the subdivision open space plan.

(2) Alignments for major overhead utility lines shall be reviewed and provided for in such a manner as to minimize detrimental impact on the development and surrounding area.

F. Grades.

(1) Grades of all streets shall conform in general to the terrain, and shall be not less than 1/2 nor more than 8% for collector, or 10% for minor streets in residential areas, but in no case more than 3% within 50 feet of any intersection.

(2) All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.

(3) A combination of steep grades and curves shall be avoided.

G. Curves and visibility at intersections.

(1) All street right-of-way lines at intersections shall be rounded by curves of at least twenty-foot radius, and curbs shall be adjusted accordingly. (See Sketch D.) Editor's Note: Sketch D of the Subdivision Design Details is included at the end of this chapter.

(2) In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at 30 feet distant from the point of intersection shall be cleared of all growth, except isolated trees, and obstructions more than three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

H. Culs-de-sac. Where cul-de-sac streets are designed to be so permanently, they should, in general, not exceed 500 feet in length, and shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end streets, a temporary turnaround with a pavement radius of 50 feet shall be provided unless the Planning Commission approves an alternate arrangement.

I. Watercourses.

(1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.

(2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Engineer, and in no case less than 20 feet in width.

J. Curve radii. In general, street lines within a block, deflecting from each other at any one point by more than 10°, shall be connected with a curve, the radius of which for the center line of street shall not be less than 200 feet on collector streets and 100 feet on minor streets. (See Sketch E.) Editor's Note: Sketch E of the Subdivision Design Details is included at the end of this chapter.

K. Reserve strips prohibited. Reserve strips of land, to be used to control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall be prohibited.

L. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Commission to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district.

**§ 249-18. Street names.**

Editor's Note: See also Ch. 250, Naming and Numbering of Streets. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Commission. In general, streets shall have names and not numbers or letters. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change in street name.

**§ 249-19. Construction of sidewalks; responsibility for maintenance and assumption of liability.**

**[Amended 12-22-2004 by L.L. No. 19-2004]**

A. As part of any subdivision approval, the Planning Commission is authorized to require the construction of sidewalks built to specifications adopted by the Department of Public Works. Construction of any such sidewalk shall be the responsibility of the property owner. Maintenance of any such sidewalk shall be the responsibility of the property owner and it shall be maintained to the level of specifications as adopted by the Department of Public Works. Any and all liability for any action related to such sidewalks shall be the responsibility of the property owner.

B. Any subdivision map requiring construction of sidewalks pursuant to this section shall contain a note that states: "Construction, maintenance and liability for sidewalks appearing on this map shall be governed by Rotterdam Town Code § 249-19 and all specifications adopted pursuant to said section."

C. Sidewalks shall be maintained pursuant to Town specifications. Failure to maintain sidewalks constructed pursuant to this section shall result in a fine of up to \$250 or 15 days in jail, or both. Enforcement of this section shall be by the Building Inspector/Code Enforcement Officer upon written complaint.

**§ 249-20. Lots.**

A. Lot size. All lots shall have area and width equal to minimum requirements of the zoning regulations, if any, and New York State Department of Health regulations (pursuant to Public Health Law § 1115 and following) applying to the district in which they are located. Larger lots may be required if necessary to carry out the purposes of this regulation.

B. Side lines. Side lines of lots shall be approximately at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

C. Corner lots. In general, corner lots should be larger than interior lots to provide a desirable building site with proper building setback from each street.

D. Driveway access. Driveway grades between the street and the setback line shall not exceed 7%.

E. Access from private streets. Lots on private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations unless overall design is improved by an alternative.

F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.

#### **§ 249-21. Drainage systems.**

Adequate storm drainage systems shall be required in all subdivisions. The drainage system shall be designed by a person licensed to perform such work.

A. Removal of spring and surface water. Any spring or surface water that may exist either previous to, or as a result of, the subdivision shall be carried away by pipe or open ditch. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.

B. 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 of 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. 270, Zoning. in the watershed. The cost of a culvert or other drainage facility in excess of that required for the particular subdivision may be deemed to be the responsibility of the town, or may be prorated among the upstream property owners and access when upstream land is subdivided.

C. Responsibility from drainage downstream. The subdivider's engineer shall also study and report on the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; and this report shall be reviewed by the Town Engineer. When it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Planning Commission shall notify the Town Board of such potential condition. In such case, the Planning Commission shall not approve the subdivision until provision has been made for the improvement of said condition.

D. Land subject to flooding. Land subject to flooding or land deemed by the Planning Commission 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 Commission to remedy said hazardous conditions.

E. Drainage plan. All subdividers shall present an individual lot drainage plan for each lot in their proposed subdivision. Such plan shall be used in the grading of lots before a certificate of occupancy is granted, as required by the Zoning Ordinance. Editor's Note: See Ch. 270, Zoning. No roof leaders or footing drains which carry stormwater will be permitted to use a sanitary sewer nor a so-called dry well in an area where the dominant soil is hardpan, but shall be adequately disposed of upon the ground surface.

F. Curbs and gutters. Concrete or store curbs and satisfactory gutters and storm drains shall be provided to carry snow and rain runoff from street surfaces along which sidewalks are required.

#### **§ 249-22. Open space; natural features.**

A. Open space.

(1) Recreation areas.

(a) The Planning Commission shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose in the vicinity of the subdivision. Where a proposed park, playground or open space shown on the Town Plan is located in whole or in part in the subdivision, the Commission shall require that such area or areas be shown on the plat in accordance with the requirements specified above. Such area or areas may be dedicated to the Town by the subdivider if the Town Board approves such dedication.

(b) In the event that an area suitable for a park or playground is located in the subdivision, the subdivider shall submit to the Commission, prior to final approval, three prints (one on cloth) drawn in ink, showing, at a scale of not less than 30 feet to the inch, such area and the following features thereof:

[1] The boundaries of said area.

[2] Existing features, such as brooks, ponds, clusters of trees, rock outcrops and structures.

[3] Existing and, if applicable, proposed changes in grade and contours of said area and of area immediately adjacent.

(c) The subdivider shall provide recreation areas sufficient to meet standards established by the Town Master Plan.

(2) Waiver of plat designation of area for parks and playgrounds.

**[Amended 12-9-1992 by L.L. No. 32-1992]**

(a) In cases where the Planning Commission finds that, due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein or, in the opinion of the Commission, it is not desirable, the Commission may waive the requirements that the plat show land for such purposes. The Commission may then require as a condition to approval of the plat a payment to the Town as affixed by the Rotterdam Town Board and designated in Chapter 126 of the Town Code, entitled "Fees," which otherwise would have been acceptable as a recreation site, as determined by the standards set forth in § 249-22A(1).

(b) Such amount shall be paid to the Town of Rotterdam at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Commission until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes and is so located that it will serve primarily the general neighborhood in which the land covered by the plat lies and shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Commission finds that there is a need for such improvements.

(c) The Commission may then require as a condition of approval of the plat for each major or minor subdivision a payment to the Town of fees as prescribed in § 249-22A(2)(a) in lieu of land dedication under this section.

**[Amended 8-12-2009 by L.L. No. 6-2009]**

B. Preservation of natural features. The Planning Commission, shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of eight inches or more as measured three feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final subdivision plat or individual house sites and driveways. Removal of additional trees shall be subject to the approval of the Planning Commission.

**§ 249-23. Contents of sketch plans.**

The sketch plan initially submitted to the Planning Commission shall be based on an 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 show 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 roads, structures, wooded areas, streams, utilities and other physical features within the portion to be subdivided and within 100 feet thereof, including those covered by § 249-22B. 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 all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The tax map sheet, block and lot numbers, if any.
- E. The proposed pattern of lots, including lot width and depth, street layout, recreation areas, systems of drainage, sewerage and water supply (see §§ 249-24 and 249-25 below) within the subdivided area.
- F. All existing restrictions on the use of land, including easements, covenants, zoning districts and land reserved on Town or County Official Maps (if any).

**§ 249-24. Contents and specifications of minor subdivision plats.**

A. In the case of minor subdivision only, the subdivision plat application shall include the following information:

- (1) A copy of such covenants or deed restrictions intended to cover all or part of the tract.
- (2) 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 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.
- (3) All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the New York State Department of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- (4) Proposed subdivision name, and "Rotterdam, Schenectady County."
- (5) The date, North point, map scale, name and address of record owner and subdivider.
- (6) A stormwater pollution prevention plan (SWPPP) consistent with § 270-215 shall be required.

**[Added 4-27-2005 by L.L. No. 10-2005]**

B. The plat to be filed with the County Clerk shall be printed upon linen tracing cloth or suitable substitute and be clearly drawn in India ink. The size of the sheet shall conform to the County Clerk's standards.



**§ 249-25. Contents and accompanying data of major subdivision preliminary plats.**

**[Amended 4-5-1978]**

The following documents shall be submitted for approval:

- A. Eight copies of the preliminary plat prepared at a scale of not more than 100 but preferably not less than 50 feet to the inch, showing:
- (1) Proposed subdivision name, "Rotterdam, Schenectady County," date, true North point, scale, name and address of record owner, 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 unsubdivided property.
  - (3) Zoning district, including exact boundary lines of 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. Editor's Note: See Ch. 270, Zoning.
  - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
  - (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
  - (6) Location of existing sewers, water mains, culverts and drains on and adjacent to the property, with pipe sizes, grades and direction of flow.
  - (7) Contours, with intervals of five feet or less, as required by the Commission, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two feet.
  - (8) The width and location of any streets or public ways or places shown on the Official Map (if any) or the Master Plan 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) The approximate 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. Profiles of all proposed water and sewer lines.
  - (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
  - (11) Plans and cross sections showing the proposed location and type of sidewalks, street lighting 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, the location of manholes, basins and underground conduits.
  - (12) Profiles of proposed streets with existing elevations every 50 feet and street grades shown.
  - (13) Preliminary designs of any bridges or culverts which may be required.
  - (14) The proposed lot lines with approximate dimensions and area of each lot.
  - (15) 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, and which shall provide satisfactory access to a public highway or public open space shown on the subdivision of the Official Map (if any).
  - (16) An actual field survey of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified to by a licensed land surveyor. The tract corners shall also be located on the ground and marked by substantial monuments of such size and type as are approved by the Town Engineer, and shall be referenced and shown on the plat.
- B. 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 the subdivider's entire holding submitted shall be considered in the light of the entire holdings.
- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- D. A stormwater pollution prevention plan (SWPPP) consistent with § 270-215 shall be required.

**[Added 4-27-2005 by L.L. No. 10-2005]**

**§ 249-26. Contents and accompanying data of major subdivision final plats.**

The following documents shall be submitted for plat approval:

- A. Final plat.
- (1) The plat to be filed with the County Clerk shall be printed upon linen tracing cloth or suitable substitute and be clearly drawn in India ink. The size of the sheets shall conform to Town standards. The plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, a key map or an additional index sheet of the same size, shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

(2) The plat shall show:

(a) Proposed subdivision name or identifying title and "Rotterdam, Schenectady County," the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.

(b) Street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.

(c) 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 state system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.

(d) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and inches. The plat shall show the boundaries of the property, location, graphic scale and true North point.

(e) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be used and maintained and the provisions made therefor.

(f) All offers of cession and covenants governing the maintenance of uncaded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

(g) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.

(h) 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.

(i) All lot corner markers shall be at least 3/4 inch, if metal, in diameter and at least 24 inches in length, and permanently located in the ground to existing grade in a manner satisfactory to the Town Engineer.

(j) 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 Engineer.

B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

#### **§ 249-27. Variances and waivers.**

A. Where the Planning Commission 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 (if any), the Master Plan, or the Zoning Ordinance. Editor's Note: See Ch. 270, Zoning.

B. Where the Planning Commission finds that, due to the special circumstances of a particular plat, the provisions of certain required improvements is not requisite in the interest of the public health, safety and general 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.

C. In granting variances and modifications, the Planning Commission shall require such conditions as will, in its judgment secure substantially the objectives of the standards or requirements so varied or modified.

D. Waiver for lot line amendments.

**[Added 11-12-2008 by L.L. No. 12-2008]**

(1) An applicant may request that the subdivision process be waived when a proposed subdivision:

(a) Does not result in an additional lot being created;

(b) Is a minor modification to an existing lot line; or

(c) The conveyance of a portion of one parcel to an adjoining parcel; and

(d) The resultant lots are equal to or exceed the minimum zoning requirements or do not make any existing nonconforming lot more nonconforming.

(2) To request such waiver, the applicant shall complete a boundary line adjustment application, submit a sketch plan in accordance with this chapter, pay the required application fee and submit a narrative explaining the proposed boundary line adjustment for Planning Board review.

(3) If the waiver is granted, the applicant shall file a surveyed map of the subdivision with the Department of Public Works in accordance with this chapter. The Planning Board Chairman shall be authorized to sign the final map for filing with the Schenectady County Clerk's office.

(4) If the Planning Commission denies the request for a waiver, the applicant must proceed with the submission requirements to the Planning Board, as outlined in this chapter, which shall initiate a full subdivision review. Editor's Note: Application Form Nos. 1 through 4, which were included at the end of this chapter and were obsolete, were repealed 11-12-2008 by L.L. No. 12-2008.

Attachments:

249a Suvdivision Design Details

CHAPTER 250. STREETS, NAMING AND NUMBERING OF

- § 250-1. Legislative intent.
- § 250-2. Designation of street names and numbers.
- § 250-3. Designation of structure numbers.
- § 250-4. Determination of structure numbers.
- § 250-5. Notification and posting of designated structure numbers.
- § 250-6. Preference for existing address numbering.
- § 250-7. Exempt and excluded structures and special address needs.
- § 250-8. Changes in street names and addresses initiated by county.
- § 250-9. Penalties for offenses.
- § 250-10. Effective date.

CHAPTER 250. STREETS, NAMING AND NUMBERING OF

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 4-27-1994 by L.L. No. 5-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 249.

§ 250-1. Legislative intent.

It is the intent and purpose of this chapter to assist in rapid recognition, by 911 personnel, of the location of a residence/business in an emergency situation and to ensure that the requirements and standards of the United States Postal Service are considered in the naming and addressing of streets located in the Town of Rotterdam.

§ 250-2. Designation of street names and numbers.

A. The County of Schenectady is responsible for developing and maintaining an official street and address index and an official street and address map of Schenectady County. These will be called respectively the "Official Street Naming and Structure Numbering Index" and the "Official Street Naming and Structure Numbering Map."

B. The Town of Rotterdam recognizes the street names and structure numbers as designated on the Official Street Naming and Structure Numbering Map and the Official Street Naming and Structure Numbering Index. All street names designated on this official map and index will be current street names or names recommended and approved by the Town of Rotterdam.

C. Consideration of any proposed street name shall adhere to the following principles:

- (1) Use of street names that do not duplicate or sound similar to existing street names within the county.
- (2) Elimination of existing street names that duplicate other names within the county, where feasible.
- (3) Avoidance of names which indicate a direction.
- (4) Adoption of existing street names where the proposed street is an extension or continuation of an existing one.

D. Street names will be restricted to 28 characters in order to comply with requirements of the New York Telephone database.

E. In addition to other requirements of this chapter, streets will be named in compliance with the United Postal Service Addressing Guidelines which are attached as Appendix A. Editor's Note: The United Postal Service Addressing Guidelines are on file in the office of the Town Clerk.

(1) New streets will be named, initiated and adopted by the Town Planning Commission in adherence to the principles enumerated in this chapter.

(2) Changes to existing street names will be initiated and adopted by the Town Board.

F. Adoption of a street name or its inclusion in the Official Street Naming and Structure Numbering Index or the Official Street Naming and Structure Numbering Map or the subsequent posting of any public sign does not commit the Town of Rotterdam or the County of Schenectady to maintain a private road.

G. All proposed street name changes or additions shall be sent by the Town Board to the county and the United States Postal Service for review and comment. The county and the United States Postal Service will have 30 days to comment on the proposed changes before adoption.

H. Approved name changes will be sent to the county for inclusion in the Official Street Naming and Structure Numbering Index and the Official Street Naming and Structure Numbering Map.

§ 250-3. Designation of structure numbers.

A. Changes or additions to structure numbers as designated on the Official Street Naming and Structure Numbering Map for dwelling units, places of business, industrial locations and all other structures and uses requiring the same shall be assigned by the Town Planning Commission during the site plan review processes or by the Building Inspector/Code Enforcement Officer when granting a building permit. The county and the United States Postal Service will be given notice of any proposed structure numbering or changes of current numbering. These offices will have 30 days to comment on the proposed structure numbering action. The Building Inspector/Code Enforcement Officer will send all finalized structure numbers to Schenectady County. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The county shall keep a record of all numbers assigned under this chapter.

#### **§ 250-4. Determination of structure numbers.**

A. Two types of numbers are designated under this chapter:

(1) Primary numbers will be available to each street frontage of each parcel of land, whether or not the parcel is occupied. New primary numbers will be available at an increment of 10.56 feet per side or 1,000 addresses per mile (500 on each side of the road). Numbers will run east to west and from south to north or originating at a major roadway. Odd numbers will be available along the left side of the street, while even numbers will be available along the right side (left and right are determined by facing from low- to high-numbered addresses). All addresses will be numbered from the point of intersection where the driveway or curb cut intersects the road. Developers submitting site plans to the Town Planning Commission will indicate the appropriate street number as part of the site plan submission. The primary number is assigned and is required to be posted only if the parcel is occupied by a dwelling unit, structure or active use and the owner, occupant or person in charge is notified under § 250-5A of this chapter. Other primary numbers are reserved for future development of parcels and will be assigned at the time of development.

(2) Secondary numbers may be used when a number of units, structures and uses coexist on the same parcel of land. Examples of parcels requiring secondary numbers include apartment projects, condominium projects, mobile (manufactured) home parks, office parks, planned unit developments, recreational vehicle parks, recreational areas, shopping centers and other uses where the use of secondary numbers would clarify the location of an individual unit for public safety purposes. To provide secondary numbers, the Town Planning Commission shall work with the owner, principal occupant or person in charge of the project to determine a logical numbering system under this chapter.

B. Where the primary number of a complex is not in compliance with numbering as enumerated in these guidelines but the secondary numbering system is acceptable, only the primary address will be changed.

C. A building on a single parcel with more than one and fewer than five units may be given either letter (preferred) or number designations as requested by the owner.

D. A single building on a single parcel of land and with five or more units shall be given numerical (preferred) designations, such as "Suite 5", "Apartment 5," etc.

E. Multiple buildings on the same parcel of land may be given secondary numbers consisting of number designations if the buildings are accessed from a main entrance to the complex. Generally, the number designations should increase in a clockwise direction from the main entrance.

F. Mobile (manufactured) home parks, recreational vehicle parks and similar uses shall be given letter designations for lots or sections and number designations for individual sites within lots or sections.

#### **§ 250-5. Notification and posting of designated structure numbers.**

A. Notice will be given by the Town of Rotterdam to owners of each property whose address has been changed as a result of adoption of this chapter.

B. The owner or occupant or person in charge of any dwelling unit, structure or use to which a number has been changed or a new number assigned after the initial notification by the county shall be notified, in writing, by the Town Building Inspector/Code Enforcement Officer. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The owner, occupant or person in charge of any dwelling unit, structure or use to which a number or numbers have been assigned shall cause the same to be posted.

(1) Address numbers will be situated on property which shall be clearly visible from the roadway fronting the house. The numbers shall be no less than three inches in height.

(2) The placement of the address number on a postal mailbox will occur on both sides of the mailbox, facing the direction of traffic flow so as to be visible from a distance by operators of approaching vehicles.

(3) In the case that a building is served by two or more driveways or curb cuts, the number shall be assigned and posted at the roadside where it intersects the first (meaning the one first arrived at when approaching from the direction of the lower street numbers) driveway or curb cut.

(4) Locations with secondary numbers [see § 250-4A(2)] such as housing projects or strip malls must each post its assigned secondary numbers in such a way as to clearly identify its location. In the case of secondary addresses, a driveway or curb cut may not be an appropriate locator.

(5) It shall be the responsibility of the owner, occupant or person in charge of the dwelling unit, structure or use, upon affixing the number assigned, to remove any different number which might be mistaken for or confused with the assigned number to the structure.

(6) In such cases where the assigned number cannot be posted as required above, the number shall be posted as prescribed by the Town Building Inspector/Code Enforcement Officer in accordance with the intent of this legislation and after consultation with the owner, occupant or

person in charge. The county will assist the Building Inspector/Code Enforcement Officer upon request. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 250-6. Preference for existing address numbering.**

It shall be the policy to avoid changing existing numbered addresses if the existing system follows a logical and expandable order and can comply with the Official Street Naming and Structure Numbering Index and the Official Street Naming and Structure Numbering Map.

**§ 250-7. Exempt and excluded structures and special address needs.**

The intent of this section is to exclude from this chapter those structures which do not present endangerment to human life if destroyed by fire or other events.

A. The following structures shall be excluded from the provisions:

(1) Agricultural buildings not requiring a separate mailing address such as a barn, poultry house, outbuilding or equipment storage building.

(2) Storage and accessory buildings for the use of the occupant of another building on the same property.

B. Buildings used as dwelling units, offices or the nominal work station of an employee shall not be exempt.

C. Pay phones will be assigned addresses. The pay phone will be given a separate primary or secondary address when the location of the pay phone is independent or distinguishable from the business or residential phone within the structure.

**§ 250-8. Changes in street names and addresses initiated by county.**

Any changes in the street names and addresses of streets located in the Town of Rotterdam that are initiated by the County of Schenectady shall be submitted to the Supervisor of the Town of Rotterdam by the county at least 14 days prior to approval of the same by the Town and the effective date of said change.

**§ 250-9. Penalties for offenses.**

Failure to comply will be considered violations of the Building Code and shall result in fines of \$5 to \$500 per day.

**§ 250-10. Effective date.**

This chapter shall take effect on April 27, 1994, and upon filing with the Secretary of State as required by § 27 of the Municipal Home Rule Law.

CHAPTER 252. (RESERVED)

**[Former Ch. 252, Swimming Pools, adopted 5-3-1972 by L.L. No. 3-1972, as amended, was repealed 7-12-1006 by L.L. No. 8-2006. For current provisions, see Art. XXVII, Swimming Pools, in Ch. 270, Zoning.]**

CHAPTER 255. TAXATION

ARTICLE I. Senior Citizens Exemption

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§ 255-2. Exceptions; implementation of statutory provisions.

§ 255-2.1. Ownership in cooperative apartment corporation.

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ARTICLE II. Business Investment Exemption

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ARTICLE III. Alternative and Cold War Veterans Tax Exemption

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§ 255-9. Exemption granted.

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ARTICLE VI. Recomputed Exemption for Veterans

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§ 255-14. Homestead base proportions.

CHAPTER 255. TAXATION

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

**ARTICLE I. Senior Citizens Exemption**

**[Adopted 1-20-1971 by L.L. No. 1-1971]**

**§ 255-1. Eligibility.**

**[Amended 5-12-1999 by L.L. No. 8-1999]**

Real property located within the Town of Rotterdam, Schenectady County, New York, owned by one or more persons, each of whom is 65 years of age or over, except in the case of property owned by a husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation by the Town of Rotterdam to the extent of 50% of the assessed valuation thereof, subject to the limitations hereinafter provided. Notwithstanding any other provision of law, any person otherwise qualifying under this section shall not be denied the exemption under this section if he becomes 65 years of age after the appropriate taxable status date and on or before December 31 of the same year.

**§ 255-2. Exceptions; implementation of statutory provisions.**

**[Last amended 1-24-2007 by L.L. No. 3-2007]**

A. Purpose: Adopting a graduated minimum income exemption eligibility level for the granting of a partial exemption from real property taxation to certain persons 65 years of age and applicable for assessment rolls prepared on the basis of taxable status dates occurring on or after March 1, 2005, for the Town of Rotterdam as provided in § 467 of the Real Property Tax Law of the State of New York pursuant to the following schedule:

B. The aforesaid exemption may be subject to the following conditions, to wit:

(1) No exemption shall be granted if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the maximum sum listed in any given year. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife, is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the federal foster grandparent program, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

(2) No exemption shall be granted unless the property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption herein.

(3) No exemption shall be granted unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to the person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

**§ 255-2.1. Ownership in cooperative apartment corporation.**

**[Added 2-14-2001 by L.L. No. 3-2001]**

For purposes of this exemption, ownership in a cooperative apartment corporation shall be exempt as follows:

A. Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

B. That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

**§ 255-3. Applications.**

**[Amended 4-17-1985 by L.L. No. 7-1985; 4-8-1987 by L.L. No. 4-1987]**

A. Application for such exemption must be made by the owner or all of the owners of the property, on forms prescribed by the State Board to be furnished by the Town Assessor's office, and shall furnish the information and be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's office by March 1 of each year.

B. An application for renewal of a senior citizen exemption granted pursuant to the Real Property Tax Law, as amended, in Chapter 534 of the Laws of 1984, §§ 467 and 467-d, Editor's Note: Section 467-d of the Real Property Tax Law was repealed by L. 1985, c. 440, § 3, effective January 2, 1986, may be filed on or before the date for hearing of complaints (Grievance Day), being the third Tuesday in May in the Town of Rotterdam.

C. Notwithstanding Subsection A of this section, an application for such exemption may be filed with the Assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from a death of the applicant's spouse, child, parent, brother or sister or an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician. The Assessor shall approve or deny such application as if it had been filed on or before the taxable status date.

**[Added 5-12-1999 by L.L. No. 8-1999]**

D. Any person who has been granted exemption pursuant to this section on five consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and/or wife while both resided in such property, shall not be subject to the requirements set forth in Subsection A of this section. Any such person shall be mailed an application form and a notice informing him of his rights hereunder. Such exemption shall be automatically granted on each subsequent assessment roll; provided, however, that when tax payment is made by such person, a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the State Board. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to § 551 of the New York State Real Property Tax Law.

[Added 5-12-1999 by L.L. No. 8-1999]

**§ 255-4. Penalties for willful false statements.**

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

**ARTICLE II. Business Investment Exemption**

[Adopted 12-29-1976 by L.L. No. 7-1976]

**§ 255-5. Repeal of statutory provisions.**

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from taxation, special ad valorem levies and service charges provided by such § 485-b is hereby repealed insofar as such exemption would have been applicable to eligible real property assessed for Town purposes.

**ARTICLE III. Alternative and Cold War Veterans Tax Exemption**

[Adopted 3-26-1997 by L.L. No. 7-1997]

**§ 255-6. Exemption granted; amount; Cold War veterans exemption.**

[Amended 2-15-2006 by L.L. No. 1-2006]

A. The maximum veterans exemption from real property taxes allowable under the alternative veterans exemption within the Town of Rotterdam, pursuant to paragraphs (a), (b) and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law, shall be \$36,000, \$24,000 and \$120,000, respectively.

B. The maximum veterans exemption from real property taxes allowable under the Cold War veterans exemption within the Town of Rotterdam, pursuant to Paragraph (a) of Subdivision 2 of § 458-b of the Real Property Tax Law, shall be \$12,000, \$40,000, as applicable.

[Added 4-23-2008 by L.L. No. 4-2008]

**ARTICLE IV. Exemption for Disabled Persons With Limited Income**

[Adopted 2-11-1998 by L.L. No. 2-1998; amended in its entirety 2-14-2001 by L.L. No. 2-2001]

**§ 255-7. Amount and conditions of exemption.**

[Last amended 1-24-2007 by L.L. No. 4-2007]

A. Pursuant to § 459-c of the New York Real Property Tax Law, real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by the Town of Rotterdam to the extent as provided in the following schedule:

B. The aforesaid exemption may be subject to the following conditions, to wit:

(1) No exemption shall be granted if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the maximum sum listed in any given year. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife, is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the federal foster grandparent program, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

(2) No exemption shall be granted unless the property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption herein.

(3) No exemption shall be granted unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to the person shall be considered income for

purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

**§ 255-8. Ownership in cooperative apartment corporation.**

For purposes of this exemption, ownership in a cooperative apartment corporation shall be exempt as follows:

A. Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

B. That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

**ARTICLE V. Volunteer Fire Fighter and Volunteer Ambulance Worker Exemption**

**[Adopted 1-26-2005 by L.L. No. 2-2005]**

**§ 255-9. Exemption granted.**

Pursuant to authority conferred by NYS Real Property Tax Law § 466-e, real property owned by an enrolled member of an incorporated fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing within the Town of Rotterdam shall be exempt from taxation to the extent of 10% of the assessed value of such property for Town, part-Town or special district purposes, exclusive of special assessments; provided, however, that such exemption shall in no event exceed \$3,000 multiplied by the latest state equalization for the assessing unit in which such real property is located.

**§ 255-10. Eligibility.**

Property tax exemptions pursuant to this article shall not be granted unless an enrolled member of a volunteer fire company, fire department or voluntary ambulance service meets the criteria set forth in NYS Real Property Tax Law § 466-e(2) or NYS Real Property Tax Law § 466-e(3).

**§ 255-11. Applications.**

Applications for exemptions pursuant to this article shall be filed with the Town of Rotterdam Assessor on or before the taxable status date on a form prescribed by New York State.

**ARTICLE VI. Recomputed Exemption for Veterans**

**[Adopted 11-8-2006 by L.L. No. 17-2006]**

**§ 255-12. Recomputed exemption granted.**

Editor's Note: See also Article III, Alternative Veterans Tax Exemption, of this chapter. Pursuant to authority conferred by NYS Real Property Tax Law § 458(5)(d), the Town of Rotterdam, should it file a change in level of assessment, may grant to every veteran who is entitled to any additional eligible funds a recomputed exemption in lieu of the exemption otherwise authorized by NYS Real Property Tax Law § 458(5)(d). Such recomputed exemption may be granted on any change in level of assessment roll filed after the effective date of this article.

**§ 255-13. Definitions.**

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

**RECOMPUTED EXEMPTION**

The sum of the original exemption and any additional eligible funds received multiplied by the change in level of assessment from the assessment roll in the year the exemption was originally granted.

**ARTICLE VII. Homestead Provision**

**[Adopted 2-21-2007 by L.L. No. 6-2007]**

**§ 255-14. Homestead base proportions.**

A. The provisions of Real Property Tax Law, § 1903, concerning homestead base proportions are hereby adopted.

B. The homestead base proportions shall be established by resolution of the Town Board of the Town of Rotterdam in accordance with the rules of the Office of Real Property Services and/or State Board of Equalization and Assessment, and shall apply to taxes levied on the 2007 final assessment roll and to taxes levied on subsequent rolls, until this article shall be repealed.

**CHAPTER 257. TAXICABS**

§ 257-1. Purpose.

§ 257-2. Definitions.

§ 257-3. Establishment of rates.

§ 257-4. Owner's license.

§ 257-5. Driver's license.

§ 257-6. Appeal of denial of license.

§ 257-7. Hearings.

§ 257-8. Application fees; issuance of license; maintenance of license.



§ 257-9. Penalties for offenses.

## **CHAPTER 257. TAXICABS**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 7-17-1974 by L.L. No. 10-1974; amended in its entirety 11-20-1974 by L.L. No. 16-1974. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Fees — See Ch. 126.

Vehicles and traffic — See Ch. 266.

#### **§ 257-1. Purpose.**

It is hereby declared and found that the taxicab industry in the Town of Rotterdam is vested with a public interest as a vital and integral part of the transportation facilities of the Town and that its regulation is necessary to secure adequate and safe transportation for the inhabitants of the Town and to prevent undue aggravation of the traffic and parking problems of the Town.

#### **§ 257-2. Definitions.**

Unless otherwise expressly provided, the following words, for the purpose of this chapter, shall have the meaning herein indicated:

##### **BUSINESS**

Includes a single act of transporting a passenger or passengers for hire.

##### **CRUISING**

The driving of a taxicab on the streets, highways, avenues or public places of the Town of Rotterdam in search of soliciting or plying of prospective passengers for hire.

##### **DRIVER**

Any person driving a taxicab or limousine upon the public highways for hire.

##### **OPERATE**

Includes the running of taxicabs within the Town of Rotterdam for hire, soliciting either on private property or on the public highway or running therefor.

##### **OWNER**

A person owning or controlling one or more taxicabs and driving or causing any such vehicle to be driven upon the public highway for hire.

##### **PASSENGER**

Includes a person other than the driver who is an occupant of a taxicab and, for the purpose of this chapter, such person or persons shall be presumed to be a passenger for hire.

##### **PERSON**

Includes an individual, a partnership, any unincorporated association, a corporation and any outer legal entity.

##### **TAXICAB**

A vehicle engaged in the business of carrying passengers for hire, having a seating capacity of less than eight persons and not operated on a fixed route.

##### **TAXI STAND**

A public place alongside the curb of a street or elsewhere which has been so designated as reserved exclusively for the use of all taxicabs licensed hereunder.

##### **TERMINAL**

Includes a fixed base of operation of the owner of the taxicab.

##### **TOWN**

The entire area of the Town of Rotterdam.

##### **ZONE**

An area within the Town established by the Town Board for the purpose of determining the rates to be charged for the hiring of taxicabs and within which an operator may be licensed to establish depots or terminals and pick up passengers.

#### **§ 257-3. Establishment of rates.**

The Town Board may, from time to time, after public notice and a public hearing, establish rates, or increase or decrease rates so established, either by zones, meters or by the hour as in the case of taxicabs, and shall also establish rates for the transportation of baggage.

#### **§ 257-4. Owner's license.**

A. It shall be unlawful for any owner of any taxicab to permit the same to be operated upon the public highways of the Town of Rotterdam without having first obtained and having then in force an owner's license therefor, as hereinafter provided.

B. Every owner's license issued hereunder shall be issued as of the first day of February or subsequent date of issue and shall expire on the 31st day of January next succeeding such date, unless sooner revoked by the Town Board.

C. Every person who desires to operate a taxicab or taxicabs owned or controlled by him, upon the public highways within the Town, shall file with the Town Clerk a written application upon forms to be furnished by the Town Clerk, verified under oath, stating:

(1) The name and address of the applicant, specifying in the case of any unincorporated association the names and addresses of each member thereof, and in the case of any corporation the names and addresses of each officer, director and stockholder thereof.

(2) A complete statement by the applicant, specifying the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments and the name and location of the court in which and the date on which each was entered.

(3) All misdemeanors or felonies of which the applicant, and any member thereof if an unincorporated association, and any officer, director and stockholder thereof if a corporation, has been convicted, stating the name and location of the court in which and the date on which such convictions were held and the penalties imposed therefor.

(4) The experience of the applicant, and each member thereof if an unincorporated association, and each officer, director and stockholder thereof if a corporation, in the transportation of passengers.

- (5) Any facts which the applicant believes tend to prove that the public convenience and necessity require the granting of a license.
- (6) The number of vehicles to be operated by the applicant and a description of each such vehicle, including the make, model, passenger seating capacity, year of manufacture, New York State registration number, and motor number thereof, and, if it has ever been in any accident, the date and nature of the accident and a description of the damage done to such vehicle.
- (7) The age and citizenship of the applicant and each member thereof, if an unincorporated association, and each officer, director and stockholder thereof, if a corporation.
- (8) The location of any and all depots and terminals proposed to be used by the applicant.
- (9) Any other relevant information which the Town Clerk may require.

D. Issuance.

(1) If the Town Clerk shall find that further taxicab service in the Town, and particularly in the area in which the applicant proposes to operate, is required by public convenience and necessity and, from the statements contained in the application for a taxicab owner's license, that the applicant is qualified and able to perform such public transportation and to conform to the provisions of this chapter and the rules and regulations adopted under this chapter, then the Town Clerk, upon the certification of each taxicab proposed to be operated by the applicant pursuant to Subsection J hereof and the furnishing by the applicant of proof of insurance as hereinafter provided, shall issue a license stating the name and address of the applicant, the date of the issuance thereof, the number of vehicles the applicant is authorized to operate and the numbers of the licenses assigned to such vehicle; and at the same time, the Town Clerk shall issue for each vehicle licensed hereunder a license card bearing the words "Licensed Taxicab," an assigned number and the date of expiration of such license, otherwise such application shall be denied.

(2) Before making any finding as to whether public convenience and necessity justify the issuance of a taxicab owner's license or the licensing of additional taxicabs, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town of Rotterdam a notice stating that application has been made for the licensing of a vehicle or vehicles as taxicabs, the number of vehicles for which such application has been made and containing a statement that written arguments as to whether public convenience and necessity require the licensing of such vehicles must be filed with the Town Clerk on or before the date fixed therein, which date must be not less than eight days after the date of such publication. Any arguments so filed must be considered by the Town Clerk in making his findings as to public convenience and necessity.

E. In making the findings, required by Subsection D(1) hereof, the Town Clerk shall take into consideration the number of taxicabs already in operation in the Town, particularly in the area in which the applicant proposes to locate his depots and terminals, whether existing transportation is adequate to meet the public need, the probable effect of additional taxicabs on local traffic conditions and the character, experience and responsibility of the applicant and the adequacy of the service which the applicant proposes to give.

F. The Town Clerk may, in his discretion, before the issuance of a license under this section, require the applicant and any others having knowledge of the facts to submit to an examination under oath and to produce evidence relating thereto, or hold a hearing upon such application as hereinafter provided.

G. Every owner licensed under this section who shall desire to add to the number of taxicabs he is then operating shall file with the Town Clerk a written application under oath stating:

- (1) The name and address of the applicant.
- (2) The applicant's owner's license number.
- (3) Any facts which the applicant believes tend to prove that the public convenience and necessity require such addition.
- (4) A description of each such additional taxicab including the make, model, passenger seating capacity, year of manufacture, state registration number and motor number.
- (5) If the Town Clerk shall find that the addition of such taxicab or taxicabs is required by the public convenience and necessity, then he shall issue a supplementary owner's license stating the name and address of the applicant, the numbers of the licenses assigned to such vehicles and the date of issuance thereof; otherwise such application shall be denied.

H. In making the findings required by Subsection G hereof, the Town Clerk shall take into consideration the matters specified in Subsection E hereof.

I. Any license issued under this section may be renewed annually for additional periods of one year each from the date of expiration upon the filing of an application containing all the information required by Subsection C hereof, except the facts with respect to public convenience and necessity which are required by Subsection C(5) thereof, and upon the approval of the Town Clerk pursuant to Subsections D and E except as to the finding of public convenience and necessity.

J. No license shall be issued or renewed under this section which shall permit the use of any vehicle as a taxicab unless and until it has been inspected pursuant to Subsection D(3) hereof and certified to the Town Clerk as conforming to the provisions of this section.

K. Each applicant shall, before the issuance to him of a license under this section, file with the Town Clerk a certificate of insurance that he is insured against public liability in the minimum limits set forth by the Vehicle and Traffic Law of the State of New York, which insurance shall be maintained in force during the period covered by the license. Such certificate shall provide that notice of cancellation shall be given to the Town Clerk.

L. The owner's license issued hereunder shall not be transferable. However, the Town Clerk, in his discretion, may dispense with the advertising and other conditions required prior to the issuance of an owner's license or owner's supplementary license when one owner already licensed by the Town of Rotterdam sells a taxicab or taxicabs to another owner who has an owner's license issued by the Town of Rotterdam. All licenses shall be returned to the Town Clerk prior to the sale and new licenses shall be issued.

M. Licenses issued hereunder shall not be transferable.

N. The owner of more than one taxicab licensed by the Town of Rotterdam shall have a permanent operating location or terminal within the Town of Rotterdam for such taxicabs when such taxicabs are not actually in operation. Such location or terminal shall be registered by the owner of the taxicabs with the Town Clerk and the owner shall notify the Town Clerk of any change in the location or terminal of the taxicabs. Such location or terminal shall be of sufficient size to accommodate all taxicabs assigned to such location or terminal.

#### **§ 257-5. Driver's license.**

A. License required.

(1) No person shall operate any taxicab upon the public highways of the Town without having first obtained and having then in force a New York State chauffeur's license and driver's license, issued as hereinafter provided.

(2) No person shall operate a taxicab on the public highways of the Town of Rotterdam unless such taxicab shall be duly licensed as herein provided.

B. Every driver's license issued under this section shall be issued as of the date of the granting thereof and shall expire on the 31st day of January next succeeding unless sooner revoked by the Town Board.

C. Every person desiring to drive a taxicab for hire upon the streets of the Town shall file an application for a license so to drive, with the Town Clerk, which application shall be in writing upon forms to be furnished by the Town Clerk and verified under oath and shall state:

(1) The name, address and age of the applicant.

(2) A full description of the applicant, including his height, weight, color of eyes and hair, any scars or marks and the nature of any physical infirmity from which he may suffer.

(3) Recommendation by three residents of Albany, Rensselaer, Saratoga or Schenectady Counties, not related to the applicant, who have known the applicant for a period of one year or more and who will vouch for the applicant's sobriety, honesty and general good character.

(4) Whether or not he is a citizen of the United States.

(5) The names and addresses of the applicant's employers during the last 10 years prior to his application.

(6) All violations of any traffic law, ordinance or regulation for which the applicant has been arrested or convicted within 18 months prior to the date of the application and all crimes of which the applicant has ever been arrested or convicted, stating the date and place of each such arrest and the name and location of the court in which and the date on which each such conviction was had and the penalty imposed therefor.

(7) The number and date of issuance of the applicant's New York chauffeur's license.

(8) Whether or not an operator's or chauffeur's license held by the applicant has ever been revoked or suspended by the State of New York, or any other state, and if so, by what court or other authority, on what date, for what cause, and if suspended, the period of such suspension.

(9) Any other relevant information which the Town Clerk may require.

D. Every applicant for a driver's license shall, at the time of submitting his application, also:

(1) Submit three individual photographs of himself taken within 30 days prior to the date of the application, 1 1/2 inches by 1 1/2 inches in size, and such pictures must be a true likeness of the applicant and must show only neck, shoulders and uncovered head.

(2) Submit a certificate from a physician, duly licensed to practice in the State of New York, certifying that, in his opinion, the applicant is not afflicted with any physical or mental disease or infirmity which might make him an unsafe or unsatisfactory driver.

(3) Exhibit his current New York State chauffeur's license for inspection.

(4) Be fingerprinted under the direction and supervision of the Town Clerk.

E. Upon the receipt of any application, the Town Clerk shall refer the same to the Town of Rotterdam Police Department for such investigation as it shall deem necessary or desirable and report thereon.

F. Upon the receipt of the report provided for in this section the Town Clerk shall issue a taxicab driver's license to the applicant if he shall find that the applicant holds a New York State chauffeur's license and is a fit and proper person to drive such vehicle considering his age, experience, police and accident records, character and driving ability; otherwise such application shall be denied.

G. At the time of issuance of such license, the Town Clerk shall also furnish to the applicant a numbered badge containing a photograph of the applicant, which must be conspicuously placed on the outer clothing in the hollow of the left shoulder of each licensed driver. Such badges shall be returned to the Town Clerk upon suspension or revocation of the taxicab or limousine driver's license.

H. The driver's license issued hereunder shall not be transferable.

I. The Town Clerk may issue a driver's license without the application required under this section to any person who shall submit a certified copy of a driver's license issued by any other municipality within the Counties of Albany, Rensselaer, Saratoga or Schenectady whose licensing requirements are substantially the equivalent to those established by this chapter; provided, however, that such municipalities extend similar reciprocity to licensees of the Town of Rotterdam expressed in writing to the Town Clerk.

**§ 257-6. Appeal of denial of license.**

Any applicant who shall have been denied a license under this chapter may apply to the Town Board for a review of the action of the Town Clerk as hereinafter provided:

A. Such application to the Town Board shall be in writing, signed and acknowledged by the applicant and shall state the ground or grounds on which the applicant claims that the determination of the Town Clerk was erroneous.

B. Such application shall be filed with the Town Clerk by the applicant within 20 days after notice of denials of his application by the Town Clerk has been mailed to him or delivered to him in person.

C. Upon the filing of such application, the Town Board shall hold a hearing thereon pursuant to the provisions of § 257-7 hereof.

D. At such hearing the Town Board shall consider the applicant's application upon the record before the Town Clerk in connection with the Town Clerk's consideration thereof and in its discretion may receive new or additional evidence in support thereof or in opposition thereto.

E. The Town Board, after such hearing, may affirm the action of the Town Clerk or direct the Town Clerk to issue a proper license, pursuant to the Town Law.

**§ 257-7. Hearings.**

Whenever it shall be provided herein that a hearing shall or may be held by the Town Board with respect to any matter:

A. Such hearing shall be held on a date and at a place and hour designated by the Town Board.

B. The Town Clerk shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing, and the date, place and hour thereof designated therefor by mailing a copy thereof to the applicant or license holder concerned at the address shown upon the most recent application of such applicant or licensee, at least 10 days before such hearing.

C. In the case of a public hearing, the notice required in Subsection B of this section shall also be published at least once a week for two successive weeks in a newspaper of general circulation in the Town of Rotterdam, the first publication to be at least 10 days before the date fixed for such public hearing.

D. The applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.

E. All witnesses shall be sworn and examined under oath.

**§ 257-8. Application fees; issuance of license; maintenance of license.**

A. The fees for filing applications hereunder, which shall be paid to the Town Clerk at the time the application is filed, shall be as set forth in Ch. 126, Fees.

**[Amended 1-25-1989 by L.L. No. 1-1989]**

B. Every license issued hereunder shall be signed at the direction and in the name of the Town Clerk and sealed with the Seal of the Town of Rotterdam.

C. The Town Clerk shall keep a record of the name and address of each person to whom a taxicab owner's license has been issued under this chapter showing the date and number of such license and all renewals, suspensions and revocation thereof, and a record of each taxicab licensed hereunder, stating the make, model, passenger seating capacity, year of manufacture, New York State registration number and the name and address of the person owning said taxicab, and a record of each driver's license issued hereunder showing the name and address of such driver, his New York chauffeur's license number, his driver's license issued hereunder and the date of issuance of such driver's license.

**§ 257-9. Penalties for offenses.**

**[Amended 3-12-1986 by L.L. No. 4-1986]**

A violator of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or both.

**CHAPTER 260. TRAILERS**

**[A comprehensive revision of the trailer regulations of the Town of Rotterdam was under review by the Town Board at the time of the completion of this volume. Upon completion of this review, the trailer regulations will be inserted here.]**

CHAPTER 264. VEHICLES AND JUNK, OUTSIDE STORAGE OF

- § 264-1. Purpose.
- § 264-2. Definitions.
- § 264-3. Storage of junk vehicles.
- § 264-4. Deposit of material.
- § 264-5. Notice.
- § 264-6. Presumption.
- § 264-7. Removal by Town; costs.
- § 264-8. Enforcement.
- § 264-9. Penalties for offenses.

CHAPTER 264. VEHICLES AND JUNK, OUTSIDE STORAGE OF

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 9-16-1981 as Section 3 of L.L. No. 13-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Automobile junkyards — See Ch. 173.  
Solid waste disposal — See Ch. 244, Art. I.

§ 264-1. Purpose.

[Amended 12-21-1983 by L.L. No. 16-1983; 3-21-1984 by L.L. No. 3-1984; 7-9-1987 by L.L. No. 7-1987]

A. The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof on private and public property within the Town of Rotterdam is hereby declared to be detrimental to the public welfare of the residents of the Town of Rotterdam, aesthetically unattractive and tends to detract from the enjoyment of the environment by said residents and to depreciate neighborhood property values and is an infringement on the enjoyment of their properties and homes by neighboring residents. The accumulation, storage and placement of personal property and materials on and about public and private real property outside of buildings and structures, when such property and materials are not normally incidental to the use and enjoyment of the property on which they are stored, accumulated or placed, for unreasonable periods of time similarly is aesthetically objectionable and can adversely affect the value of neighborhood properties and can be detrimental to the use, enjoyment and occupation of such properties.

B. The purpose of this chapter is to prohibit the placement, storage or abandonment of vehicles on private and public property which, because of mechanical defects, are inoperable and which are unsightly in appearance. In order to accord owners of such vehicles a reasonable time to restore them to operating condition or to arrange for disposition of them, and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles out of doors, the prohibition does not apply until the vehicle has been situate on the property for in excess of 30 days.

C. The further purpose of this chapter is to prohibit the placement, accumulation or storage of vehicle parts and any other property or items which remain out of doors on private or public real property and in customary usage, and not utilized in conjunction with the out-of-door enjoyment of the property on which they are situate. The outdoor storage of such items for more than five days is deemed to be an unreasonable period of time. The prohibition applies to all material, as defined herein, whether or not such material is deemed to be junk, litter, waste, refuse or garbage.

D. Certain materials which are normally used in conjunction with out-of-door activities are exempted from the prohibition.

§ 264-2. Definitions.

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

**JUNK VEHICLE**

A. Any vehicle which:

(1) For any reason is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, such as automobile, bus, truck, motorcycle, etc., or is incapable without repair of being drawn or towed, if it is a vehicle, such as a trailer, originally designed to be towed or drawn from behind an internally powered vehicle; and

(2) Is unsightly in appearance because of the existence of one or more conditions, such as, but not limited to, the following:

[Amended 3-21-1984 by L.L. No. 3-1984; 7-9-1987 by L.L. No. 7-1987]

(a) Deterioration by rust of the body.

(b) Deterioration of the exterior finish of the vehicle.

(c) Broken windows.

(d) Absence of component parts of the vehicle, such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof or tailgate.

(e) Physical damage, such as dents, cracks, scrapes or holes, to component parts of the vehicle.

(f) Absence of interior components such as seats, dashboard or interior door moldings.

B. Any vehicle which is incapable of being moved or propelled, drawn or towed without repair as provided in Subsection A(1) above and has remained situate on any real property for a period in excess of eight months.

**MATERIAL**

Any property (other than real property and buildings thereon), items and articles, organic or inorganic, composed of glass, wood, metal, plastic, paper, fabric, leather, rubber or any combination thereof, whether manufactured or not.

**[Added 7-9-1987 by L.L. No. 7-1987]**

**PERSON**

One or more individuals, a partnership, corporation, association or any other legal entity.

**VEHICLE**

Any means of transport or conveyance having wheels originally designed and manufactured to be moved or propelled by any power other than muscular power or to be drawn or towed. A vehicle shall include but not be limited to automobiles, trucks, trailers, motorcycles, motorbikes and buses.

**§ 264-3. Storage of junk vehicles.**

No person shall within the Town of Rotterdam deposit, place, stop or abandon on any real property, or permit, cause or consent to be deposited, placed, stored or abandoned on real property owned or occupied as a tenant by such person, a junk vehicle for a period of longer than 30 days after receipt by such person of the notice prescribed by § 264-5 unless such vehicle is completely enclosed in a garage or other similar structure. This section shall not apply to the storage, placement, deposit or abandonment of junk vehicles in junkyards, as defined in, and duly operating in accordance with, the provisions of Chapter 173 of the Code of the Town of Rotterdam.

**§ 264-4. Deposit of material.**

**[Amended 7-9-1987 by L.L. No. 7-1987]**

A. Subject to the exceptions contained in Subsection B hereof, no person shall store, place, accumulate or abandon upon any real property, nor cause, consent or permit to be deposited, stored, accumulated, placed or abandoned upon any real property owned or occupied as a tenant by such person, outside of an enclosed structure, building or container, any material or parts and components of vehicles for a period longer than five days after receipt by such person of the notice described by § 264-5. This section shall not apply to disposals in the Town of Rotterdam sanitary landfill sites in accordance with the provisions of Chapter 244 of the Code of the Town of Rotterdam.

B. Subsection A shall not apply to the storage or placement on premises of the following material:

- (1) Wood intended for consumption in a woodburning stove, furnace or fireplace located in a building on the premises.
- (2) Lawn or yard or garden ornaments and implements.
- (3) Lawn and patio furniture.
- (4) Operable farm, garden and yard machinery and apparatus used on the premises.
- (5) Standing fences.
- (6) Hoses and sprinklers used for watering lawns or gardens.
- (7) Storage, placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the Town of Rotterdam and the State of New York.
- (8) Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.

**§ 264-5. Notice.**

**[Amended 3-16-1983 by L.L. No. 3-1983; 7-9-1987 by L.L. No. 7-1987; 6-22-1994 by L.L. No. 12-1994]**

A. After the enforcement officer has determined that junk vehicles or materials are stored, deposited, placed or abandoned on a parcel of property, he shall send written notice thereof to the occupant or owner of the property or to the owner of the vehicles, or to both such persons, as the case, may be, directing the removal of such vehicle within 30 days or the removal of such material within five days after receipt of such notice. The notice shall be sent by certified mail, return receipt requested. Possession by the enforcement officer of the United States postal receipt indicating delivery of the notice to the addressee, whether the receipt is signed by the addressee or by a third party, shall constitute conclusive proof of the receipt by the addressee of said notice. The thirty-day period or the five-day period, as the case may be, shall commence on the date of the delivery of the notice as indicated on the postal receipt. The notice may also be personally served on the addressee, in which event the respective thirty- and five-day periods shall commence on the date of the personal service of the notice.

B. If the notice cannot be either personally served on the record owner or be delivered to him by certified mail because the record owner cannot with due diligence be ascertained or is not locatable, then the notice may be served by publication. The notice shall be published in the official newspaper of the Town once in each of two successive weeks. If there is a building situate on the property, the notice shall also be posted on the front door of the structure. The thirty-day and five-day periods, as the case may be, shall commence on the sixth business day following the date of the second publication of the notice. Editor's Note: Original Section 2 of L.L. No. 3-1983, regarding penalties for offenses and which immediately followed this section, was repealed 12-21-1983 by L.L. No. 16-1983.

**§ 264-6. Presumption.**

**[Amended 3-21-1984 by L.L. No. 3-1984]**

A. Whenever any person who owns property or occupies it as a tenant contends that a vehicle located thereon is capable of being moved or propelled by application on its own internal power, the Building Inspector/Code Enforcement Officer may require proof of that fact by requesting that the vehicle be started and driven for a distance of not to exceed 25 feet. If the person refuses or neglects to comply, then there shall be a

rebuttable presumption that the vehicle is incapable, without repair, of being moved or propelled by application of internal power. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. There shall be a presumption that a person who has received the notice prescribed by § 264-5 has stored, deposited, placed, abandoned or caused, consented to or permitted the deposit, storage, abandonment or placement of the junk vehicles or material described in said notice.

[Amended 7-9-1987 by L.L. No. 7-1987]

**§ 264-7. Removal by Town; costs.**

[Added 12-21-1983 by L.L. No. 16-1983; amended 7-9-1987 by L.L. No. 7-1987; 6-13-1990 by L.L. No. 13-1990; 6-22-1994 by L.L. No. 12-1994]

A. The notice referred to in § 264-5, served upon the owner of the subject property, shall advise the owner that if the junk vehicles and/or junk materials are not removed within said thirty-day or five-day period, as the case may be, the Town will proceed with the removal and disposition of said junk vehicles and/or junk materials following said notice periods and shall cause the costs of such removal and disposition to be charged against the owner and the subject property. The notice shall also advise the owner of the subject property that he may be personally liable for such costs in an action by the Town against him.

B. The notice, when it includes provisions pursuant to Subsection A, shall also advise the owner of the subject property that the owner shall be entitled to a hearing before a review board comprised of three members from the Town, being the Zoning Officer, the Chairman of the Planning Commission and the Chairman of the Zoning Board of Appeals, on any matter the owner wishes to address relating to the existence of junk vehicles and/or junk materials and the removal thereof from the subject property. The request for a hearing before the review board must be made in writing by the owner of the subject property prior to the expiration of the thirty-day or five-day notice period, as the case may be. The request must be in writing, directed to the Town Building Inspector/Code Enforcement Officer. If a hearing is not requested, the Town shall be entitled to go upon the property upon the expiration of the respective notice periods, as the case may be, and, utilizing either Town personnel or independent contractors, remove and dispose of the junk vehicles and/or junk materials. If a hearing is requested by the owner of the subject property, it shall be held within 10 days of the date on which the request is received by the Town. At the hearing, the owner shall be advised of the amount of money which it is estimated will be expended by the Town for the removal of the junk vehicle and/or junk materials, that the owner of the subject property will be responsible for the payment of that amount and that said amount will be assessed as a lien against the property. At the conclusion of the hearing, the review board shall determine whether removal thereof by the Town should proceed at the expiration of the respective notice periods, as the case may be, and the cost thereof shall be collected from the owner of the subject property or charge against the subject property as hereinbefore mentioned. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The owner shall have five additional days to remove the junk vehicles and/or junk materials beyond the original notice periods, as the case may be, in the event that a hearing is held at the request of the owner of the subject property and the owner receives the written decision of the review board. If the owner of the subject property defaults in the removal of junk vehicles and/or junk materials, the Town shall be entitled to go upon the subject property and, utilizing either Town personnel or independent contractors, remove and dispose of the junk vehicles and/or junk materials.

D. The determination of the review board of the Town shall be subject to review in an Article 78 proceeding.

E. The cost of the removal and disposition of the junk vehicles and/or junk materials by the Town may be collected from the owner of the subject property in a civil action therefor by the Town. In addition thereto or in lieu thereof, such costs may be assessed as a lien against the subject property of the owner and enforced in accordance with the procedure prescribed in Article 3 of the Lien Law for the enforcement of mechanics' liens on real property.

**§ 264-8. Enforcement.**

[Amended 7-22-1992 by L.L. No. 16-1992 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]

This chapter may be enforced by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam and by any police officer of the Town of Rotterdam Police Department or a duly appointed representative by the Rotterdam Town Board.

**§ 264-9. Penalties for offenses.**

A. A violator of this chapter shall be guilty of a violation and shall be punishable by a fine not exceeding \$250 or by imprisonment for not more than 15 days, or both. Each week that the violation shall continue shall constitute a separate offense.

B. In addition to the enforcement in a criminal proceeding by fine or imprisonment, this chapter may be enforced by instituting a special proceeding as authorized by Article 4 of the Civil Practice Law and Rules to compel compliance with the provisions of this chapter or to restrain by injunction any violation thereof, or to obtain any other appropriate relief.

C. A civil penalty of \$25 per day is hereby imposed for each day's violation of this chapter, which penalty may be collected in any judgment rendered in a proceeding under Subsection B or in a separate civil action.

**CHAPTER 265. PROPERTY MAINTENANCE**

- § 265-1. Purpose.
- § 265-2. Applicability.
- § 265-3. Definitions.
- § 265-4. Duty to maintain property.
- § 265-5. Residential buildings and structures.
- § 265-6. Commercial/industrial buildings and property.
- § 265-7. Open areas and parking spaces.
- § 265-8. Rodent harborage and infestation.
- § 265-9. Littering; appliances; receptacles.
- § 265-10. Maintenance of construction sites.
- § 265-11. Responsibilities of owners.

- § 265-12. Responsibilities of occupants.
- § 265-13. Enforcement and compliance.
- § 265-14. Notice.
- § 265-15. Action in cases of noncompliance.
- § 265-16. Penalties for offenses.

## **CHAPTER 265. PROPERTY MAINTENANCE**

[HISTORY Adopted by the Town Board of the Town of Rotterdam 11-14-2001 by L.L. No. 14-2001. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Unsafe buildings — See Ch. 90.  
Housing and buildings standards — See Ch. 154.  
Solid waste — See Ch. 244.  
Subdivision of land — See Ch. 249.  
Swimming pools — See Ch. 252.  
Vehicle and junk storage — See Ch. 264.  
Zoning — See Ch. 270.

#### **§ 265-1. Purpose.**

It is the purpose of this chapter to ensure that property within the Town of Rotterdam is maintained in a safe and sanitary condition so as to not pose a threat to public health or property. It is also the intent of this chapter to promote and enhance properties within the Town of Rotterdam.

#### **§ 265-2. Applicability.**

The provisions of this chapter shall supplement all local laws, ordinances, codes or regulations existing in the Town of Rotterdam and other statutes and regulations of municipal authorities having jurisdiction applicable hereto. Where a provision of this chapter is found to be in conflict with any provision of an existing local law, ordinance or regulation, the provision or requirement of this chapter shall prevail.

#### **§ 265-3. Definitions.**

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

##### **BUILDING**

Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land.

##### **JUNK**

Discarded, broken or disabled material, including, but not limited to, furniture; appliances; toys; or other items that are not in functioning condition.

##### **LITTER**

Discarded waste materials, including, but not limited to, paper wrappings; packaging materials; discarded or used bottles; and discarded or used cans.

##### **MOTOR VEHICLE**

All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

##### **OWNER**

Any person owning property, as shown on the real property records of Schenectady County or on the last assessment roll for taxes, and shall also mean any lessee, tenant or other person having control or possession of the property.

##### **PROPERTY**

A lot, plot or parcel of land, including any structures thereon.

##### **STRUCTURE**

A building or structure which is not currently inhabited or occupied and to which access to the interior thereof may be gained by reason of open, unlocked or broken windows or doors, or because of other physical deterioration or damage thereto.

##### **TRASH**

Waste food products and other household garbage.

##### **VERMIN**

Various small animals, such as rats, that may be destructive or injurious to health.

#### **§ 265-4. Duty to maintain property.**

No person owning, leasing, renting, occupying, being in possession of, or having charge of any property in the Town, including vacant lots, shall maintain or allow to be maintained on such property, except as may be permitted by any other Town ordinance, any of the following conditions:

A. Junk, trash, litter, boxes, discarded lumber, salvage materials, or other similar materials in any front yard, side yard, rear yard or vacant lot;

B. Attractive nuisances dangerous to children, including, but not limited to, abandoned, broken or neglected equipment, machinery, refrigerators and freezers, excavations, wells or shafts;

C. Broken or discarded furniture, household equipment and furnishings in any front yard, side yard, rear yard or vacant lot;

D. Shopping carts in any front yard, side yard, rear yard or vacant lot of any property;

E. Graffiti or signs, not in compliance with the Town Zoning Code, Editor's Note: See Ch. 270, Zoning, on the exterior of any building, fence or other structure in any front yard, side yard or rear yard or vacant lot;

F. Vehicle component parts or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot;

G. Any accumulation of weeds, brambles, berry vines, or other vegetation which is over-growing any structure or which exceeds an average height of 10 inches, except that which is kept in a neat and orderly manner for human consumption, or any accumulation of dead organic matter, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions constituting fire, health or safety hazards; however, this



does not apply to cultivated flowers or gardens. Properties in A-1 are excluded from this requirement; however, they must conform to all other pertinent sections of the Town Code.

H. Dilapidation or state of filthiness or uncleanness of any dwelling or other structure which endangers health or life or which permits entrance by rats, mice or other rodents, or by which conditions it attracts rats and other vermin.

I. The active selling of motor vehicles in a residential zone is limited to two motor vehicles within a given calendar year.

J. No outside storage of more than two unregistered motor vehicles on any property. Vehicles are to be stored behind the house in the rear of the property with a five-foot side and rear setback.

#### **§ 265-5. Residential buildings and structures.**

A. Exterior walls, roofs and porches or appurtenances thereto shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public.

B. The foundation walls of every building shall be maintained in good repair and shall be structurally sound.

C. Exterior walls, roofs and other parts of buildings shall be free from loose and unsecured objects and material and improperly secured objects and materials. Such objects or materials shall be removed, repaired or replaced.

D. The owner of vacated buildings shall take such steps and perform such acts as may be required from time to time to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public. All openings shall be covered with painted, exterior-grade plywood closures and securely fastened to prevent trespassing. See Chapter 93. Editor's Note: Chapter 93, Vacant Buildings, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 90, Unsafe Buildings.

E. Buildings and structures shall be maintained in such a condition that they shall not become unoccupied hazards as defined per Chapter 90 of the Code of the Town of Rotterdam. All graffiti or defacing shall be removed and the surface finish restored within five days' written notice of the Building Inspector/Code Enforcement Officer.

F. All signage and lighting systems shall be maintained in a completely operable, clean and safe condition.

G. All swimming pools shall be maintained and operated in a clean, safe and sanitary manner at all times and in compliance with the New York State Uniform Fire Prevention and Building Code. Swimming pool recirculation and disinfection equipment shall be operated to maintain water quality. Swimming pool equipment and appurtenances shall be operated and maintained in accordance with approved plans and specifications. Editor's Note: See also Ch. 252, Swimming Pools.

H. All decorative pools, fountains, architectural garden features, and similar items shall be maintained free of litter and operated as intended. Should these devices be abandoned or should they deteriorate because of lack of adequate maintenance, the owner shall either repair, remove or replace these items within five days of written notice.

I. Grass lawns on any lot improved with structures shall be maintained free of unrestrained growth and in compliance with the New York State Uniform Fire Prevention and Building Code. Nothing in this chapter shall be construed to prohibit gardens, woods, generally recognized groundcovers and lawn grasses, or properly maintained compost piles.

J. Placement of animal feed on the premises for the purposes of feeding nondomesticated animals shall be carried out in a manner that avoids a noxious impact on the premises or the neighborhood and that avoids detriment to public health or safety.

K. The maintenance of fences on properties shall be the responsibility of the owner of the fence.

#### **§ 265-6. Commercial/industrial buildings and property.**

A. Commercial buildings and properties shall at all times be maintained in compliance with the provisions of this chapter regarding open spaces, buildings or structures and littering.

B. No outside storage or accumulation of garbage, crates, pallets, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, pallets, rubbish, refuse or debris shall be kept inside the building or buildings on the premises, or in a screened enclosure, and shall be collected and removed from the premises on no less than a weekly basis unless prior approval is granted by the Planning Commission. All property owners have until June 1, 2002, to comply with this section and will be subject to site plan review. Fees for site plan review on existing business property will be waived until June 1, 2002, if the intention is to come into compliance with this section.

C. No shopping baskets, carts or wagons shall be left unattended or standing in open areas and shall be collected at the close of business each day by the occupant of such unit and removed to the interior of the building or buildings, or to a designated storage area which does not hinder pedestrian or vehicular movement. In regards to businesses which operate 24 hours per day, unattended shopping baskets, carts or wagons shall be collected, in the manner described above, a minimum of two times during each twenty-four-hour period.

D. The maintenance of all fences and planting areas installed on the premises shall be the responsibility of the owner of the property. Such maintenance shall include, but not be limited to, the removal and/or replacement of trees and shrubs which may die and/or otherwise be destroyed and the removal and/or replacement of fences which may fall into disrepair. Additionally, lawns and those grassy areas which are viewed by customers and passing motorists shall be maintained in a neat manner and cut at a height not to exceed four inches.

E. The active sale of any motor vehicle, unless specifically allowed by Town Zoning Ordinance, Editor's Note: See Ch. 270, Zoning, is limited to two motor vehicles within a given calendar year.

F. All signage and lighting systems shall be maintained in a completely operable, clean and safe condition.

**§ 265-7. Open areas and parking spaces.**

A. Surface and subsurface water (with the exception of regulated freshwater wetlands or other bodies of water protected by either local, state or federal law) shall be appropriately managed to protect buildings and structures. Gutters, culverts, catch basins, drain inlets, stormwater sewers or other appropriate drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage feature shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.

B. Fences and other minor construction shall be maintained in a safe and usable manner.

C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under all weather conditions. Any holes or other hazards that may exist shall be filled, and necessary repairs or replacements carried out.

D. Yards and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner which will prevent dust, sand, litter and other objects, which are a danger to public health or safety, from being blown about the neighborhood. Open wells, cesspools and cisterns shall be securely closed or barricaded from access to the public.

E. Heavy undergrowth and accumulation of plant growth, which is noxious or detrimental to health, shall be eliminated.

F. Yards and vacant lots shall be maintained free of accumulations of animal excrement which create a noxious impact on the premises or the neighborhood.

**§ 265-8. Rodent harborage and infestation.**

A. All buildings, structures and properties shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall comply with generally accepted practice.

B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

**§ 265-9. Littering; appliances; receptacles.**

A. All properties, whether improved or vacant, shall be maintained free of litter; provided, however, that this chapter shall not prohibit the storage of litter in authorized private receptacles for collection.

B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes. Editor's Note: See Ch. 244, Solid Waste.

C. No appliance may be discarded, abandoned or stored outdoors in any manner without first completely removing any locking devices and all doors.

D. Dumpsters and similar large receptacles shall be screened from public streets, rights-of-way, and areas where pedestrians frequently travel. Said screening shall consist of a solid row of evergreens, or solid fencing to hide the dumpster/receptacle from public view.

E. Shopping centers, supermarkets and similar business units shall provide permanent and sanitary litter receptacles within the interior of the premises for public use in sufficient quantity to prevent a person from walking in excess of 100 feet to use any such receptacle. Receptacles shall be of sufficient size to accommodate small items of patron's trash (i.e., shopping lists, tissues, gum wrappers, etc.).

**§ 265-10. Maintenance of construction sites.**

During the development, improvement or construction of any site for any purpose, the owner and applicant, as identified on the building permit application, shall take appropriate measures to ensure the following:

A. Dust, blowing sand, dirt, and sediment shall be controlled so as not to pose a nuisance, health, or safety risk to motorists or neighboring property owners.

B. Erosion and siltation shall be confined to the site being developed. Neighboring properties and roadways shall not be impacted by erosion, blowing sand, dirt, or siltation as a result of construction activities.

C. Construction debris/litter shall be confined on the site so as not to impact neighboring properties and roadways.

**§ 265-11. Responsibilities of owners.**

A. Owners, operators and tenants shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefor, regardless of any agreement purporting to delegate the responsibilities set forth herein, with the exception of those responsibilities charged to occupants as designated in § 265-12.

B. Owners and operators of buildings shall be responsible for the proper installation, maintenance, condition and operation of service facilities. Owners and operators shall furnish adequate heat, hot water, and air conditioning when contractually responsible to do so.

**§ 265-12. Responsibilities of occupants.**

An occupant of the premises shall be responsible for compliance with this chapter in regard to the following:

A. Maintenance of that part of the premises which is occupied or controlled in a clean, sanitary and safe condition.

B. Keeping exits from the building or apartment clear and unencumbered from their possessions.

C. Daily disposal of garbage and refuse into provided facilities in a clean and sanitary manner.

D. Providing for safe and sanitary deposition and storage of newspapers, glass, plastic products, yard clippings, and any other item required to be recycled in accordance with other Town laws, ordinances, codes or rules. Editor's Note: See Ch. 244, Art. II, Solid Waste Recycling.

E. Keeping domestic animals and pets in an appropriate manner and under control.

#### **§ 265-13. Enforcement and compliance.**

A. This chapter may be enforced by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam and by any police officer of the Town of Rotterdam Police Department or a duly appointed representative by the Rotterdam Town Board. The Code Enforcement Officer or the duly authorized designee shall have authority to enforce the provisions of this chapter and to inspect premises within the Town as necessary for said enforcement. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Any property found to be maintained in violation of this chapter is hereby declared to be a public nuisance and shall be abated by rehabilitation, removal, trimming, demolition or repair.

C. The property owner shall have the ultimate responsibility for compliance with all provisions of this chapter.

#### **§ 265-14. Notice.**

A. After the enforcement officer has determined that there is a specific violation of this chapter, a written notice will be sent to the occupant or owner of the property directing compliance with this chapter within five days after receipt of such notice. The notice shall be sent by certified mail, return receipt requested. Possession by the enforcement officer of the United States postal receipt indicating delivery of the notice to the addressee, whether the receipt is signed by the addressee or by a third party, shall constitute conclusive proof of the receipt by the addressee of said notice. The five-day period shall commence on the date of the delivery of the notice as indicated on the postal receipt. The notice may also be personally served on the addressee, in which event the respective five-day period shall commence on the date of the personal service of the notice.

B. If the notice cannot be either personally served on the record owner or be delivered by certified mail because the record owner cannot, with due diligence, be ascertained, or is not locatable, then the notice may be served by publication. The notice shall be published in the official newspaper of the Town once in each of two successive weeks. If there is a building situated on the property, the notice shall also be posted on the front door of the structure. The five-day period shall commence on the sixth business day following the date of the second publication of the notice.

#### **§ 265-15. Action in cases of noncompliance.**

A. The notice referred to in § 265-14, served upon the owner of the subject property, shall advise the owner that if the violation(s) is not corrected within said five-day period, the Town will proceed with the removal and disposition of said violation(s) following said notice period and shall cause the costs of such removal and disposition to be charged against the owner and the subject property. The notice shall also advise the owner of the subject property that the owner may be personally liable for such costs in an action by the Town.

B. The notice, when it includes provisions pursuant to Subsection A, shall also advise the owner of the subject property that the owner shall be entitled to a hearing before a review board comprised of three members from the Town, being the Zoning Officer, the Chairman of the Planning Commission and the Chairman of the Zoning Board of Appeals, on any matter the owner wishes to address relating to the existence of the violations of this chapter and the removal thereof from the subject property. The request for a hearing before the review board must be made in writing by the owner of the subject property prior to the expiration of the five-day notice period. The request must be in writing, directed to the Town Building Inspector/Code Enforcement Officer. If a hearing is not requested, the Town shall be entitled to go upon the property upon the expiration of the notice period and, utilizing either Town personnel or independent contractors, correct the violation. If a hearing is requested by the owner of the subject property, it shall be held within 10 days of the date on which the request is received by the Town. At the hearing, the owner shall be advised of the amount of money which it is estimated will be expended by the Town to correct the violation. The owner of the subject property will be responsible for the payment of that amount and that said amount will be assessed as a lien against the property. At the conclusion of the hearing, the review board shall determine if corrective measures by the Town should proceed at the expiration of the respective notice period, and the cost thereof shall be collected from the owner of the subject property or charged against the subject property as hereinbefore mentioned. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The owner shall have five additional days to correct the violation beyond the original notice period, in the event that a hearing is held at the request of the owner of the subject property and the owner receives the written decision of the review board. If the owner of the subject property defaults in the removal of the violation, the Town shall be entitled to go upon the subject property and, utilizing either Town personnel or independent contractors, to correct the violation.

D. The determination of the review board of the Town shall be subject to review in an Article 78 proceeding.

E. All relative costs to correct the violation by the Town may be collected from the owner of the subject property in a civil action therefor by the Town. In addition thereto, or in lieu thereof, such costs may be assessed as a lien against the subject property of the owner and enforced in accordance with the procedure prescribed in Article 3 of the Lien Law for the enforcement of mechanics' liens on real property.

F. If any person shall fail to maintain real property in accordance with Chapter 265 above, the Code Enforcement Officer may authorize the work to be performed, the cost of which shall be borne out of the Town's general fund.

#### **§ 265-16. Penalties for offenses.**

A. Any person or persons, association, firm or corporation who shall violate any of the provisions of this chapter shall be guilty of an offense and shall be punishable by a minimum fine of \$50, not more than \$250, or imprisonment for not more than 15 days, or both. Each day that a violation continues, after notification in writing by personal delivery or first class mail unreturned to the sender, shall be deemed a separate offense.

B. The cost of clean-up of the property shall be assessed as a lien against the property taxes.

C. Administrative fee: \$50 per incident of noncompliance.

## CHAPTER 266. VEHICLES AND TRAFFIC

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- § 266-42. Schedule II: One-Way Streets.
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## **CHAPTER 266. VEHICLES AND TRAFFIC**

[HISTORY: Adopted by the Town Board of the Town of Rotterdam 3-12-1986 by L.L. No. 4-1986. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Automobile junkyards — See Ch. 173.  
 Noise — See Ch. 188.  
 Snowmobiles — See Ch. 240.  
 Taxicabs — See Ch. 257.

### **ARTICLE I. General Provisions**

#### **§ 266-1. Definitions; interpretation.**

A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

B. Interpretation.

(1) Official time standard. Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

(2) Measurements. Any linear measurements specified for various orders, rules and/or regulations contained in or adopted and/or issued pursuant to this chapter shall be deemed to be approximate, and such measurements, and the order, rule and/or regulation to which they pertain, shall not be affected or altered in any way by the widening of a street, by the construction of curbs, gutters or sidewalks or by any other action which might tend to obliterate the point from which such measurements were originally made. Unless otherwise indicated, measurements shall be made from the nearest curbline of the street(s) referred to in a location description or, if there is no curbline, from the nearest pavement edge.

#### **§ 266-2. Authority to install traffic control devices.**

The Department of Public Works shall install and maintain traffic control devices when and as required under the provisions of this chapter to make effective the provisions of this chapter and may install and maintain such additional traffic control devices as the Town Board may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

#### **§ 266-3. Highway markings.**

The system of traffic markings upon the New York State highways are hereby made applicable to the Town roads in the Town of Rotterdam. Said markings, when placed upon Town roads, shall have the same meaning and effect as similar markings upon state roads in this town, and violations of such markings upon said Town roads shall be subject to the same penalties as violations of such markings on state roads.

#### **§ 266-4. Penalties for offenses.**

[Amended 2-22-1995 by L.L. No. 1-1995; 7-9-2003 by L.L. No. 10-2003]

Fines for violations of this chapter shall be assessed according to the following schedule:

#### **§ 266-5. Repealer.**

All prior local laws, ordinances, orders, rules and regulations, or parts of such, of this Town regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any local law, ordinance, order, rule and/or regulation hereby repealed prior to the taking effect of this chapter.

#### **§ 266-6. Severability.**

If any article, section, subsection, paragraph, sentence, clause or provision of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **§ 266-7. When effective.**

A. Except those parts, if any, which are subject to the approval under § 1684 of the Vehicle and Traffic Law of the State of New York, this chapter and any orders, rules and/or regulations adopted and/or issued hereunder shall take effect as provided by law.

B. Any part or parts of this chapter and any orders, rules and/or regulations adopted and/or issued hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

### **ARTICLE II. Traffic Regulations**

#### **§ 266-8. Traffic control signals.**

Traffic control signals shall be installed, maintained and operated at the intersections and locations described in Schedule I (§ 266-41).

**§ 266-9. One-way streets.**

The streets or parts of streets described in Schedule II (§ 266-42) are hereby designated as one-way streets during the periods indicated, and vehicles shall proceed along those streets or parts of streets only in the direction indicated during the periods indicated.

**§ 266-10. Prohibited turns at intersections.**

Turns of the kind designated (left, right, all) are prohibited at any of the locations described in Schedule III (§ 266-43).

**§ 266-11. U-turns.**

The turning of vehicles so as to proceed in the opposite direction (otherwise known as a "U-turn") is hereby prohibited on any of the streets or parts of streets described in Schedule IV (§ 266-44).

**§ 266-12. Prohibited turns on red signal.**

In accordance with the provisions of § 1111(d)(2) of the Vehicle and Traffic Law, a right turn on a steady red signal is prohibited at the locations designated in Schedule V (§ 266-45).

**§ 266-13. Stop intersections.**

The intersections described in Schedule VI (§ 266-46) are hereby designated as stop intersections, and stop signs shall be erected as indicated.

**§ 266-14. Yield intersections.**

The intersections described in Schedule VII (§ 266-47) are hereby designated as yield intersections, and yield signs shall be erected as indicated.

**§ 266-15. Speed limits.**

The maximum speed at which vehicles may proceed on or along any streets or highways within the Town is hereby established at 30 miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule VIII (§ 266-48) shall be as indicated in said schedule.

**§ 266-16. School speed zones.**

The speed limit for vehicles proceeding on or along those streets or parts of streets designated as school speed zones, described in Schedule IX (§ 266-49), shall be as indicated in said schedule. The school speed limits shall be effective only during school days between the hours of 7:00 a.m. and 6:00 p.m.

**§ 266-17. Exclusion of certain vehicles; route system for certain vehicles.**

A. Exclusion of certain vehicles.

(1) All vehicles in excess of the indicated maximum gross weights are hereby excluded from the streets and highways, or parts thereof, described in Schedule X (§ 266-50).

(2) All commercial vehicles in excess of four tons are hereby excluded from the streets and highways or parts thereof described in Schedule XXIII (§ 266-63).

**[Added 7-10-2002 by L.L. No. 14-2002]**

(3) The regulations established in this section shall not be construed to prevent the delivery or pickup of merchandise or other property or the operation of picking up and discharging school children on their particular street by school buses along the highways from which such vehicles and combinations are otherwise excluded.

B. Route system for certain vehicles.

(1) A route system, upon which all vehicles having a total gross weight in excess of eight tons are permitted to travel and operate, shall consist of the highways designated in Schedule XI (§ 266-51A).

(2) A route system, upon which all vehicles in excess of five tons are permitted to travel and operate, shall consist of the highways designated in Schedule XI (§ 266-51B).

**ARTICLE III. Parking, Standing and Stopping**

**§ 266-18. Applicability.**

The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

**§ 266-19. Manner of parking.**

A. Wherever a space shall be marked off on any street for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

B. Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway where there are no adjacent curbs shall be so stopped, standing or parked parallel with the edge of the roadway headed in the direction of lawful traffic.

**§ 266-20. No parking at any time.**

The parking of vehicles is prohibited at all times in those streets or parts of streets described in Schedule XII (§ 266-52).

**§ 266-21. No parking certain hours.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XIII (§ 266-53) during the hours indicated.

**§ 266-22. Limited time parking.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XIV (§ 266-54) for a longer period of time than that designated, during the hours indicated.

**§ 266-23. Overnight parking.**

Overnight parking (between the hours of 10:00 p.m. and 7:00 a.m.) shall be prohibited in those areas designated in Schedule XV (§ 266-55).

**§ 266-24. Standing prohibited.**

The standing of vehicles is hereby prohibited in the locations described in Schedule XVI (§ 266-56) during the hours indicated.

**§ 266-25. Stopping prohibited.**

The stopping of vehicles is hereby prohibited in the locations described in Schedule XVII (§ 266-57) during the hours indicated.

**§ 266-25.1. Parking restrictions on certain lots.**

**[Added 12-22-1986 by L.L. No. 26-1986]**

Pursuant to Article 41, § 1660-a, of the Vehicle and Traffic Law of the State of New York and written request of MYMAR Associates, owner, the Town Board of the Town of Rotterdam hereby designates the prohibiting, regulating and restraining the stopping, standing or parking of trucks, car carriers, tractors, trailers, tractor/trailers or similar vehicles during the day or night (24 hours) on the entire premises of the former A & P Supermarket Building located at the intersection of Curry Road (Route No. 7) and Hamburg Street (Route No. 146), excluding customers and/or authorized delivery vehicles, and the installation of no-parking or other appropriate signs are hereby authorized for prohibiting, regulating and restraining the stopping, standing or parking of trucks, car carriers, tractors, trailers, tractor/trailers or similar vehicles upon said premises, and the Rotterdam Police Department shall be authorized to enforce this section.

**§ 266-26. Angle parking.**

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XVIII (§ 266-58) except at the angle designated and only within the painted white stall lines.

**§ 266-27. Parking of certain vehicles.**

**A. Off-street parking.**

(1) Pursuant to Article 41, § 1660-a, of the Vehicle and Traffic Law of the State of New York and at the written request of Triester International who is the owner of the Curry Road Shopping Center, the Town Board hereby designates the prohibiting of the parking of tractor-trailers, day or night, on the entire premises of the Curry Road Shopping Center located on Curry Road, excluding customers and authorized vehicles for deliveries at the rear of the center stores. Installation of no-parking or other appropriate signs are hereby authorized for the prohibiting, regulating and restraining of the stopping, standing or parking of tractor-trailers in said shopping center, and the Rotterdam Police Department shall be authorized to enforce this section.

(2) Customers and authorized vehicles for delivery at the rear of the center stores are excluded from complying with this section.

**B. Parking of commercial vehicles.**

**[Amended 12-22-1999 by L.L. No. 25-1999]**

(1) Legislative intent. The Town Board of the Town of Rotterdam finds that the parking of commercial vehicles weighing in excess of three tons, unladen weight, on the public highways in residential areas of the Town constitutes a hazard to the use of such highways by vehicular and pedestrian traffic and is inharmonious with the character of the neighborhood and generally is offensive to the aesthetics thereof. The purpose of this subsection is to prohibit such vehicles from parking on public highways, in designated zoning districts, in the interest of safety and welfare.

(2) Parking prohibited. No person, firm, corporation or other legal entity shall cause, allow, permit or suffer any commercial vehicle (excluding mobile homes) weighing in excess of three tons, unladen weight, registered in their name or operated by them or their agent to be parked in any manner or place upon a public street or in the street right-of-way in an Agricultural, One-Family Residential, Two-Family Residential or Multiple-Family District, except if such vehicle is actively assisting in an emergency, such as a fire or traffic accident, or the vehicle is in the process of being loaded or unloaded.

**§ 266-28. Bus stops.**

A. The locations described in Schedule XIX (§ 266-59) are hereby designated as bus stops, and the parking or standing of vehicles other than buses is hereby prohibited in such locations.

B. The locations described in Schedule XX (§ 266-60) are hereby designated as school bus zones, and the stopping, standing or parking of vehicles other than school buses is hereby prohibited during school hours.

**§ 266-29. Taxi stands.**

The locations described in Schedule XXI (§ 266-61) are hereby designated as taxi stands, and the standing or parking of vehicles other than taxis is hereby prohibited in such locations. Taxis using such stands shall not be left unattended and shall be subject to all other vehicle and traffic regulations of the town.

**§ 266-30. Fire lanes.**

The locations described in Schedule XXII (§ 266-62) are hereby designated as fire lanes, and the parking of vehicles is hereby prohibited in such locations.

**§ 266-30.1. Restrictions on certain bridges.**

**[Added 9-14-1988 by L.L. No. 8-1988]**

A. Bridge which spans the Poentic Kill [Bridge Number (BIN) 2-20302].

(1) Prohibiting the operation of all vehicles weighing in excess of three tons, registered maximum gross weight, on a bridge which spans across the Poentic Kill located on Old Mariaville Road and being the second bridge located in a northerly direction and approximately 2,500 feet from the southerly intersection of Mariaville Road and Old Mariaville Road as identified by the New York State Department of Transportation as Bridge Number (BIN) 2-20302.

(2) A one-way single lane zone shall be established upon said bridge, and signs therefor shall be installed regulating vehicular traffic moving in either direction and designating that said traffic shall travel in only one direction at a time.

(3) Stop zones shall be established and stop signs shall be installed at the northerly and southerly approaches and 20 feet distant from said bridge.

(4) Emergency vehicles are excluded from complying with this section prohibiting the operation of all vehicles weighing in excess of three tons upon said bridge.

(5) Signs are hereby authorized to be erected at the approaches and upon said bridge, and said signs shall conform to the Manual of Highway Signs published by the New York State Department of Transportation.

**ARTICLE IV. Handicapped Parking**

**§ 266-31. Statutory authority.**

Pursuant to Chapter 838 of the Laws of 1977 of the State of New York, Editor's Note: See Vehicle and Traffic Law § 1203-a. the Town Board of the Town of Rotterdam hereby establishes and adopts guidelines for determining eligibility for handicapped parking permits and establishes a Review Board of Appeals to hear and determine any appeals from the denial, suspension, refusal or revocation for handicapped parking permits issued by or applied for to the Town Clerk of the Town of Rotterdam, previously designated and authorized as the issuing agent for such permits.

**§ 266-32. Guidelines established; source.**

The guidelines for handicapped parking permits and the Review Board of Appeals to hear and determine appeals upon denial of an application for a permit or upon a suspension or revocation of a permit are as follows and are as prepared by the Office of Advocate for the Disabled of the State of New York.

**§ 266-33. Review Board of Appeals.**

The Review Board of Appeals is hereby established to provide a due process procedure in the event of a denial, suspension or revocation of a handicapped parking permit, and said Review Board shall consist of the following persons:

A. The Health Officer of the Town of Rotterdam.

B. The Chairman of the Health Committee of the Town of Rotterdam.

C. One other designated person residing in the Town of Rotterdam to be appointed by the Town Board and to serve at the pleasure of the Town Board of the Town of Rotterdam.

**§ 266-34. Guidelines enumerated.**

Guidelines, notice and application for handicapped parking permits are attached hereto as follows:

A. Definitions. As used herein, the following terms shall have the meanings indicated:

**HANDICAPPED PERSON**

For the purpose of § 1203-a of the Vehicle and Traffic Law (Chapter 838 of the Laws of 1977):

(1) Any person who has any one or more of the following impairments, disabilities or conditions which are permanent in nature:

(a) Limited or no use of one or both lower limbs.

(b) A neuromuscular dysfunction which severely limits mobility.

(c) A pulmonary or cardiovascular condition which limits mobility or severely limits the individual's activities in the open air.

(2) A person whose physical or mental impairment or condition is other than those specified above but is of such nature as to impose unusual hardships in utilization of public transportation facilities, and such condition is certified by a physician duly licensed to practice medicine in this state as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty.

(3) A child with any one or more of the impairments or conditions listed above.

B. Notice; conditions of application.

(1) There shall be a suspension, revocation or refusal to issue or renew any permit if the issuing agent determines that any applicant or parent or guardian of any applicant:



- (a) Has made a material false statement in the application.
  - (b) Has used or permitted the use of the permit contrary to conditions set forth in the permit.
  - (c) Has failed to comply with or observe any of the conditions of the application and/or the permit.
- (2) The applicant or parent or guardian of such applicant shall notify the issuing agent of any change of address or disability within 10 days after such change, and the issuing agent shall cancel such permit upon failure to give such notice.
- (3) Upon denial of an application for a permit or upon a suspension or revocation of a permit, the issuing agent shall grant a hearing to an applicant therefor within 10 days after written request is received for such hearing. The applicant may be heard in person or by counsel. The hearing on said objections or charges shall be at such time and place as the issuing agent may designate. Notice requesting such hearing must be filed with the issuing agent no later than 30 days following notification of disapproval, termination or suspension.
- (4) Within 21 days after receipt of a completed application, the applicant will be notified whether the application has been approved or disapproved. If disapproved, a statement setting forth the reasons for disapproval will be provided.
- (5) Applications must be fully completed and properly executed. All questions must be answered and medical certification must accompany the application. Incomplete applications or failure to attach the medical certification will result in disapproval.
- (6) Applications and other notices shall be mailed or delivered personally to the issuing agent as follows:
- C. The application form for handicapped parking permits is on file in the office of the Town Clerk.

**§ 266-35. Unauthorized parking.**

**[Added 2-22-1995 by L.L. No. 1-1995; amended 2-26-1997 by L.L. No. 4-1997]**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ACCESSIBLE ROUTE**

A clearly marked path a minimum of 36 inches in width connecting a handicap parking space to an accessible entrance.

**HANDICAP PARKING SPACE**

A parking space for persons with disabilities clearly marked on pavement and identified with a permanent sign showing the international symbol of accessibility which complies with ANSI A117.1. Dimensions for handicap parking spaces shall be a minimum of 96 inches in width and have an adjacent access aisle a minimum of 60 inches in width. Van-accessible parking spaces shall have an access aisle a minimum of 96 inches in width.

B. Unauthorized parking prohibited. The parking or standing of a motor vehicle clearly marked for use by the handicapped on any lands and premises in the Town of Rotterdam is prohibited except by a person to whom there has been issued and who holds a valid special parking permit issued pursuant to the State of New York Vehicle and Traffic Law or issued pursuant to the Code of the Town of Rotterdam by the Rotterdam Town Clerk, who is the designated issuing agent for the Town of Rotterdam. The parking or standing of a motor vehicle in any adjoining handicapped access aisle or access route to a handicapped parking space on any lands in the Town of Rotterdam is prohibited by all vehicles, including those vehicles used by a handicapped person to whom a valid special parking permit has been issued by the Rotterdam Town Clerk.

C. All permanent handicapped parking signs that have been erected on lands located in the Town of Rotterdam pursuant to the requirements of the Americans with Disabilities Act (ADA) signed into law on July 26, 1990, and any amendments hereto, which permanent signs have been knocked down, removed or destroyed, must, upon written notice by the Town of Rotterdam, be re-erected in their proper place within 10 days from the receipt of said notice by the property owner or lessee responsible for said permanent handicapped signs. Pavement markings delineating handicapped parking spaces and accessible routes as defined above that are missing, illegible, indistinguishable, or not in conformity with the New York State Building Code must, upon written notice from the Town of Rotterdam, be repainted, replaced, or repaired within 30 days from the receipt of said notice.

**[Amended 9-10-2003 by L.L. No. 18-2003]**

D. Penalties for offenses. Any violation of the provisions of § 266-35B, Unauthorized parking prohibited, shall subject such violator to a civil penalty of \$125 for each violation. Any violation of the provisions of § 266-35C (handicapped parking sign) shall subject such violator to a penalty of \$125.

**[Amended 9-10-2003 by L.L. No. 18-2003]**

E. Towing of violating vehicle. In addition to the penalties provided in § 266-35D of this chapter, whenever a motor vehicle is parked or left unattended in a prohibited area as defined in § 266-35A of this chapter, such motor vehicle may be removed and stored by the Town of Rotterdam or any officer, employee or agent thereof. The owner of such motor vehicle shall be liable to the Town of Rotterdam or its officer, employee or agent for the reasonable costs of such removal and storage not exceeding the sum of \$200, payment of which is required prior to the release of such motor vehicle.

F. Provisions of this article shall be enforced by the Building Inspector Code Enforcement Officer.

**[Added 9-10-2003 by L.L. No. 18-2003]**

**ARTICLE V. Pedestrian Crossing Zones**

**§ 266-36. Crossing zones.**

Crossing zones shall be established in those areas designated in Schedule XXIV (§ 266-64).

**ARTICLE VI. Removal and Storage of Vehicles**

**§ 266-37. Definitions.**

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

**SNOW EMERGENCY**

The time period during or after any three-inch snowfall and prior to the plowing of a street by or at the direction of the Highway Department of the Town of Rotterdam.

**VEHICLE**

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**§ 266-38. Impounding of vehicles.**

Any vehicle parked or abandoned on any highway within the Town of Rotterdam during a snow storm, flood, fire or other public emergency, or found unattended where it constitutes an obstruction to traffic, or any place where stopping, standing or parking is prohibited, may be removed by the Police Department or by the Town Highway Department.

**§ 266-39. Storage and charges.**

After removal of any vehicle, as provided in this article, the Police Department or the Town Highway Department, whichever authority may have effectuated said removal, may provide for the storage of such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem same upon payment of all expenses and charges actually and necessarily incurred for such removal and storage.

**§ 266-40. Notice of removal.**

The Highway Department shall, without delay, report the removal and the disposition of any vehicle removed by the Department as provided in this article, to the Police Department, and it shall be the duty of said Police Department to ascertain to the extent possible the owner or person in charge of any vehicle removed and stored pursuant to this article and to notify said person of the removal and disposition of such vehicle and the amount which will be required to redeem the same.

**ARTICLE VII. Schedules**

**§ 266-41. Schedule I: Traffic Control Signals.**

In accordance with the provisions of § 266-8, traffic control signals shall be installed, maintained and operated at the following intersections and locations:

(Reserved)

**§ 266-42. Schedule II: One-Way Streets.**

In accordance with the provisions of § 266-9, the following described streets or parts of streets are designated as one-way streets in the direction indicated:

**§ 266-43. Schedule III: Prohibited Turns at Intersections.**

In accordance with the provisions of § 266-10, turns of the kind designated below are prohibited at any of the following locations:

**§ 266-44. Schedule IV: U-Turns.**

In accordance with the provision of § 266-11, U-turns are prohibited at any of the following locations:

(Reserved)

**§ 266-45. Schedule V: Prohibited Turns on Red Signal.**

In accordance with the provisions of § 266-12, a right turn at a steady red signal is prohibited at any of the following locations:

(Reserved)

**§ 266-46. Schedule VI: Stop Intersections.**

In accordance with the provisions of § 266-13, the following described intersections are designated as stop intersections:

Bernard Street

**[Repealed 8-13-1997 by L.L. No. 11-1997]**

Earl Street

**[Repealed 9-24-1986 by L.L. No. 20-1986]**

Fifth Street **[Repealed 9-10-1986 by L.L. No. 19-1986]**

Kent Street

**[Repealed 3-24-1999 by L.L. No. 4-1999]**

Stanton Street

**[Repealed 9-24-1986 by L.L. No. 20-1986]**

Vandervere Street

**[Added 11-27-1991 by L.L. No. 17-1991; repealed 5-28-1997 by L.L. No. 9-1997]**

**§ 266-47. Schedule VII: Yield Intersections.**

In accordance with the provisions of § 266-14, the following described intersections are designated as yield intersections:

Arlene Street

**[Repealed 12-13-1995 by L.L. No. 6-1995]**

Barber Drive

**[Repealed 6-27-1990 by L.L. No. 14-1990]**

Bluff Road

**[Repealed 11-24-1999 by L.L. No. 19-1999]**

Clement Road

**[Repealed 5-28-1986 by L.L. No. 10-1986]**

Continental Road

**[Repealed 10-12-2005 by L.L. No. 19-2005]**

Delaware Avenue

**[Repealed 9-14-1988 by L.L. No. 7-1988]**

Fifth Street

**[Repealed 9-10-1986 by L.L. No. 19-1986]**

First Avenue

**[Repealed 9-10-1986 by L.L. No. 19-1986]**

Fourth Street

**[Repealed 9-10-1986 by L.L. No. 19-1986]**

Jerry Avenue

**[Repealed 7-28-1993 by L.L. No. 14-1993]**

Manas Drive

**[Repealed 10-12-1988 by L.L. No. 10-1988]**

May Avenue

**[Added 10-14-1987 by L.L. No. 10-1987; repealed 9-10-2003**

**by L.L. No. 16-2003]**

McKinley Avenue

**[Added 10-14-1987 by L.L. No. 10-1997; repealed 6-8-1994 by L.L. No. 11-1994]**

Mullen Drive

**[Repealed 10-12-2005 by L.L. No. 18-2005]**

Old Mariaville Road

**[Repealed 3-26-1986 by L.L. No. 5-1986]**

Owen Road

**[Repealed 6-27-1990 by L.L. No. 14-1990]**

Peyton Road

**[Repealed 2-28-1990 by L.L. No. 7-1990]**

Peyton Road

**[Repealed 11-14-1990 by L.L. No. 22-1990]**

Rabbetoy Street

**[Repealed 3-8-1989 by L.L. No. 4-1989]**

Rotterdam Street

**[Repealed 4-11-1990 by L.L. No. 8-1990]**

Second Street

**[Repealed 9-10-1986 by L.L. No. 19-1986]**

Sherman Street

**[Repealed 2-12-1992 by L.L. No. 3-1992]**

Sherman Street

**[Repealed 12-13-2000 by L.L. No. 21-2000]**

Summer Street

**[Repealed 4-9-2003 by L.L. No. 7-2003]**

Vandervere Street

**[Repealed 11-27-1991 by L.L. No. 17-1991]**

Wellington Avenue

**[Repealed 11-25-1987 by L.L. No. 12-1987]**

**§ 266-48. Schedule VIII: Speed Limits.**

In accordance with the provisions of § 266-15, speed limits are established and indicated upon the following streets or parts of streets:

**§ 266-49. Schedule IX: School Speed Zones.**

In accordance with the provisions of § 266-16, speed limits are established as indicated upon the following streets or parts of streets designated as school speed zones:

**§ 266-50. Schedule X: Exclusion of Certain Vehicles.**

In accordance with the provisions of § 266-17, all vehicles in excess of the indicated maximum gross weights are hereby excluded from the following:

**§ 266-51. Schedule XI: Route System for Certain Vehicles.**

A. In accordance with the provisions of § 266-17B(1), vehicles having a total gross weight in excess of eight tons are permitted to travel and operate upon the following highways:

B. In accordance with the provisions of § 266-17B(2), vehicles having a total gross weight in excess of five tons are permitted to travel and operate upon the following highways:

**§ 266-52. Schedule XII: No Parking at Any Time.**

In accordance with the provisions of § 266-20, no person shall park a vehicle at any time upon the following streets or parts of streets:

**§ 266-53. Schedule XIII: No Parking Certain Hours.**

In accordance with the provision of § 266-21, the parking of vehicles is prohibited in the following locations during the hours indicated:

Fourth Street

**[Repealed 9-10-2003 by L.L. No. 16-2003]**

Lawndale Avenue

**[Repealed 5-13-1998 by L.L. No. 7-1998]**

Sunrise Boulevard

**[Repealed 9-22-2004 by L.L. No. 12-2004]**

**§ 266-54. Schedule XIV: Limited Time Parking.**

In accordance with the provision of § 266-22, the parking of vehicles is prohibited in the locations described below for a longer period of time than that designated, during the hours indicated:

**§ 266-55. Schedule XV: Overnight Parking.**

In accordance with the provisions of § 266-23, overnight parking (between the hours of 10:00 p.m. and 7:00 a.m.) shall be prohibited in those areas designated below:

**§ 266-56. Schedule XVI: Standing Prohibited.**

In accordance with the provisions of § 266-24, the standing of vehicles is prohibited in the following locations during the hours indicated:

**§ 266-57. Schedule XVII: Stopping Prohibited.**

In accordance with the provisions of § 266-25, the stopping of vehicles is prohibited in the following locations during the hours indicated:

(Reserved)

**§ 266-58. Schedule XVIII: Angle Parking.**

In accordance with the provisions of § 266-26, no person shall park a vehicle while upon any of the following streets or parts of streets, except at the angle indicated:

(Reserved)

**§ 266-59. Schedule XX: School Bus Zones.**

In accordance with the provision of § 266-28B, parking or standing is prohibited, excluding school buses, at the following locations hereby designated as school bus zones:

**§ 266-60. Schedule XXI: Taxi Stands.**

In accordance with the provisions of § 266-29, parking or standing is prohibited, except for taxis, at the following locations:

(Reserved)

**§ 266-61. Schedule XXII: Fire Lanes.**

In accordance with the provisions of § 266-30, parking is prohibited in the following locations, designated as fire lanes. Property owners must properly post locations.

Public alley

**[Repealed 12-22-1999 by L.L. No. 24-1999]**

**§ 266-62. Schedule XXIII: Maximum Weight of Commercial Vehicles.**

Editor's Note: Former § 266-63, Schedule XXIII: Handicapped Parking Areas, was repealed 2-22-1995 by L.L. No. 1-1995.

**[Added 7-10-2002 by L.L. No. 14-2002]**

In accordance with the provisions of § 266-17A(2), all commercial vehicles in excess of four (4) tons are hereby excluded from the following streets and highways or parts thereof:

Franklin Street

Harold Street

Martin Street

Phillip Street

Taylor Street

Williams Street

**§ 266-63. Schedule XXIV: Crossing Zones.**

In accordance with the provisions of § 266-36, crossing zones are established in the following locations:

**ARTICLE VIII. Installation of Speed Humps**

**[Added 2-10-1999 by L.L. No. 1-1999]**

**§ 266-64. Definitions.**

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

**SPEED HUMPS**

Areas of raised pavement constructed or placed in, on and across a roadway. Speed humps are a roadway geometric design feature whose primary purpose is to reduce vehicular traffic speed along a roadway. Speed humps shall consist of deflections in the paved roadway surface for a uniformly varying height to a maximum of 2 5/8 inches plus or minus 1/8 inch over a twelve-foot long base. The construction markings and warning signs of the speed humps shall comply with standards developed by the Town of Rotterdam Department of Public Works and the Institute of Transportation Engineers.

**§ 266-65. Requests by petition required.**

A. Requests for speed humps are to be proposed by written documentation which demonstrates substantial interest on the specific street being considered. A petition bearing the names, addresses and telephone numbers of the residents and business owners abutting a specific street will be considered for speed humps. The petition area consists of the entire length of a street in which speed humps are proposed to be located.

B. Only one signature per residence and business is allowed. The petition shall include a printed name, signature and address for each person signing and the name of a contact person. When the petition is submitted to the Rotterdam Police Department, the person indicated as the contact person for the neighborhood on the petition will be sent a letter confirming receipt of the petition. The letter will indicate any additional procedures required for consideration of speed hump installation.

**§ 266-66. Procedures for installation.**

A. The Rotterdam Police Department will conduct a survey on the specific street in question. A survey will be considered acceptable with signatures of at least 60% of the residences and businesses in the petition area represented on it, and in favor of the proposed speed hump installation.

B. Proposed speed hump installations will be reviewed by the police, fire, ambulance and other emergency service departments, as well as the Department of Public Works and the Highway Department. Comments received will be fully considered in the decision-making process.

C. Notice of meetings. Public information meeting(s) and hearing(s) will be conducted to obtain input from the community prior to speed hump installations. Comments received will be fully considered in the decision-making process. Notice of public hearing(s) will be published to notify all residents and businesses along the impact area, which includes the petition area and any adjacent neighborhoods. Notice will be distributed to the newspaper 10 days prior to the public hearing(s).

D. Notice to petitioners. Following the completion of the engineering study, per § 266-69, public information meeting(s) and hearing(s), the Town will distribute a notice to the contact person of the petition area indicating the results and recommendations.

E. If speed humps are approved for installation by the Town Board, plans will be developed for proper installation in conjunction with the Highway Department.

**§ 266-67. Data collection guidelines.**

A. Traffic volume data will be collected in a seven-day period on the street where the speed humps are requested and any other side street where the installation of speed humps would be affected.

B. Speed data. Spot data will be collected. The minimum sample size is 100 vehicles. The average and 85th percentile speed will be determined and combined for both directions.

C. Number of travel lanes and width of roadway will be determined.

D. The condition of the pavement and drainage qualities will be evaluated.

E. The grade of the street will be determined.

F. The severity of the horizontal and vertical curves will be determined.

G. The stopping sight distance will be determined.

H. Vehicular and pedestrian traffic accidents for the last five years will be obtained.

I. The street's zone is determined to be a residential (R1, R3) district, or a collector street in an agricultural (A1) zone, as defined in Chapter 270 of the Town Code.

**§ 266-68. Police/Engineering study.**

- A. Speed humps should be considered only to address documented safety or traffic concerns supported by traffic engineering and police studies, and after consideration of alternative traffic control measures.
- B. Since speed humps may divert traffic to other street facilities, an estimate of the amount and location of that diversion should be made so that the potential impacts of the proposed humps can be fully considered. If humps are expected to create equal or greater traffic problems on another residential street, they should not be installed.
- C. Speed humps should be considered only on streets which are located within a residential (R1, R3) district, or a collector street in an agricultural (A1) district, as defined in the Town of Rotterdam Zoning Code. Editor's Note: See Ch. 270, Zoning.
- D. Speed humps should be considered only on streets with no more than two travel lanes, or where the overall pavement width is not greater than 40 feet. In addition, the pavement should have good surface and drainage qualities.
- E. Speed humps should be considered only for use on streets with grades of 6% or less approaching the hump. When installed on streets with significant down grades, special care should be taken to ensure that vehicles will not approach the humps at excessive speed.
- F. Speed humps should not be considered within severe horizontal or vertical curves that might result in substantial lateral or vertical forces on a vehicle traversing the hump. Humps should be avoided within horizontal curves of less than 300 feet center-line radius and on vertical curves with less than the minimum safe stopping sight distance. If possible, humps should be located on tangent rather than curve sections.
- G. Speed humps should be considered only where the minimum safe stopping sight distance [as defined in the American Association of State Highway and Transportation Officials' (ASHTO's) "A Policy on Geometric Design of Streets"] can be provided.
- H. Speed humps should be considered only on streets where the posted speed limit is 30 miles per hour or less. Speed humps should be considered if, based upon a speed study, a minimum of 40% of the motorists on the street exceed the speed limit and/or the 85th percentile speed is 10 miles per hour or more than the posted speed limit.
- I. Speed humps should typically be installed only on streets with an average daily traffic volume of 3,500 vehicles or less. In addition, streets should have a minimum average daily volume of 500 vehicles for speed hump consideration.
- J. Accident analysis should be performed to determine the average accident rate in the five previous calendar years, plus any of the current year for which accident data is available.
- K. When installed to address documented or anticipated vehicle or pedestrian accidents, the causes of those accidents should be susceptible to correction by speed humps. Proposed speed hump locations should be evaluated to determine that such an installation will not introduce increased accident potential for the subject street.
- L. Speed humps should not generally be considered on streets that are defined or used as primary or routine emergency vehicle access routes.
- M. Speed humps should not generally be considered along streets with established transit routes.
- N. In the event that several requests for speed humps are considered at a given time, those with the greatest incident of reported accidents involving excessive speed, and those locations with the highest volume of traffic, should be given the highest priority.

#### **§ 266-69. Removal procedures.**

- A. Removal of speed humps should be considered only after an adequate review period and subsequent analysis has been performed to determine the traffic characteristics along the route and the impacts to the remaining street system.
- B. The Rotterdam Police Department will conduct a survey on the specific street in question to verify the request. A survey result with signatures of at least 60% of the residences and businesses in the petition area represented on it, and in favor of removal of the speed hump, will initiate the request. The request will be followed by a coordinated review by the police, fire, ambulance and other emergency departments, as well as the Department of Public Works and the Highway Department. Based on this coordinated review, a recommendation will be forwarded to the Town Board.
- C. Town Board approval to rescind the resolution will follow appropriate procedures.

#### **§ 266-70. Design and construction.**

The design and construction of speed humps will be provided in accordance with "Guidelines for the Design and Application of Speed Humps," prepared by the Institute of Transportation Engineers, in conjunction with good engineering practice.

#### **§ 266-71. Monitoring and evaluation following installation.**

- A. Immediately after speed hump installation, and at selected times thereafter, observation will be made to determine motorists' behavior patterns and any unusual operating conditions, including pedestrian, bicycle and social activities.
- B. After installation, speed studies will be performed to determine their impact on vehicle operating speeds.
- C. Traffic volume counts, after installation, will be made on the subject street and on those other streets where traffic diversion may be expected.
- D. Both intersection turning movement and twenty-four-hour volume counts may be needed to quantify these impacts.

E. Studies may be desirable after hump installation to determine if the speed humps have impacted the compliance rate of affected stop sign locations. Increased violation rates should be considered in speed hump evaluations and selective enforcement may be necessary to address the problem.

F. An accident analysis will be performed to determine if accident trends in the affected area have been noticeably impacted by the speed hump installation.

**§ 266-72. Designated streets for installation of speed humps.**

**[Added 9-22-1999 by L.L. No. 14-1999]**

In accordance with the provisions of Chapter 266, speed humps are established on the following streets:

**CHAPTER 270. ZONING**

**ARTICLE I. General Provisions**

§ 270-1. Statutory authority.

§ 270-2. Purpose.

§ 270-3. Title.

**ARTICLE II. Word Usage and Definitions**

§ 270-4. Word usage.

§ 270-5. Definitions.

**ARTICLE III. Zoning Districts; Zoning Map; Boundaries**

§ 270-6. Districts enumerated.

§ 270-7. Zoning Map.

§ 270-8. Interpretation of boundaries.

**ARTICLE IV. General Requirements**

§ 270-9. Compliance required.

§ 270-10. Lots.

§ 270-11. Yards.

§ 270-12. Visibility at intersections.

§ 270-13. Minimum floor area; interior volume.

§ 270-14. Public utilities.

§ 270-15. Accessory uses, buildings and structures.

§ 270-15.1. Limitations on principal uses.

§ 270-15.2. Accessory home-care units in single-family dwellings.

§ 270-15.3. Erosion and sediment control.

**ARTICLE V. A Agricultural District**

§ 270-16. Applicable regulations.

§ 270-17. Permitted uses.

§ 270-18. Special uses.

§ 270-19. Accessory uses.

§ 270-20. Maximum building height.

§ 270-21. Yard and property line requirements.

§ 270-22. Lot area.

§ 270-23. Lot coverage.

§ 270-24. Parking.

§ 270-25. Additional regulations.

**ARTICLE VI. R-1 One-Family Residential District**

§ 270-26. Regulations to apply.

§ 270-27. Permitted uses.

§ 270-28. Special uses.

§ 270-29. Accessory uses.

§ 270-30. Maximum building height.

§ 270-31. Lot area.

§ 270-32. Lot coverage.

§ 270-33. Yard requirements.

§ 270-34. Parking.

§ 270-35. Additional uses.

**ARTICLE VII. R-2 Two-Family Residential District**

§ 270-36. Regulations to apply.

§ 270-37. Permitted uses.

§ 270-38. Special uses.

§ 270-39. Accessory uses.

§ 270-40. Maximum building height.

§ 270-41. Lot area.

§ 270-42. Lot coverage.

§ 270-43. Yard requirements.

§ 270-44. Parking.

**ARTICLE VIII. R-3 Multiple-Family District**

§ 270-45. Regulations to apply.

§ 270-46. Permitted uses.

§ 270-46.1. (Reserved)

§ 270-46.2. (Reserved)

§ 270-46.3. (Reserved)

§ 270-46.4. (Reserved)

§ 270-46.5. Special uses.



§ 270-47. Accessory uses.  
 § 270-48. Maximum building height.  
 § 270-49. Lot area.  
 § 270-50. Lot coverage.  
 § 270-51. Yard requirements.  
 § 270-52. Design requirements.  
 § 270-53. Parking.  
 ARTICLE VIIIA. R-4 Small One-Family and Townhouse Residential District  
 § 270-53.1. Regulations to apply.  
 § 270-53.2. Purpose; Town services.  
 § 270-53.3. Permitted uses.  
 § 270-53.4. Special uses.  
 § 270-53.5. Accessory uses.  
 § 270-53.6. Maximum building height.  
 § 270-53.7. Municipal water; septic systems; lot area.  
 § 270-53.8. Lot coverage.  
 § 270-53.9. Yard requirements.  
 § 270-53.10. Parking.  
 § 270-53.11. Additional standards for zero-lot-line dwellings.  
 § 270-53.12. Waivers to roadway-width standards.  
 ARTICLE IX. B-1 Retail Business District  
 § 270-54. Regulations to apply.  
 § 270-55. Permitted uses.  
 § 270-56. Special uses.  
 § 270-57. Accessory uses.  
 § 270-58. Maximum building height.  
 § 270-59. Lot area.  
 § 270-60. Lot coverage.  
 § 270-61. Yard requirements.  
 § 270-62. Parking.  
 ARTICLE X. B-2 General Business District  
 § 270-63. Regulations to apply.  
 § 270-64. Permitted uses.  
 § 270-65. Special uses.  
 § 270-66. Accessory uses.  
 § 270-67. Maximum building height.  
 § 270-68. Lot area; lot coverage; yard requirements.  
 § 270-69. Parking.  
 § 270-70. Additional regulations.  
 ARTICLE XA. C-1 Corporate Commerce District  
 § 270-70.1. Purpose.  
 § 270-70.2. Permitted uses.  
 § 270-70.3. Special uses.  
 § 270-70.4. Space and bulk standards.  
 § 270-70.5. Development standards.  
 § 270-70.6. Nonconforming uses, buildings and structures.  
 ARTICLE XI. I-1 Light Industrial District  
 § 270-71. Regulations to apply.  
 § 270-72. Permitted uses.  
 § 270-73. Special uses.  
 § 270-74. Accessory uses.  
 § 270-75. Prohibited uses.  
 § 270-76. Maximum building height.  
 § 270-77. Lot area.  
 § 270-78. Lot coverage.  
 § 270-79. Yard requirements.  
 § 270-80. Parking.  
 § 270-81. Additional regulations.  
 ARTICLE XII. I-2 Heavy Industrial District  
 § 270-82. Regulations to apply.  
 § 270-83. Permitted uses.  
 § 270-84. Special uses.  
 § 270-84.1. Accessory uses.  
 § 270-85. Prohibited uses.  
 § 270-86. Maximum building height.  
 § 270-87. Lot area.  
 § 270-88. Lot coverage.  
 § 270-89. Yard requirements.  
 § 270-90. Parking.  
 § 270-91. Additional regulations.  
 ARTICLE XIIA. LC Land Conservation Overlay District  
 § 270-91.1. Purpose.  
 § 270-91.2. Regulations to apply.  
 § 270-91.3. Permitted uses.  
 § 270-91.4. Special uses.  
 ARTICLE XIIA1. Conservation Easements  
 § 270-91.5. Purpose and intent.  
 § 270-91.6. Term of easement.  
 § 270-91.7. Evaluation.  
 § 270-91.8. Enforcement.

§ 270-91.9. Additional structures.  
 § 270-91.10. Donor donations.  
 § 270-91.11. Review by other agencies.  
 § 270-91.12. Public hearing.  
 § 270-91.13. Recording.  
 ARTICLE XIII. PRD Planned Residential Development District  
 § 270-92. Legislative intent; objectives.  
 § 270-93. Minimum site size.  
 § 270-94. Single and multiple ownership of land.  
 § 270-95. Location.  
 § 270-96. Common open space.  
 § 270-97. Permitted uses.  
 § 270-98. Standards and criteria.  
 § 270-99. Establishment of homeowners' association.  
 § 270-100. Modification of specifications.  
 § 270-101. Site requirements.  
 § 270-102. Design standards.  
 § 270-103. Street and sidewalk design.  
 § 270-104. Parking.  
 § 270-105. Landscaping.  
 § 270-106. Street signs, street furniture and streetlighting.  
 § 270-107. Application and approval procedure.  
 § 270-108. Amendments.  
 ARTICLE XIV. AO Aquifer Overlay District  
 § 270-109. Purpose.  
 § 270-110. Mapping; requirements to apply.  
 § 270-111. Review of actions.  
 § 270-112. Decisions by resolution.  
 § 270-113. Standards for approval of proposed action.  
 § 270-114. Use requirements and limitations.  
 § 270-115. Description of Aquifer Overlay District.  
 ARTICLE XV. FH Flood Hazard District  
 § 270-116. Purpose.  
 § 270-117. Special uses.  
 § 270-118. Accessory uses.  
 § 270-119. Maximum building height.  
 § 270-120. Yard requirements.  
 § 270-121. Lot area.  
 § 270-122. Lot coverage.  
 § 270-123. Parking.  
 § 270-124. Additional regulations.  
 ARTICLE XVI. F-1 Floodway Channel District  
 § 270-125. Permitted uses.  
 § 270-126. Restrictions.  
 § 270-127. Mapping; requirements to apply.  
 ARTICLE XVII. Site Plan Approval  
 § 270-128. Statutory authorization.  
 § 270-129. Purpose.  
 § 270-130. Uses requiring site plan approval.  
 § 270-131. Application and transmittal.  
 § 270-132. Materials to be submitted; exemptions.  
 § 270-133. Review of application; decision.  
 § 270-134. Final site plan approval.  
 § 270-135. Performance guaranty and security requirements.  
 § 270-136. Inspection.  
 § 270-137. Compliance with special use procedures.  
 § 270-137.1. Application and fees.  
 ARTICLE XVIII. Specific Use Regulations  
 § 270-138. Accessory structures and uses.  
 § 270-139. Welding.  
 § 270-140. Commercial extraction of topsoil, sand, gravel or stone.  
 § 270-140.1. Mining.  
 § 270-141. Unenclosed spray painting.  
 § 270-142. Outdoor storage and dumping of waste.  
 § 270-143. Fences.  
 § 270-144. Motor vehicle sales.  
 § 270-145. Motor vehicle repair establishments.  
 § 270-145.1. Motor vehicle fuel filling stations.  
 § 270-146. Convenience stores.  
 § 270-147. Ski areas.  
 § 270-148. Towers.  
 § 270-149. Off-street parking.  
 § 270-150. Off-street loading.  
 § 270-151. Signs.  
 § 270-151.1. Political signs.  
 § 270-152. Billboards.  
 § 270-153. (Reserved)  
 § 270-153.1. Nonconforming uses.  
 § 270-153.2. Nonconforming buildings and structures.  
 § 270-154. Unsafe buildings and structures.

§ 270-155. Town and public district uses.  
 § 270-156. Lighting.  
 § 270-157. Home occupations.  
 § 270-158. Mobile home parks.  
 § 270-159. Temporary construction sheds and trailers.  
 § 270-160. Storage of travel trailers.  
 § 270-161. Factory-manufactured homes.  
 § 270-162. Landfill operations.  
 ARTICLE XIX. Special Use Permits  
 § 270-163. Purpose.  
 § 270-164. Authorization.  
 § 270-165. Application procedure.  
 § 270-166. Conditions to be imposed.  
 § 270-167. Standards for granting permits; additional requirements.  
 § 270-168. Special uses considered lawful.  
 § 270-169. Expiration; amendments; resubmission.  
 ARTICLE XX. Administration and Enforcement  
 § 270-170. Designation of enforcement official.  
 § 270-171. Powers and duties of Building Inspector/Code Enforcement Officer.  
 § 270-172. (Reserved)  
 § 270-173. (Reserved)  
 § 270-174. Amendments.  
 § 270-175. Notice of public hearing; written notification; posting.  
 § 270-176. Fees.  
 § 270-177. Zoning Board of Appeals.  
 § 270-178. Amendment referrals.  
 § 270-179. Planning Board.  
 § 270-180. Penalties for offenses; enforcement actions.  
 § 270-181. Complaints.  
 § 270-182. Compliance with SEQRA.  
 ARTICLE XXI. Miscellaneous Provisions  
 § 270-183. Interpretation of provisions.  
 ARTICLE XXII. Schenectady Intermunicipal Watershed Rules and Regulations  
 § 270-184. Applicability.  
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 § 270-187. Zone IV, Tributary Watershed Zone.  
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 § 270-191. Inspections.  
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 § 270-195. Severability.  
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Attachments:

270a Table 1

**CHAPTER 270. ZONING**

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 8-24-1988 by L.L. No. 6-1988. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Unsafe buildings — See Ch. 90.  
Environmental quality review — See Ch. 116.  
Fees — See Ch. 126.  
Flood damage prevention — See Ch. 134.  
Housing and building standards — See Ch. 154.  
Racetracks — See Ch. 222.  
Seasonal Sales — See Ch. 228.  
Sewers — See Ch. 230.  
Solid waste — See Ch. 244.  
Subdivision of land — See Ch. 249.  
Swimming pools — See Ch. 252.  
Trailers — See Ch. 260.

**ARTICLE I. General Provisions**

**§ 270-1. Statutory authority.**

The Town Board of the Town of Rotterdam, in the County of Schenectady and State of New York, under authority of the Town Law, Chapter 62 of the Consolidated Laws, Article 16, of the State of New York, hereby ordains, enacts and publishes the following.

**§ 270-2. Purpose.**

It is the purpose of this chapter to promote the health, safety and general welfare of the community; to guide future growth and development of the town; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding and congestion; to facilitate the adequate provision for transportation, water, drainage, sewage, parks, open space and other public requirements; to conserve the value of land and buildings in accordance with the character of the district and its particular suitability for certain uses; to establish the most beneficial relationship between land use, buildings and the circulation of traffic throughout the town; to safeguard natural resources and prevent the contamination of wells, streams and watercourses; to preserve the integrity and attractiveness of the community; and to assure privacy for residences and freedom from nuisances and harmful, unsightly, obtrusive and noisome land uses and activities.

**§ 270-3. Title.**

**[Amended 7-9-2003 by L.L. No. 9-2003]**

This chapter shall be known and may be cited as the "Zoning Local Law of the Town of Rotterdam, County of Schenectady and State of New York" or as the "Rotterdam Zoning Local Law."

**ARTICLE II. Word Usage and Definitions**

**§ 270-4. Word usage.**

In the construction of this chapter, the rules and definitions contained in this article shall be observed and applied, except where the word usage clearly indicates otherwise. For clarity of interpretation of the context, the following definitions of word use shall apply:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number, and the plural the singular.
- C. The word "shall" is mandatory and not discretionary.
- D. The word "lot" shall include the words "piece," "parcel," "plat" and "plots," and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

E. The word "person" includes a corporation or partnership, as well as an individual.

F. The word "town" means the Town of Rotterdam.

G. The words "this local law" or "this chapter" shall mean the Rotterdam Zoning Local Law as originally adopted and as amended from time to time.

[Amended 7-9-2003 by L.L. No. 9-2003]

#### **§ 270-5. Definitions.**

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

##### **ABANDON**

To cease, for more than six months, the use and maintenance of land, buildings or structures which have been nonconforming uses; or to change from one nonconforming use to another or to a conforming use.

##### **ACCESSORY BUILDING OR STRUCTURE, HEIGHT OF**

The vertical distance measured from average grade to the apex of the uppermost structural member.

[Added 7-9-2003 by L.L. No. 11-2003]

##### **ACCESSORY STRUCTURE OR USE**

A structure or use which is:

A. Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this chapter.

B. Clearly incidental to, subordinate to and serves the principal use.

C. Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

##### **AGRICULTURE**

The use of land for agricultural purposes, including farming, dairying, pasturage, horse boarding; agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

[Amended 4-27-2005 by L.L. No. 9-2005]

##### **ALLEY**

A public thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

##### **ALTERATIONS**

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

##### **ALTERATIONS, STRUCTURAL**

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

##### **ANIMAL HOSPITAL**

See "hospital, animal."

##### **AREA, BUILDING**

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, including porches, covered and uncovered, terraces and steps attached directly to the dwelling.

##### **AREA, LOT**

The total area within the property lines of a project, excluding external streets.

##### **AUTOMOBILE REPAIR SHOP**

Any area of land, including any structure or structures thereon, that is or are used or designated to be used for the repair of motor vehicles. This shall include major or minor motor vehicle repairs as may be authorized by this chapter.

##### **BASEMENT**

A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or is used for business or dwelling purposes.

##### **BED-AND-BREAKFAST**

Any dwelling in which one or more persons, either individually or as families, are provided sleeping accommodations, with or without meals, in exchange for payment.

[Added 11-24-1999 by L.L. No. 17-1999]

##### **BILLBOARD**

See § 270-151.

##### **BOARDINGHOUSE**

See "bed-and-breakfast."

[Amended 11-24-1999 by L.L. No. 17-1999]

##### **BUILDING**

Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land.

##### **BUILDING, DETACHED**

A building surrounded by open space on the same lot.

##### **BUILDING, FRONT LINE OF**

The line of that face of the building nearest the front line of the lot.

##### **BUILDING, HEIGHT OF**

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING, PRINCIPAL**

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

**CAMPING GROUND**

A parcel of land designed for the accommodation of tourists and campers. Such accommodations are deemed to include space for parking automobiles, erection of tents and overnight cabins, tables and cooking facilities, excluding, however, mobile homes.

**CARE HOMES**

Any facility offering any of the following types of care:

**[Amended 11-24-1999 by L.L. No. 17-1999]**

A. Skilled nursing care, including, in addition to room and board, those nursing services and procedures employed in caring for the sick which require specialized training, judgment, technical knowledge and skills.

B. Housing arrangements provided to meet the needs of the elderly and/or disabled population in the community by affording an opportunity for them to live in close proximity to family members who can help maintain their health, independence and privacy.

**CAR WASH**

A building, or portion thereof, containing facilities for washing automobiles, using production-line methods or other mechanical devices or providing space, water, equipment or soap for the complete or partial handwashing of automobiles, whether by operator or by customer.

**CELLAR**

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered a story for the purposes of height measurement in determining the permissible number of stories.

**CEMETERY**

All property and appurtenances thereto used or held exclusively for the burial or other permanent deposit of the human dead, excluding crematoriums.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)**

A person who has received training and is certified by CPESC Inc., to review, inspect and/or maintain erosion and sediment control practices.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**CHANNEL**

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

**[Added 4-27-2005 by L.L. No. 9-2005]**

**CLEARING**

Any activity that removes the vegetative ground cover and/or trees, including, but not limited to, root mat removal and/or topsoil removal.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**CLINIC**

A facility for treatment of human ailments, operated by a group of physicians, dentists or other licensed practitioners for the treatment and examination of outpatients.

**CLUB, PRIVATE**

An organization, lodge or service organization catering exclusively to members and their guests; or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided that there are not conducted any vending stands or merchandising or commercial activities, except as required generally for the membership and purpose of such club.

**COMMERCIAL EXTRACTION OF TOPSOIL, SAND, GRAVEL OR STONE**

The extraction of stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the extraction of stone, sand, gravel or topsoil solely in furtherance of on-site construction projects which are permitted uses in the district in which they are to be undertaken and for which a building permit has been lawfully issued by the Town of Rotterdam Building Inspector/Code Enforcement Officer and which does not constitute mining, as defined herein.

**[Amended 5-10-1989 by L.L. No. 12-1989; 11-22-1989 by L.L. No. 20-1989; 2-12-1992 by L.L. No. 2-1992; 7-9-2003 by L.L. No. 9-2003]**

**COMMERCIAL VEHICLE**

Every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of persons, goods, wares and merchandise, including tow trucks, contractors' trucks, trailers and machinery, tractor-drawn trailers and semitrailers and tractors, except where such vehicle is used as a recreational vehicle or is used on a day-to-day basis by a family.

**COMMON OPEN SPACE**

An area of land within a site designated for residential development and designed, intended and reserved for the use of residents of the development. Common open space may include such complementary structures and facilities as are appropriate for the recreational needs of the residents of the development.

**COMMUNITY HOUSE**

A place of assemblage of people of a particular religion with common interests to advance the general welfare of such people as a group as well as the welfare of the community at large. Such meeting places exclude the use of any pinball machines or other mechanical devices from which a profit may be derived, except, however, food-, soda-, candy- and cigarette-dispensing devices.

**CONSERVATION AREA**

Land which exhibits environmental sensitivity but is developable as long as the natural vegetation, character, and environmental sensitivity are considered through the use of clustering and reservation of open space implemented through flexible zoning techniques such as planned unit developments, transfer of development rights, tree protection and other regulations.

**[Added 9-15-2005 by L.L. No. 16-2005]**

**CONSERVATION EASEMENTS**

A voluntary agreement made between a property owner and an appropriate third party, such as a land trust or public agency. The easement is a legal device for conveying the right to enforce restrictions on the use of the land. These restrictions are intended to conserve open space or to protect valuable environmental areas.

**[Added 9-15-2005 by L.L. No. 16-2005]**

**CONVENIENCE STORE**

A place of business being operated for the sale and purchase, at retail, of cold drinks, packaged foods, tobacco and similar convenience goods.

[Amended 4-11-2001 by L.L. No. 4-2001]

**CUL-DE-SAC STREET**

A street or a portion of a street with only one vehicular outlet and having a turning loop or similar arrangement at the closed end.

[Added 9-26-1990 by L.L. No. 19-1990]

**DAY-CARE CENTER**

A private residence where six or fewer children receive day care and supervision for periods of less than 24 hours per day.

**DEED RESTRICTIONS/RESTRICTIVE COVENANTS**

The prohibition of use of a portion of property in order to provide an amenity such as open space through deed covenants, restrictions and easements. The deed that a lot owner receives may also convey ownership in common with other lot owners to a common area. The easement provides that the common area may not be developed except for specified purposes relating to open space and recreation.

[Added 9-15-2005 by L.L. No. 16-2005]

**DESIGN MANUAL**

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

[Amended 4-27-2005 by L.L. No. 9-2005]

**DISH ANTENNA DISTRICT**

A portion of the territory of the Town within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

**DRIVE-IN ESTABLISHMENT**

A place of business being operated for the sale and purchase, at retail, of food and other goods, services or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of any food or beverage in automobiles on the premises or elsewhere on the premises but outside any completely enclosed structures.

**DWELLING**

A residential building, or one or more portions thereof, occupied or intended to be occupied exclusively for residential purposes, but not including habitations provided in nonresidential uses, such as lodging rooms.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING, ATTACHED**

A dwelling that is joined to another dwelling at one or more sides by a party wall or walls.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING, DETACHED**

A dwelling that is entirely surrounded by open space on the same lot designed for or occupied exclusively by one single-family residence having no roof, wall, or floor in common with any other dwelling unit.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING, MULTIPLE-FAMILY**

An attached dwelling with three or more dwelling units situated on one lot.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING, ONE-FAMILY**

A detached building designed for or occupied exclusively by one family situated on one lot. One-family dwelling includes manufactured homes that meet the requirements of the New York State Building Codes.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING, SMALL ONE-FAMILY**

A detached building under 2,000 square feet of habitable space that is designed for or occupied exclusively by one family situated on one lot. One-family dwelling includes manufactured homes that meet the requirements of the New York State Building Codes.

[Added 11-12-2008 by L.L. No. 11-2008]

**DWELLING, TOWNHOUSE**

A building not more than three stories in height consisting of one-family dwelling units constructed in a group of three to eight attached units, in which each unit extends from foundation to roof and with open space on at least two sides. Each dwelling unit shall be on a separate, individual lot.

[Added 11-12-2008 by L.L. No. 11-2008]

**DWELLING, TWO-FAMILY**

A single detached building designed for or occupied exclusively by two families situated on one lot.

[Amended 11-12-2008 by L.L. No. 11-2008]

**DWELLING UNIT**

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family. Editor's Note: The definition of "factory manufactured home," which immediately followed this definition, was repealed 7-9-2003 by L.L. No. 9-2003. See now the definition of "manufactured home."

**EROSION**

The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

[Added 4-27-2005 by L.L. No. 9-2005]

**EROSION AND SEDIMENT CONTROL PLAN**

A set of plans prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **EROSION CONTROL MANUAL**

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

[Added 4-27-2005 by L.L. No. 9-2005]

#### **EXCAVATION**

Digging, scooping or other methods of removing earth materials.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **FAMILY**

Any number of individuals occupying the premises and living and cooking together as a single housekeeping unit. This term shall not be deemed to include a group occupying a boardinghouse, lodging house, club, fraternity, hotel or similar premises.

#### **FARM**

Any parcel of land containing at least five acres, which is used for gain in the raising of agricultural products, livestock, poultry and/or dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, liveries or boarding stables and dog kennels.

#### **FENCE**

Any structure or device, regardless of composition, which encloses a parcel of land or divides a parcel of land into more than one portion or serves as a barrier, but shall not include a building or growing plants or trees.

#### **FILLING**

Depositing or stockpiling of earth materials.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **FLOOD**

A temporary rise in stream flow or stage that results in significant adverse effects in the immediate vicinity.

#### **FLOODWAY CHANNEL**

A passageway for storm-and/or surface waters along a natural watercourse and/or along an artificial channel constructed under due process of law for passage of storm- and/or surface waters.

#### **FLOOR AREA**

The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. All roofed areas, except porches, terraces, cellars, basements and enclosed off-street parking areas, shall be included in the calculation of floor area.

#### **FUEL-OIL STORAGE TANKS**

Tanks intended or used for the storage of fuel oil, kerosene or any combustible fuel intended for sale by truck or other means of conveyance to purchasers at some other destination, excluding, however, from the above definition, all gasoline storage tanks used at gasoline filling stations for retail sale.

#### **GARAGE, PRIVATE**

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than two cars is leased to a nonresident of the premises.

#### **GRADE, ESTABLISHED**

The elevation of the center line of the streets as officially established by Town authorities.

#### **GRADE, FINISHED**

The completed surfaces of lawns, walks and roads brought to grades as shown on the official plan or designs relating thereto.

#### **GRADING**

Excavation of fill, rock, gravel, sand, soil, or other natural material including the resulting conditions therefrom.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **GROSS FLOOR AREA**

For computing off-street parking requirements, the sum of the gross horizontal area(s) of the floor(s) of the building(s) measured from the interior faces of the walls. All roofed areas, except porches, terraces, cellars, basements, enclosed off-street parking areas and pedestrian walkways in an enclosed mall, shall be included in calculation of floor areas.

#### **HOME OCCUPATION**

A business, profession, occupation or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such premises.

[Amended 7-9-2003 by L.L. No. 9-2003]

#### **HOSPITAL**

An institution providing health services and medical or surgical care, primarily to temporary inpatients, to persons suffering from illness, disease, injury, deformity or other abnormal physical or mental condition. As an integral part of the institution, other facilities are included such as laboratories, outpatient facilities or training facilities.

#### **HOSPITAL, ANIMAL or VETERINARY CLINIC**

An establishment where a full range of medical services are provided to small and/or large animals by one or more veterinary doctors and staff. This use shall be deemed to include, as necessary for treatment or observation, overnight animal boarding for not more than five animals.

#### **HOTEL or MOTEL**

An establishment which is open to transient guests, in contradistinction to a boarding, rooming or lodging house, and is commonly known as a "hotel" or "motel" in the community in which it is located, and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service and the use and upkeep of furniture. A hotel or motel may include dining facilities located on the premises.

#### **JUNKYARD**

The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that joins any street for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

#### **KENNEL**



A use or building in which the principal activity is the keeping, raising, breeding or boarding of dogs, cats or other animals, which may be considered household pets, in return for remuneration or for personal gain. For the purpose of this chapter, any such activity, excluding boarding, shall not be considered a kennel where accessory to a principal residential use, provided that not more than three animals exceeding six months of age are kept.

**LAND DEVELOPMENT ACTIVITY**

Construction activity including clearing, grading, excavating, soil disturbance, or placement of fill resulting in land disturbance of equal to or greater than 1/2 acre. Also includes activities disturbing less than 1/2 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.

[Added 4-27-2005 by L.L. No. 9-2005]

**LANDFILL**

Any lands used, acquired or leased for the purpose of disposal of garbage, hazardous waste, solid waste and/or sanitary landfill as defined in Chapter 244, § 244-1, of the Rotterdam Code, entitled "Solid Waste."

**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.

[Added 4-27-2005 by L.L. No. 9-2005]

**LANDSCAPING**

Any additions or modifications to the natural features of a site to restore construction disturbance and to make it more attractive, as by adding lawns, trees, and shrubs to the natural environment.

[Added 4-27-2005 by L.L. No. 9-2005]

**LAND TRUST**

An independent organization that works with landowners interested in protecting open space, often working cooperatively with government agencies. A land trust may accept donations of land, funds to purchase land, or development rights that permanently limit land development, or can purchase land for permanent protection.

[Added 9-15-2005 by L.L. No. 16-2005]

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE**

A contiguous area where multiple separate and distinct construction activities are occurring under one plan. A "plan" shall be thither defined as inclusive of any announcement or piece of a documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation, indicating that construction activities may occur on a specific plot.

[Added 4-27-2005 by L.L. No. 9-2005]

**LAUNDROMAT**

A business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of any laundry facilities provided as an accessory use in multiple-family apartment development.

**LICENSED/CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL**

A person currently licensed to practice engineering in New York State or who is a certified professional in erosion and sediment control (CPESC).

[Added 4-27-2005 by L.L. No. 9-2005]

**LINE, STREET**

The dividing line between the street and lot.

**LOT**

A portion or parcel of land considered as a unit and devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest of use, and the customary accessories and open spaces belonging to the same. Such lot shall have frontage on an improved public street.

**LOT, CORNER**

A parcel of land at the junction of and fronting on two or more intersecting streets. A lot shall be deemed to front on each highway it abuts and be subject to the requirements of a front yard on each such highway, with the yards opposite thereto on corner lots subject to side yard requirements only.

**LOT COVERAGE**

That percentage of the plot or lot area covered by the area of all principal and accessory buildings.

**LOT, DEPTH OF**

A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

**LOT, INTERIOR**

A lot other than a corner lot.

**LOT LINES**

Any line dividing one lot from another.

**LOT OF RECORD**

Any lot which has been established as such by plat, survey, record or deed prior to the effective date of this chapter, as shown in the records of the office of the Assessor, Town of Rotterdam.

**LOT, THROUGH**

An exterior lot having frontage on two parallel or approximately parallel streets.

**LOT, WIDTH OF**

The width measured at right angles to its depth. The width of a lot (frontage) shall be considered to be the distance between the straight lines connecting front and rear lot lines at each side of the lot, measured across the two front property points where they intersect with the street line. The lot width at the street line shall meet the minimum requirements specified for each respective zoning district, except in the case of lots on the turning circle of culs-de-sac, where the definition of "lot, width of, cul-de-sac" shall apply.

[Amended 9-26-1990 by L.L. No. 19-1990]

**LOT, WIDTH OF, CUL-DE-SAC**

The width measured at right angles to its depth. The width of lot, cul-de-sac shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the two front property points where they intersect with the street

line. However, at the line approximately parallel to the front lot line and measured across the rear of the required front yard, the width shall be equal to the required lot width specified in the required zoning classification. The width between the front property boundaries where they intersect with the street line shall not be reduced more than 25% of the required lot width specified in the respective zoning classification set forth in this chapter.

[Added 9-26-1990 by L.L. No. 19-1990]

#### **MAJOR PROJECT**

Clearing, grading and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land, or will disturb less than five acres of total land area, but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **MANUFACTURED HOME**

A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 300 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include a structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Chapter 70.

[Added 7-9-2003 by L.L. No. 9-2003]

#### **MINING**

Any activity regulated by the New York State Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27), including, but not limited to, the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use, exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies or excavations in aid of agricultural activities. For the purposes of this provision, the term "construction projects" shall mean the excavation, removal and disposition of minerals solely in the furtherance of on-site construction projects which are permitted uses in the district in which they are to be undertaken and for which a building permit has been lawfully issued by the Town of Rotterdam Building Inspector/Code Enforcement Officer.

[Added 5-10-1989 by L.L. No. 12-1989; amended 11-22-1989 by L.L. No. 20-1989; 2-12-1992 by L.L. No. 2-1992; 7-9-2003 by L.L. No. 9-2003]

#### **MINOR PROJECT**

Clearing, grading and excavating resulting in a land disturbance that will disturb equal to or greater than 1/2 acre and less than five acres of land, or will disturb less than 1/2 acre of total area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 1/2 acre and less than five acres.

[Added 4-27-2005 by L.L. No. 9-2005]

#### **MOBILE HOME**

A portable unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed to be without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity, as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. Mobile units can be designed to be used for residential, commercial, educational or industrial purposes; excluded, however, are travel trailers, motorized homes, pickup coaches and camping trailers.

#### **MOBILE HOME PARK**

A land area occupied or designed for occupancy by two or more mobile homes for living purposes.

#### **MOTEL**

See "hotel or motel."

#### **MOTOR VEHICLE**

Any passenger vehicle, truck, truck-trailer, trailer or semitrailer propelled or drawn by mechanical power.

#### **MOTOR VEHICLE FUEL FILLING STATION**

Any area of land, including any structure or structures thereon, that is used for the dispensing of gasoline or oil or other fuel for the propulsion of vehicles, excluding, however, motor vehicle repair shops, as defined in this section. This definition shall include any convenience store, as defined in this chapter, which engages in sale and/or dispensing of gasoline. For the purpose of this chapter, there shall be included within this term any area of land or structure designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing motor vehicles.

[Added 9-12-1990 by L.L. No. 18-1990; amended 4-11-2001 by L.L. No. 4-2001]

#### **MOTOR VEHICLE REPAIR, MAJOR**

General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, such as collision service, body repair and frame straightening; painting and upholstering; vehicle steam cleaning; and undercoating. The sale of gasoline or oil or other fuel for the propulsion of motor vehicles shall also be deemed to be included in this term.

#### **MOTOR VEHICLE REPAIR, MINOR**

Minor repairs, incidental replacement of parts and motor service to passenger automobiles and trucks not exceeding 1 1/2 tons' capacity, but not including any operation included in the definition of "motor vehicle repairs, major." The sale of gasoline or oil or other fuel for the propulsion of motor vehicles shall also be deemed to be included in this term.

#### **NONCONFORMING BUILDING OR STRUCTURE**

Any building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto governing bulk for the zoning district in which such building or structure is located or which is designed or intended for a nonconforming use.

#### **NONCONFORMING USE**

A structure or land lawfully occupied by a use at the time of the passage of this chapter or of any amendment hereto that does not conform after the passage of this chapter or amendment hereto to the regulations of the district in which it is situated. "Nonconforming use" shall include any building containing one or more dwelling units in addition to the number permitted by the district regulations where such building is located.

**NOTICE OF INTENT (NOI)**

A permit application prepared and filed by an owner or operator with the Department of Environmental Conservation as an affirmation that a stormwater pollution prevention plan (SWPPP) has been prepared and will be implemented in compliance with the state pollution discharge elimination system general permit for stormwater runoff for construction activity (GP-02-01).

[Added 4-27-2005 by L.L. No. 9-2005]

**NURSING OR CONVALESCENT HOME**

See "care homes."

**OPERATOR**

A party associated with a construction project that meets either of the following two criteria:

[Added 4-27-2005 by L.L. No. 9-2005]

A. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

B. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

**OWNER**

The titleholder of record of real property; or if he is deceased, then his estate.

**PARKING SPACE**

The area required for parking one automobile, truck or vehicle, which, for the purposes of this chapter, is held to be an area nine feet wide and 18 feet long, not including passageways.

**PHASING**

Development activities on a parcel of land performed in distinct sections, with the stabilization of each section completed before development of the next.

[Added 4-27-2005 by L.L. No. 9-2005]

**PLOT**

A map, plan or layout of the Town or section or subdivision thereof, indicating the location and boundaries of individual properties and streets.

**PRIVATE RECREATIONAL USE**

A use of land or buildings for athletics, including incidental retail sale of athletic accessories and apparel, hiking or bicycle trails, picnic grounds, and similar uses.

[Added 6-12-2002 by L.L. No. 11-2002]

**PROFESSIONAL OFFICES**

An office maintained by an individual or firm for the practice of one or more of the following professions only: physician, dentist, lawyer, engineer, architect, teacher or accountant.

**PUBLIC PARKS AND PLAYGROUNDS**

A lot or parcel in the Town of Rotterdam, owned or operated by the town, the county, the state or the federal government or a nonprofit agency, used for open space or recreational purposes and open to the general public.

**PUBLIC UTILITY**

A corporation or business rendering and devoting its property to the provision of services which are essential to the public interest.

**RECLAMATION**

The conditioning of the land affected by mining to make it suitable for any uses or purposes consistent with the provisions of the New York State Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27) and this chapter. Editor's Note: The definition of "recreational use," which immediately followed this definition, was repealed 6-12-2002 by L.L. No. 11-2002.

[Added 5-10-1989 by L.L. No. 12-1989; amended 11-22-1989 by Ord. No. 20-1989; 2-12-1992 by L.L. No. 2-1992]

**RECREATIONAL VEHICLE**

Every type of motor-driven vehicle used primarily for recreational purposes and including living and/or sleeping facilities.

**REST HOMES**

See "care homes."

**ROADSIDE STAND**

A structure for the display and sale of agricultural products.

**SCHOOL, PRIVATE**

A kindergarten, primary or secondary school not operated by a public school district but furnishing a comprehensive curriculum of academic instruction similar to that of public school.

**SCHOOL, PUBLIC**

An educational institution operated by a public school district under the laws of the State of New York.

**SEDIMENT**

Solid material, both mineral and organic, which is in suspension, is being transported, has been deposited, or has been removed from its site of origin.

[Added 4-27-2005 by L.L. No. 9-2005]

**SEDIMENT CONTROL**

A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

[Added 4-27-2005 by L.L. No. 9-2005]

**SETBACK**

The minimum distance between the front line of a building or structure and the front property line.

**SEVERE SLOPES**

Ground areas with a slope greater than 25% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

[Added 4-27-2005 by L.L. No. 9-2005]

**SHOPPING CENTER**

An attached building in a row or group with each building separated from adjoining building by a common wall or walls. Included is an enclosed mall characterized by business entrances facing a pedestrian walkway with a common roof covering the business area and the walkway.

**SIGN**

Any structure, or part thereof, or device attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" includes the word "billboard," but does not include the flag, pennant or insignia of any nation, state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive movement or event.

**SIGN, ADVERTISING**

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises, if at all.

**SITE DEVELOPMENT PERMIT**

A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

[Added 4-27-2005 by L.L. No. 9-2005]

**SMALL WIND ENERGY FACILITY**

A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics and electrical collection and distribution equipment, and accessory facilities or equipment, which has a nameplate capacity of not more than 100 kilowatts.

[Added 10-8-2008 by L.L. No. 10-2008]

**STABILIZATION**

Covering or maintaining an existing cover or soil. Cover can be vegetative (e.g., grass, trees, seed and mulch, shrubs, or turf) or nonvegetative (e.g., geotextiles, riprap, or gabions).

[Added 4-27-2005 by L.L. No. 9-2005]

**STABILIZATION (FINAL)**

All soil-disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

[Added 4-27-2005 by L.L. No. 9-2005]

**STABLE, PRIVATE**

An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

**STABLE, PUBLIC**

A building in which horses are kept for public use for hire, remuneration or sale.

**START OF CONSTRUCTION**

The rust land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling.

[Added 4-27-2005 by L.L. No. 9-2005]

**STEEP SLOPES**

Ground areas with a slope greater than 15% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

[Added 4-27-2005 by L.L. No. 9-2005]

**STORMWATER MANAGEMENT**

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

[Added 4-27-2005 by L.L. No. 9-2005]

**STORMWATER MANAGEMENT OFFICER**

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

[Added 4-27-2005 by L.L. No. 9-2005]

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

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

[Added 4-27-2005 by L.L. No. 9-2005]

**STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between any floor level and the roof.

**STREET**

A public thoroughfare which affords the principal means of access to abutting property or is legally existing on any map of a subdivision filed in a manner provided by the laws of the Town of Rotterdam.

**STRUCTURE**

A combination of materials, other than a building, to form a construction that is safe and stable, including, among other things, stadiums, platforms, radio towers, sheds, storage bins, fences and display signs.

**THEATER, OUTDOOR DRIVE-IN**

An open lot, or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid-admissions basis, to patrons seated in automobiles or on outdoor seats.

**TOURIST HOMES**

See "bed-and-breakfast."

[Amended 11-24-1999 by L.L. No. 17-1999]

**TOWER**

Includes any tower, edifice, pole or other structure, whether attached to a building or freestanding, and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as but not limited to broadcast, shortwave, citizens' band, and FM or television signals. Any existing tower which is not in conformance with these regulations shall be considered as a nonconforming use. Wind energy facilities, small wind energy facilities, and wind measurement towers shall conform with the requirements of Chapter 269 of the Town Code.

[Added 10-8-2008 by L.L. No. 10-2008]

**TOWER, ATTACHED**

Includes a tower which is attached to a building by a rigid member.

**TOWER, FREESTANDING**

Includes a tower which is not attached to a building by a rigid member.

**TOWN ENGINEER**

A licensed professional engineer staffed within the Department of Public Works or a duly authorized representative appointed by the Rotterdam Town Board.

[Added 12-9-1992 by L.L. No. 37-1992]

**TOWNHOUSE (ROW HOUSE)**

An attached house in a row or group with each house separated from adjoining houses by a common wall or walls.

**TRAVEL TRAILER**

A vehicular portable structure built on a chassis, designed to be used primarily as a temporary dwelling for travel, recreation and vacation uses and not placed on a foundation. For the purpose of this chapter, this term shall be construed to include self-propelled living quarters commonly called "recreation vehicles" and "pickup campers."

**USE, ACCESSORY**

See "accessory use."

**USE OF PROPERTY**

The purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained.

**USE, PERMITTED**

A use which may be lawfully established by this chapter.

**USE, PRINCIPAL**

Each individual use specifically named in any subdivision defining the permitted uses for each zoning district contained in this chapter.

[Added 12-28-1988 by L.L. No. 13-1988]

**USE, SPECIAL**

A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district. After due consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such special use may or may not be granted.

**VEGETATIVE BUFFER**

A transitional vegetated area located between upland and aquatic habitats. For the purposes of this chapter, it shall be considered the strip of natural and/or managed vegetation 25 feet, measured horizontally, from a designated U.S. Army Corps of Engineer wetland and 100 feet, measured horizontally, from a designated NYS Department of Environmental Conservation wetland.

[Added 4-27-2005 by L.L. No. 9-2005]

**WATERCOURSE**

Any body of water, either natural or man-made, including but not limited to lakes, ponds, rivers, streams, tributaries, drainageways, and intermittent streams.

[Added 4-27-2005 by L.L. No. 9-2005]

**WATERCOURSE BUFFER**

A horizontal distance of 50 feet away from and parallel to the mean high water level of a watercourse.

[Added 4-27-2005 by L.L. No. 9-2005]

**WETLANDS**

Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include those areas determined to be wetlands by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation.

[Added 4-27-2005 by L.L. No. 9-2005]

**WIND ENERGY FACILITY**

Any wind turbine or array of wind turbines designed to deliver electricity to the power grid for sale with a combined production capacity of more than 100 kilowatts of energy, including all related infrastructure, electrical collection and distribution lines and substations, access roads and accessory structures, including accessory facilities or equipment.

[Added 10-8-2008 by L.L. No. 10-2008]

**WIND MEASUREMENT TOWER**

A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

[Added 10-8-2008 by L.L. No. 10-2008]

**YARD, FRONT**

An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Covered or uncovered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

**YARD, REAR**

An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building.

#### **YARD, SIDE**

An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

#### **ARTICLE III. Zoning Districts; Zoning Map; Boundaries**

##### **§ 270-6. Districts enumerated.**

A. In order to promote the purposes of this chapter, the Town of Rotterdam is hereby divided into the following districts:

**[Amended 5-26-1993 by L.L. No. 9-1993; 9-15-2005 by L.L. No. 17-2005; 11-12-2008 by L.L. No. 11-2008]**

B. Special-purpose districts include:

**[Amended 9-15-2005 by L.L. No. 16-2005]**

C. Where districts are referred to as "more restrictive" or "less restrictive," the designation shall refer to the order in which the districts are named in the above list, the first named being most restrictive; except, however, the special purpose districts shall not be considered as more restrictive or less restrictive than any other district.

##### **§ 270-7. Zoning Map.**

A. Location and boundaries. The Town Board of the Town of Rotterdam hereby rescinds the "Zoning Map of the Town of Rotterdam," dated April 13, 1955, and all amendments made thereto. The districts established by this chapter are bounded and defined as shown on the new official "Zoning Map of the Town of Rotterdam" dated July 11, 2001, which, with explanatory matter thereon, is hereby made a part of this chapter. Editor's Note: The Zoning Map is on file in the Town offices.

**[Amended 7-11-2001 by L.L. No. 5-2001]**

B. Map filed. This Zoning Map, when duly adopted, shall be filed in the office of the Town Clerk, and certified copies thereof shall be filed with the Building Inspector/Code Enforcement Officer, Board of Zoning Appeals and the Planning Commission. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. Map amendments. A Zoning Map amendment which may be enacted by the Town Board shall be filed with the Building Inspector/Code Enforcement Officer, Town Clerk, Board of Zoning Appeals and the Planning Board. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. Record. The Town Engineer shall keep an index of all changes in the Zoning Map hereafter made. Such index will identify areas changed with reference to the record adopting such change. The Engineer may have printed supplements prepared from time to time and cause the same to be attached to this chapter.

**[Amended 12-9-1992 by L.L. No. 37-1992]**

E. Revision of map. Every change or amendment of the Zoning Map, duly enacted by the Town Board, shall, within a reasonable time, be shown upon the Zoning Map.

##### **§ 270-8. Interpretation of boundaries.**

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

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

B. Where district boundaries are so indicated that they approximately follow the lot line of maps filed in the Schenectady County Clerk's office for residential developments, such lot lines shall be construed to be said boundaries.

C. If no distance is clearly identified, such boundaries shall be determined by the use of the scale shown on said Zoning Map.

D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

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

#### **ARTICLE IV. General Requirements**

##### **§ 270-9. Compliance required.**

A. Generally. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose or in any manner except in conformity with this chapter and particularly with the specific regulations for the district in which such building or land is located. Any use not specifically permitted by this chapter is prohibited.

B. Minimum requirements. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater

restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces that are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.

**§ 270-10. Lots.**

A. Required lot area. No building or structure shall be constructed or altered so as to conflict with the required minimum lot area for the district in which such building or structure is located. No parcel or lot shall be so reduced in area, width or depth so as to be smaller than required for the zoning district in which said lot or parcel is located.

B. Lot required for every building. Every building erected after the effective date of this chapter shall be located on a lot, as defined herein. No more than one principal building and its accessory structures shall be permitted to occupy a lot except for multifamily and nonresidential buildings located in districts permitting such multiple uses.

C. Subdivisions. Should a lot hereafter be formed from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing buildings and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this chapter and the Subdivision Ordinance Editor's Note: See Ch. 249, Subdivision of Land. of the Town of Rotterdam.

D. Lots in two districts. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

**§ 270-11. Yards.**

A. Generally. No building or structure shall be constructed, erected or altered so as to conflict with the required front, side and rear yards for the district in which such building or structure is located, except as may otherwise be permitted in this section.

B. Yard for every building. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. Yards in adjoining districts. Where a residential district adjoins any other district on a side or rear yard, such other district or districts shall be subject to the same side and rear yard requirements on the lots directly adjoining said residential district.

D. Projections into yards.

(1) Porches. All porches, both enclosed and unenclosed, erected on piers or on a solid foundation shall be considered a part of the building only in the determination of the size of yards or lot coverage.

(2) Projecting architectural features. The space in any required yard shall be open and unobstructed, except for the ordinary projection of window sills, cornices, eaves and other architectural features; provided, however, that such features shall not project more than two feet into any required yard, except as provided below.

(3) Bay windows. Solar-energy collection systems, bay or bow windows, including cornices and eaves, may project not more than three feet into any required yard; provided, however, that the width of such projection of any wall or room does not exceed 1/3 of the length of a side wall.

(4) Fire escapes. Open fire escapes may extend into any required yard not more than four feet six inches, except where such requirement conflicts with the New York State Uniform Fire Prevention and Building Code. Editor's Note: See Executive Law § 370 et seq.

**§ 270-12. Visibility at intersections.**

On a corner lot in any district, no fence, hedge or other obstruction more than 3 1/2 feet in height above the average street elevation shall be caused to exist within the triangle formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet in distance from the point of intersection measured along said street lines. This restriction shall apply to all hedges, fences and landscaping heretofore erected and now existing at a height greater than herein allowed.

**§ 270-13. Minimum floor area; interior volume.**

No residential dwelling unit shall be erected or altered so that it contains less than 625 square feet of floor area. Such dwelling unit shall contain not less than 5,000 cubic feet of interior volume. No commercial principal use shall contain less than 500 square feet of floor area.

**§ 270-14. Public utilities.**

This chapter is not intended to restrict the construction or use of underground or overhead lines or of other structures used for public utility purposes by corporations organized under the laws of the State of New York and subject to the jurisdiction of the Public Service Commission of the State of New York; however, the establishment of public utility buildings or substations in residential districts shall require a special permit and shall be subject to such conditions as the Planning Board may impose in order to preserve and protect the character of the district.

**§ 270-15. Accessory uses, buildings and structures.**

A. Location. No permitted accessory use or building shall be located in the front yard in a residential district, except parking and landscaping.

B. Height. No accessory building or structures shall exceed 14 feet in height.

C. Yards. No detached accessory building or structure shall be located less than five feet from any rear or side lot line, except for permitted fences. Every attached accessory building or structure shall conform to all yard regulations of the principal building or use.

D. Exempted structures. If proposed handicap ramps and railings do not meet the minimum yard setback requirements of the zoning district, such handicap ramps and railings may be approved and permitted by the Town Engineer or Building Inspector/Code Enforcement Officer as a necessary use, provided that abutting property owners are notified and state in writing their acceptance of the proposed structure.

[Added 12-9-1998 by L.L. No. 18-1998 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]

**§ 270-15.1. Limitations on principal uses.**

[Added 4-26-1989 by L.L. No. 6-1989]

Only one principal use shall be permitted on any lot, except that two or more principal uses may be allowed on the same lot by the granting of a special use permit therefor in accordance with the procedure prescribed by Article XIX of this chapter.

**§ 270-15.2. Accessory home-care units in single-family dwellings.**

[Added 11-24-1999 by L.L. No. 17-1999]

A. Purpose. The purpose of permitting temporary accessory home-care units is to:

- (1) Provide housing arrangements which meet the needs of the elderly and/or disabled population in the community by affording an opportunity for them to live in close proximity to family members who can help maintain their health, independence and privacy.
- (2) Preserve the single-family residential character of neighborhoods by ensuring that temporary accessory home-care units are installed only in conjunction with owner-occupied single-family houses and under such additional conditions as may be appropriate.

B. General requirements.

- (1) One temporary accessory home-care unit is permitted, provided that it is attached to the main dwelling unit which is owner-occupied and that the apartment is occupied by a person or persons related to the owner by blood, adoption, marriage or as a caregiver to provide essential care to said person based on certification of such by a health-care professional or based on demonstrated need, as determined by the Planning Commission.
- (2) The accessory home-care unit shall have a floor area of not more than 750 square feet and shall have a common entrance or use an existing entrance. Only a single accessory home-care unit is permitted on any one parcel.
- (3) The site can accommodate sufficient off-street parking for principal and accessory home-care unit dwellers' needs. No more than two individuals will be allowed to live in any one accessory home-care unit, unless approved during the temporary special use permit process.
- (4) A temporary accessory home-care unit is allowed in R-1 (single-family residential), RA (residential agricultural) and A (agricultural) Zones only and must fully comply with zoning codes in the proposed district as a special use. The accessory home-care unit shall comply with the yard setbacks, building heights and lot coverage requirements which apply to the single-family dwelling zone in which it is located.
- (5) The proposed parcel must be able to adequately accommodate the accessory home-care unit. The Department of Public Works must approve the adequacy of services, including sanitary disposal and water services.
- (6) All deeds for property containing an accessory home-care unit shall have a covenant indicating that the accessory home-care unit is permitted only when the main dwelling or accessory home-care unit is owner-occupied and the accessory home-care unit or main dwelling is occupied by a person or persons related to the owner by blood, adoption, marriage or as a caregiver. Said deed shall be filed in the office of the Schenectady County Clerk, and proof of filing shall be submitted to the Department of Public Works within 60 days after issuance of the temporary special use permit.
- (7) A special use permit issued pursuant to this provision and Article XIX is temporary and ceases when the applicant no longer meets the conditions for such use. Once issued, there is an annual renewal fee of \$25 with continued compliance, issued and enforced by the Department of Public Works. Failure of renewal prior to its expiration date is a violation of the Town Zoning Code and will result in prosecution. Upon cessation of the special use permit, all kitchen improvements shall be removed following a restoration plan as part of the application for the discontinuance of use as detailed in Subsection B(8)(d). The owner is to restore the residence within 90 days once the accessory unit is no longer needed.
- (8) Conditions. An application for a building and zoning permit for an accessory home-care unit requires the following information:
  - (a) A statement of need signed by the applicant providing the relationship to the owner-occupant, age and/or disability with a written statement from a health-care professional.
  - (b) Building plans meeting the New York State Uniform Fire Prevention and Building Code, at a minimum detailing the interior access between units.
  - (c) Site plan requirements: drawn at a scale of one inch equals 30 feet, including:
    - [1] The applicant's name and address.
    - [2] The location and size of all structures on the applicant's lot, including the single-family dwelling unit, all accessory buildings and structures, driveway and parking areas, easements, etc.
    - [3] The proposed location, point of entry and size of the accessory home-care unit.



[4] Building elevations of any proposed additions.

(d) Restoration plan. The restoration plan shall be a detailed plan for removal of the accessory home-care unit and shall identify those structures, exterior and interior walls, electrical and plumbing improvements and connections to public water and sewer services to be retained and those removed upon cessation of the accessory home care use. In particular, it shall include a removal plan for all kitchen-related improvements facilitating the preparation of food, including but not limited to such items as sinks, stoves, counters and refrigerators.

**§ 270-15.3. Erosion and sediment control.**

**[Added 4-27-2005 by L.L. No. 9-2005]**

All land development activity must comply with Article XXVI (§ 270-215).

**ARTICLE V. A Agricultural District**

**§ 270-16. Applicable regulations.**

**[Amended 4-26-1989 by L.L. No. 6-1989]**

The following regulations shall apply to all A (Agricultural District) Zones.

**§ 270-17. Permitted uses.**

The following principal uses are permitted as of right in the A District:

A. Single-family dwellings.

B. Churches or similar places of worship, parish houses, convents and community houses.

C. Customary agricultural operations, including all buildings, structures and uses appurtenant to and used in general farming, agricultural truck farming, gardening, poultry raising, tree nurseries and greenhouses, subject to the following restrictions:

(1) No building in which farm animals are kept shall be closer than 150 feet to any adjoining residential building.

(2) No storage of manure or odor or dust-producing substances shall be permitted within 150 feet from any adjoining residential building.

(3) No greenhouse heating plant shall be operated within 50 feet of any adjoining residential building.

D. Public and private schools.

E. Firehouses and Town maintenance and service facilities.

F. Public parks, playgrounds and other municipal recreational uses.

G. Public libraries and museums.

H. Wind energy facilities subject to the requirements of the Town of Rotterdam Wind Energy Facility Law. Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-18. Special uses.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

A. Golf courses and golf driving ranges.

B. Ski lifts, ski slopes and trails and accessory facilities.

C. Horseback riding clubs and public and private stables.

D. Cemeteries.

E. Mobile homes. (See Rotterdam Trailer Ordinance. Editor's Note: See Ch. 260, Trailers. )

F. Commercial extraction of topsoil, sand, gravel or stone.

G. Towers.

H. Temporary accessory home-care units per Article IV, § 270-15.2.

I. Bed-and-breakfasts.

J. Kennels, however, must comply with the following:

**[Added 7-11-2001 by L.L. No. 6-2001]**

- (1) Kennel pens and exercise area(s) may not be operated within 300 feet of a residence other than the residence of the owner or operator thereof.
- (2) Kennel pens may not be located within 100 feet of an adjoining property line.
- (3) The minimum lot size required is 10 acres.
- (4) Dogs must be confined within a building between the hours of 10:00 p.m. and 7:00 a.m.
- (5) Conditions to be considered when hearing a request to allow a kennel special use permit shall include, but are not limited to, the following:
  - (a) Provisions for controlling offensive noise and odor.
  - (b) Approved disposal plan for animal waste.
  - (c) Training and/or expertise of the owner/operator.
  - (d) Maximum numbers of animals to be maintained.
  - (e) The effect on the character of the neighborhood.
  - (f) Existing or proposed natural or man-made buffers.

K. Private recreational uses.

**[Added 6-12-2002 by L.L. No. 11-2002]**

L. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-19. Accessory uses.**

Accessory uses permitted in the A District shall be limited to the following:

- A. Private garages with not more than three stalls for the parking or storage of private automobiles.
- B. Roadside produce stands.
- C. Buildings and structures for lawn care, property maintenance and permitted agriculture.
- D. Private swimming pools, tennis courts and other private recreational facilities for use of residents and not run for gain.
- E. Permitted home occupations.
- F. Accessory kennels.
- G. Accessory parking and loading.
- H. Fallout shelters.
- I. Dish antennas and accessory towers.
- J. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-20. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet, for every residential use.

**§ 270-21. Yard and property line requirements.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

- A. Front yard depth shall be 25 feet.
- B. Side yard width shall be 15 feet.
- C. Rear yard depth shall be not less than 25 feet.

(1) For buildings exceeding three stories in height, 1/2 of the additional height shall be added to the minimum depth of 25 feet, except that a private garage may be built five feet from the rear and side property lines.

D. Front property line: a minimum of 150 feet.

**§ 270-22. Lot area.**

The minimum lot area required for each principal use is one acre.

**§ 270-23. Lot coverage.**

Lot coverage shall not exceed 30%.

**§ 270-24. Parking.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

Off-street parking requirements applicable in the A District are set forth in § 270-149 of this chapter.

**§ 270-25. Additional regulations.**

For additional regulations relative to special uses, see Article XIX.

**ARTICLE VI. R-1 One-Family Residential District**

**§ 270-26. Regulations to apply.**

The following requirements shall apply to all R-1 Districts.

**§ 270-27. Permitted uses.**

The following principal uses are permitted as of right in the R-1 District:

- A. Single-family dwellings.
- B. Churches or similar places of worship, parish houses, convents and community houses.
- C. Public and private schools.
- D. Firehouses.
- E. Public parks, playgrounds and other municipal recreational uses.
- F. Public libraries and museums.

**§ 270-28. Special uses.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

- A. Golf courses and accessory facilities.
- B. New York Department of Motor Vehicles driver training classes operated by a nonprofit or municipal corporation.
- C. Care homes.
- D. Child or infant day-care centers.
- E. Temporary accessory home-care units per Article IV, § 270-15.2.
- F. Bed-and-breakfasts.
- G. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-29. Accessory uses.**

Accessory uses in the R-1 District shall be limited to the following:

- A. Private garages with not more than three stalls for the parking or storage of private automobiles.
- B. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run for gain.
- C. Permitted home occupations.
- D. Accessory parking and loading.
- E. Buildings for lawn care, gardening or maintenance of residential property.

F. Fallout shelters.

G. Dish antennas and permitted accessory towers.

H. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-30. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet for residential uses.

**§ 270-31. Lot area.**

A. The required minimum lot area shall be not less than 15,000 square feet, with a lot width of not less than 100 feet.

B. The New York State Public Health Law governing realty subdivisions requires a minimum lot size of 20,000 square feet for every residential lot or parcel served by individual water and sewage disposal systems and located in a realty subdivision, as defined by Public Health Law, Article 11, Title II, entitled "Realty Subdivisions: Water Supply." Such stricter minimum lot size shall be imposed where applicable.

**§ 270-32. Lot coverage.**

Lot coverage shall not exceed 45%.

**§ 270-33. Yard requirements.**

A. Front yard depth shall be 25 feet or a depth of not less than 1/2 the total setback depths of the dwellings on properties which adjoin on each side, provided that both of such dwellings are set back less than 25 feet.

B. Side yard width shall be not less than 10 feet.

C. Rear yard depth shall be not less than 25 feet, except that a garage may be built five feet from the rear and side property lines.

**§ 270-34. Parking.**

Off-street parking requirements applicable in the R-1 District are set forth in § 270-149 of this chapter.

**§ 270-35. Additional uses.**

For additional regulations relative to specific uses, see Article XVIII.

**ARTICLE VII. R-2 Two-Family Residential District**

**§ 270-36. Regulations to apply.**

The following regulations shall apply to all R-2 Districts.

**§ 270-37. Permitted uses.**

The following uses are permitted as of right in the R-2 District:

A. All principal uses permitted in the R-1 District subject to all regulations specified in the R-1 District.

B. Two-family dwellings.

**§ 270-38. Special uses.**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

A. Private, not-for-profit clubs.

B. Child and infant day-care centers.

C. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-39. Accessory uses.**

Accessory uses in the R-2 District shall be limited to the following:

A. Private garages with not more than three stalls for the storage or parking of private automobiles.

B. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run for gain.

C. Permitted home occupations.

D. Accessory parking and loading.

E. Buildings for lawn care, gardening or property maintenance.

F. Fallout shelters.

G. Dish antennas and permitted accessory towers.

H. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-40. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet, for residential use and six stories, not exceeding 75 feet, for any nonresidential building or structure.

**§ 270-41. Lot area.**

**[Amended 12-26-1990 by L.L. No. 26-1990]**

The required minimum lot area shall be the same as for the R-1 District, except that residential buildings or structures with more than four bedrooms shall increase the total lot area by a minimum of 3,000 square feet for each additional bedroom over four, with a lot width of not less than 100 feet. Hospitals and similar uses shall require two acres.

**§ 270-42. Lot coverage.**

Lot coverage shall not exceed 45%.

**§ 270-43. Yard requirements.**

A. Front yard depth shall be 30 feet.

B. Side yard width shall be not less than 10 feet.

C. Rear yard depth shall be not less than 25 feet. For buildings exceeding three stories in height, 1/2 of the additional height shall be added to the minimum depth of 25 feet, except that a private garage may be built five feet from the rear and side property line.

**§ 270-44. Parking.**

Off-street parking requirements applicable in the R-2 District are set forth in § 270-149 of this chapter.

**ARTICLE VIII. R-3 Multiple-Family District**

**§ 270-45. Regulations to apply.**

The following regulations shall apply to all R-3 Districts.

**§ 270-46. Permitted uses.**

The following principal uses are permitted as of right in the R-3 District:

A. Multiple-family dwellings.

B. Two-family dwellings.

C. Churches or similar places of worship, parish houses, convents and community houses.

D. Public and private schools.

E. Firehouses.

F. Public parks, playgrounds and other municipal recreational uses.

G. Public libraries and museums.

H. Child and infant day-care centers.

**§ 270-46.1. (Reserved)**

**§ 270-46.2. (Reserved)**

**§ 270-46.3. (Reserved)**

**§ 270-46.4. (Reserved)**

**§ 270-46.5. Special uses.**

**[Added 4-27-2005 by L.L. No. 9-2005]**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

A. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**§ 270-47. Accessory uses.**

Accessory uses in the R-3 District shall be limited to the following:

- A. Garages containing not more than one parking space for each dwelling unit.
- B. Private swimming pools, tennis courts and other private health or recreational facilities for the use of residents and not serving the general public.
- C. Permitted home occupations.
- D. Accessory parking and loading.
- E. Buildings for lawn care and property maintenance.
- F. Fallout shelters.
- G. Dish antennas and permitted accessory towers.
- H. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-48. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet.

**§ 270-49. Lot area.**

**[Amended 12-26-1990 by L.L. No. 26-1990]**

The minimum total lot area shall be 20,000 square feet, except that buildings or structures with more than four bedrooms shall increase the total lot area by a minimum of 3,000 square feet for each additional bedroom over four, with a minimum lot width of 100 feet.

**§ 270-50. Lot coverage.**

Lot coverage shall not exceed 45%.

**§ 270-51. Yard requirements.**

- A. Front yard depth shall be 30 feet.
- B. Side yard width shall be not less than 20 feet.
- C. Rear yard depth shall be not less than 25 feet, except that a private garage may be built five feet from the rear and side property line.
- D. Increased yard depth. In reviewing every multiple-family project development plan, the Planning Board shall consider the yards and proposed screening of parking, common open space and buildings and may require provision of a yard depth up to twice the applicable yard requirements listed above, where such greater yard depth is necessary to preserve neighborhood character and property values.

**§ 270-52. Design requirements.**

- A. Access. Every multiple-family development shall have safe and direct access to a major street or arterial.
- B. Utilities. No multiple-family development proposal shall be considered unless adequate public water supply and sufficient sewage disposal facilities are available. No certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning common water and sewage disposal facilities.
- C. Common open space. Not less than 15% of the gross acreage of the site shall be composed of land which is permanently dedicated to common open space. In reviewing the development plan, the Planning Board may require that up to 30% of the gross acreage of the site be permanently dedicated to common open space and to natural areas where such area is needed to preserve sensitive land, to maintain neighborhood character or to create needed recreational facilities.
- D. Maintenance of common open space. The multiple-family development plans shall include such provisions for the ownership and maintenance of all common open space and natural areas as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation and to ensure that remedial measures are available to the Town if such property is permitted to deteriorate or is changed in use from that permitted.
- E. Landscaping. All portions of every multiple-family development which are not used for locations of buildings, structures, parking, circulation roadways, sidewalks, preserve areas or similar purposes shall be suitably landscaped and permanently maintained with plantings of trees and shrubbery, as approved by the Planning Board as part of the site plan, so as to minimize erosion and stormwater runoff and harmoniously blend such uses with the residential character of the development and neighborhood.
- F. Buffer yards. Except where a required yard abuts a public street or roadway, every exterior yard shall be screened with evergreen landscape plantings at least six feet in height and/or with natural vegetation, trees and shrubbery in a manner which effectively screens the multiple-family use from adjoining lots or parcels.

G. Pedestrian circulation. Sidewalks and pathways shall be designed so as to provide safe and convenient access between buildings and recreation facilities, parking, loading areas and public transportation stops.

H. Planning Board consideration. The Planning Board reserves the right to raise any other related questions and to impose requirements or conditions as may be appropriate and proper in achieving the intent of these design standards.

**§ 270-53. Parking.**

Off-street parking requirements applicable in the R-3 District are set forth in § 270-149 of this chapter.

**ARTICLE VIIIA. R-4 Small One-Family and Townhouse Residential District**

**§ 270-53.1. Regulations to apply.**

The following regulations shall apply to all R-4 Districts.

**§ 270-53.2. Purpose; Town services.**

A. The purpose of this article is to allow the construction and development of small one-family residential homes and townhouses. These regulations are intended to allow for development and redevelopment in areas that are currently characterized by lots less than 15,000 square feet in size.

B. Lots in the R-4 district must be serviced by municipal water. It is recommended that said lots be serviced by municipal sanitary sewer; however, the town may allow for development on conventional septic systems on a case by case basis.

**§ 270-53.3. Permitted uses.**

The following uses are permitted as of right in the R-4 District:

- A. Small one-family residences with a maximum of three bedrooms and 2,000 square feet of habitable space.
- B. Townhouses.

**§ 270-53.4. Special uses.**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

- A. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**§ 270-53.5. Accessory uses.**

Accessory uses and structures in the R-4 District shall be limited to the following and shall not be subject to Chapter 270, § 270-138C:

- A. Private garages with not more than two stalls for the storage or parking of private automobiles with a maximum area of 600 square feet.
- B. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run for gain.
- C. Accessory parking and loading.
- D. Accessory buildings for lawn care, gardening or property maintenance with a maximum area of 200 square feet.
- E. Dish antennas for television/internet reception.

**§ 270-53.6. Maximum building height.**

The maximum building height shall be 35 feet.

**§ 270-53.7. Municipal water; septic systems; lot area.**

- A. All lots shall be serviced by municipal water.

B. On-site septic systems shall comply with Appendix 75-A, Wastewater Treatment Standards - Individual Household Systems [statutory authority: Public Health Law § 201(1)], §§ 75-A.1 through 75-A.8. Systems designed using §§ 75-A.9 through 75-A.11 shall be prohibited.

- C. Lot area and width.

(1) Single-family residential uses:

(a) Lot area.

[1] Not less than 8,000 square feet for two-bedroom dwelling unit.

[2] Not less than 9,000 square feet for three bedroom dwelling unit.

(b) Lot width of not less than 65 feet per dwelling unit.

(2) Townhouse uses:

(a) Lot area.

[1] Not less than 5,000 square feet for two bedroom dwelling unit.

[2] Not less than 6,000 square feet for three bedroom dwelling unit.

(b) Lot width of not less than 25 feet per dwelling unit.

**§ 270-53.8. Lot coverage.**

Lot coverage shall not exceed 50%.

**§ 270-53.9. Yard requirements.**

A. Front yard depth shall be 20 feet.

B. Side yard width shall be not less than 10 feet except along the shared common wall which shall have a zero-foot setback. A minimum side yard setback of 20 feet is required between townhouse building groups.

C. Rear yard depth shall be not less than 20 feet.

**§ 270-53.10. Parking.**

A. Single-family residential dwelling. There shall be a minimum of one garage space and a sufficient paved on-site driveway space to accommodate a minimum of two automobiles on each lot.

B. Townhouse. There shall be a minimum of one garage space and access for a minimum of two automobile-parking spaces per dwelling unit.

C. Additional off-street parking requirements applicable in the R-4 District are set forth in § 270-149 and Table 1, "Off-Street Parking Requirements, of this chapter. Editor's Note: Table 1 is included at the end of this chapter.

**§ 270-53.11. Additional standards for zero-lot-line dwellings.**

A. Townhouses shall be constructed with one unit per subdivided lot, with each dwelling unit being attached to the adjacent unit.

B. Townhouses shall have separate sewer and water laterals and shall have separate utility services for all other utility hookups.

C. Development of a zero-lot-line dwelling shall occur only on a lot that has been specifically platted in accordance with the provisions of the Town of Rotterdam Subdivision Ordinance Editor's Note: See Ch. 249, Subdivision of Land. to accommodate such a use.

D. A perpetual easement with a minimum width of four feet shall be provided on the adjacent lot for the maintenance of the wall of the dwelling with the zero lot line. This required easement shall be in favor of the lot on which a zero lot line is planned at or near the boundary to which this easement is adjacent. This required easement shall extend along the entire length of the side boundary to which the easement is adjacent.

E. No doors, windows, air-conditioning units, utility meters, electric panel boxes or openings of any kind shall be allowed on the wall of a dwelling or accessory building that lies on a zero-lot line.

F. Required easements shall be shown on the final plat. If required easements are not shown on the final plat of lots for zero-lot-line homes, then such easements shall be created by means of a replat or other separate legal instrument filed with the Schenectady County Clerk's office, before permits for building are granted by the Town.

G. In no case shall the owner of any zero-lot-line dwelling be granted an easement on the adjoining property for the use or enjoyment of any portion of that property, except for a four-foot maintenance easement in Subsection D above.

H. Wall assemblies separating dwelling units from each other shall have a sound transmission class (STC) of not less than 60 for airborne noise when tested in accordance with ASTM E 90. This requirement shall not apply to dwelling-unit-entrance doors; however, such doors shall be tight fitting to the frame and sill.

**§ 270-53.12. Waivers to roadway-width standards.**

In particular circumstances, there may be a desire to modify the roadway-width standards in developments in the Small One-Family and Townhouse Residential District. Upon recommendation from the Highway Superintendent and Town Engineer or Town Designated Engineer, the Planning Board may grant a waiver to the required roadway-width standards with the following findings of fact:

A. The roadway being constructed shall not allow for on-street parking.

B. There shall be a minimum of one garage space and a sufficient paved on-site driveway space to accommodate a minimum of two automobiles on each lot.

C. The roadway shall have sufficient width to accommodate emergency vehicles and have sufficient turnaround area.

D. The roadway shall service no more than 20 dwelling units.

**ARTICLE IX. B-1 Retail Business District**

**§ 270-54. Regulations to apply.**

The following regulations shall apply to all B-1 Districts.



**§ 270-55. Permitted uses.**

The following uses are permitted as of right in the B-1 District:

- A. All uses permitted as of right in the R-1 and R-2 Districts, subject to the regulations specified in such residential districts.
- B. Personal service shops, including but not limited to barbershops, shoeshine shops, beauty parlors, dry-cleaning and laundry-pickup and -delivery shops and card shops.
- C. Banks, offices, restaurants, cafes, tearooms, grocery and meat stores, flower shops and similar retail establishments, except businesses primarily engaged in the sale of used goods, merchandise or machinery.
- D. Banking, confectionary, dressmaking, laundromats, printing, tailoring and upholstering, subject to the following provisions:
  - (1) All such processing or manufacturing shall be done on the premises.
  - (2) Not more than five persons shall be employed at any one time.
- E. Indoor theaters, assembly halls, game rooms, billiard and pool parlors and bowling alleys.
- F. Funeral homes.
- G. Operations involving the repair, reconstruction, analysis or inspection of computers, electronic and communication equipment and similar components, provided that no manufacturing is performed and all operations are conducted within a completely enclosed building.
- H. Automobile parking lots with at least 10 parking spaces for private vehicles and a driveway for entrance and exit from such spaces. Such vehicles must be in running condition, able to be driven at any time under their own power. Lots for the sale or lease of motor vehicles are specifically prohibited.
- I. Antique sales and secondhand stores, provided that such establishments shall conduct all activities and storage entirely within an enclosed building.

**[Added 2-26-1997 by L.L. No. 2-1997]**

**§ 270-56. Special uses.**

The following special uses may be permitted or denied subject to review under Article XIX of this chapter:

- A. Drive-in establishment accessory to a permitted use.
- B. Public utility or communications installations.
- C. Convenience store.
- D. Car wash.
- E. Fence companies, retail and wholesale.

**[Added 9-8-1999 by L.L. No. 13-1999]**

- F. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-57. Accessory uses.**

Accessory uses permitted in the B-1 District shall be limited to the following:

- A. Parking and loading.
- B. Bus shelters and loading areas.
- C. Permitted signs.
- D. Storage and building accessory to the principal use.
- E. Accessory uses permitted in the R-1 and R-2 Districts.
- F. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-58. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet, for residential uses, and four stories, not exceeding 50 feet, for nonresidential uses.

**§ 270-59. Lot area.**

**[Amended 12-26-1990 by L.L. No. 26-1990]**

The minimum lot area required for each principal use is 15,000 square feet, with a minimum lot width of 100 feet.

**§ 270-60. Lot coverage.**

Lot coverage shall not exceed 45% for residential uses and not exceed 60% for principal and accessory nonresidential buildings.

**§ 270-61. Yard requirements.**

A. Any building used for purposes permitted in an R-1 District shall have front, side and rear yards as required in an R-1 District; and any building used for purposes permitted in an R-2 District shall have front, side and rear yards as required in an R-2 District.

B. Yard requirements for all other buildings and structures shall be:

(1) Front yard depth: a minimum front yard of 30 feet is required, which area may be used for off-street parking in connection with the principal use of the lot.

(2) Side yard width: not less than 10 feet. In situations where two or more buildings, with the same zoning classification, are contiguous and share a common wall along an interior lot line, the minimum required side setback may be reduced to zero feet by the Planning Commission during the site plan review process.

**[Amended 6-9-1999 by L.L. No. 9-1999]**

(3) Rear yard depth: not less than 25 feet.

**§ 270-62. Parking.**

Off-street parking requirements applicable in the B-1 District are set forth in § 270-149 of this chapter.

**ARTICLE X. B-2 General Business District**

**§ 270-63. Regulations to apply.**

The following regulations shall apply to all B-2 Districts.

**§ 270-64. Permitted uses.**

The following uses are permitted as of right in the B-2 District:

A. All uses permitted as of right in the R-1, R-2 and B-1 Districts, subject to all applicable restrictions specified for such districts.

B. Establishments for making, assembling or repairing articles, provided that no machinery or process is used which creates a nuisance or is noxious or offensive to neighboring uses by reason of dust, refuse matter, odor, smoke, gas fumes, noise, vibration, glare or fire hazard. All such establishments shall conduct all activities and storage entirely within an enclosed building.

C. Commercial health and recreation establishments.

D. (Reserved) Editor's Note: Former § 270-64D, regarding antique sales, was repealed 2-26-1997 by L.L. No. 2-1997.

E. Wholesale business and storage conducted entirely within an enclosed building, and excluding bulk storage tanks, salvage yards, junkyards and coal storage.

F. Data processing and computer services.

**§ 270-65. Special uses.**

**[Amended 9-12-1990 by L.L. No. 18-1990; 4-11-2001 by L.L. No. 4-2001]**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

A. Motor vehicle repair shops providing either major or minor motor vehicle repairs, including propane filling.

B. Facilities for the filling of portable tanks with liquid propane gas.

C. Car washes.

D. Dry-cleaning laundry facilities.

E. Mass transportation terminals.

F. Drive-in establishments.

G. Public utility or communications installations.

H. Hotels and motels.

I. Contractors' shops and equipment storage yards.

J. Veterinary hospitals.

K. Motor vehicle sales and rental establishments.

L. Motor vehicle fuel filling stations.

M. Convenience stores.

N. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-66. Accessory uses.**

Accessory uses permitted in the B-2 District shall be limited to the following:

A. Parking and loading.

B. Bus shelters and loading areas.

C. Permitted signs.

D. Buildings and uses customarily accessory to the permitted principal use.

E. Accessory uses permitted in the R-1, R-2 and B-1 Districts.

F. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-67. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet, except that buildings or structures permitted in the R-1, R-2 and B-1 Districts shall comply with the height limit imposed by such district.

**§ 270-68. Lot area; lot coverage; yard requirements.**

**[Amended 6-9-1999 by L.L. No. 9-1999]**

Lot area shall be the same as required in the B-1 District.

**§ 270-69. Parking.**

Off-street parking requirements applicable in the B-2 District are set forth in § 270-149 of this chapter.

**§ 270-70. Additional regulations.**

Regulations relative to specific uses found in Article XVIII of this chapter shall apply.

**ARTICLE XA. C-1 Corporate Commerce District**

**[Added 9-15-2005 by L.L. No. 17-2005]**

**§ 270-70.1. Purpose.**

The primary purpose of the Corporate Commerce District C-1 is to permit, where appropriate, the construction of facilities providing research and development, and information and communication services. This district is primarily for the location of high-technology facilities, office parks, research and development facilities and headquarters of corporations and organizations, with light manufacturing that is consistent with the purpose of this article. The district is also intended to provide a location for office, research, computer and telecommunication uses in a well-designed and landscaped setting. By establishing design and site development standards, the C-1 District encourages the creation of a quality office and technology building environment. The district is also intended to allow various nonretail service-oriented uses in areas transitioning from residential to nonresidential uses, so as to preserve the residential character of the area. The district provides a greater variety of uses for existing residential structures/lots located along major roadways whose appeal as strictly a single-family residence is being impacted by increased traffic and development. Because of the generally low volume of traffic associated with such uses and their hours of operation and noise characteristics, they are compatible as transition uses.

**§ 270-70.2. Permitted uses.**

A. An owner shall be permitted to have more than one tenant in an approved facility as long as all occupancies fall within the permitted use. The following uses are permitted in a C-1 District:

(1) Scientific, industrial or experimental research; testing and development of materials, methods or products, including engineering and laboratory research and commercial, physical and biological research.

(2) Information and communication services, including commercial computer services.

- (3) Headquarters and offices of corporations and companies, including single- or multi-building office parks.
- (4) Headquarters and offices of membership, organizations, unions, charitable institutions and professional and educational organizations.
- (5) Finance and insurance services, including banks, brokerage houses, investment counseling services and processing of insurance information and all services related thereto.
- (6) Offices for licensed professionals, including engineers, surveyors, architects, and attorneys.
- (7) Barber or beauty shops.
- (8) Physicians, engineering and management consulting services.
- (9) Public administration.
- (10) Day-care services.
- (11) Buildings accessory to the above which are an integral part of any of the above uses and not in conflict with the purpose of this article as set forth above, which determination shall be made by the Planning Board.
- (12) Medical facilities.
- (13) Executive, sales, accounting, professional and general business offices.
- (14) Electronics, telecommunication and computer business and service offices and facilities.
- (15) Institutional, philanthropic and governmental offices.
- (16) Data processing and computer services.
- (17) Medical offices.
- (18) Banks.
- (19) Hotels, except that said hotels must be a minimum of four stories.
- (20) Personal service shops including but not limited to barbershops, shoeshine shops, beauty parlors, dry-cleaning and laundry-pickup and delivery shops and card shops.
- (21) Public parks.

B. In conjunction with the permitted uses, 20% of the gross floor area of the main facility may be used for assembling of products directly related to the approved use.

#### **§ 270-70.3. Special uses.**

The following special uses may be permitted or denied subject to review under Article XIX of this chapter:

- A. Warehousing and distribution facilities accessory to a permitted use above.
- B. Light manufacturing conducted within a completely enclosed building, provided that there is no outdoor storage of material or product.
- C. Publishing, printing or bookbinding facilities.
- D. Motor vehicle fueling stations and car washes with buildings and canopies not to exceed a combined 5,000 square feet.
- E. The excavation and removal of stone and gravel.
- F. Electrical substation, gas district governor station, telephone exchange or other public utility building, structure or use.
- G. Timbering.
- H. Storage of LP gas in excess of 1,100 gallons.
- I. All other telecommunication towers as needed to support the permitted use.

#### **§ 270-70.4. Space and bulk standards.**

A. Lot area. The minimum lot size shall be one acre (43,560 square feet), and the minimum width at the front building line shall be 150 feet. There is no maximum lot size so long as such use will promote the intent and purpose of this article. In making such determination, the Planning Board shall find that the acreage will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts; that the acreage would not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located; that the health, safety, welfare or order of the Town will not be adversely affected by the proposal; and that the proposal will be in

harmony with and promote the general purposes and intent of this article. In addition to the above standards, the Planning Board shall also consider the character of the existing uses and approved future development in the district and the peculiar suitability of such district for the location of any such proposal; the conservation of property values and the encouragement of the most appropriate use of land; the effect that the location of the proposal may have on the increase of vehicular traffic congestion of public streets and highways; whether the use or structures to be used therefor will cause an overcrowding of land or undue concentration of population; and the physical characteristics and topography of the land.

B. Lot coverage. Structures, parking areas, including maneuvering areas, stormwater retention areas and other site amenities that are an integral and necessary part of the use shall not occupy more than 50% of the total lot area. The green space requirement for this district is a minimum of 5%. The stormwater retention area may be included in the green space calculation upon proof that the stormwater retention area will be improved to form an integral part of the landscaping scheme and would enhance the overall aesthetics and thus serve the purpose of the green space requirements of this article.

C. Buffer. No building shall be located closer to any residential district property line than 100 feet, and there shall be no encroachment into this area by anything other than natural vegetation or planted landscaping. In addition, there shall be established a minimum ten-foot planted buffer along the rear and side property line of all parcels.

D. Height. No building shall exceed five stories or 87.5 feet in height.

E. Setbacks.

(1) Front yards. Notwithstanding any other provision of the Code to the contrary, no building shall be located closer than 35 feet to the front property line, into which space there shall be no encroachment of structures other than a fence or similar structure or sign. No parking or maneuvering area shall be allowed in the front yard unless the Planning Board finds that, in the case of keyhole lots or lots with similar configuration, the intent of this chapter is better met by allowing construction within the front yard setback.

(2) Side yards/rear yards. In order to allow and promote the purpose of this article for maximum flexibility of design in order to preserve as much of the natural environment as possible, there is established a ten-foot rear and side yard setback which shall be treated as a buffer area. This buffer area shall contain natural or planted vegetation for the purpose of screening uses from adjacent properties.

(3) Setbacks for accessory buildings. No building approved as an accessory to the main use shall be constructed closer than 25 feet to a property line.

#### **§ 270-70.5. Development standards.**

A. Ingress/Egress. There shall not be more than one curb cut per lot unless the Planning Board finds that traffic safety will be improved with the addition of another curb cut. Such curb cut shall be wide enough to accommodate safely and in accordance with accepted traffic control standards approved by the Town's engineer or Town-designated engineer the type of traffic to be generated by the use and shall meet all of the firesafety requirements of the Town of Rotterdam. The distance between curb cuts on two separate parcels shall be a minimum of 100 feet measured from the center line of the curb cut. Design should take into consideration the possibility of shared curb cuts with adjacent properties. In the case of a corner lot, no curb cut shall be located closer than 100 feet to an intersection.

B. Landscaping. The overall intent of this standard is to achieve, where possible, a well-landscaped site that takes into consideration the surroundings and the total environment. That is, consideration shall be given to preservation of natural and existing vegetation as well as new plantings throughout the entire site plan. The Planning Board shall take into consideration the location of the structures and parking areas and their proximity to adjacent buildings and/or lots. Consideration shall be given to planting along property lines, buffer areas and along the walls of the building or structure, where possible, without impeding the operations of the facility. However, if there is substantial natural vegetation on site that services the requirements, i.e., screening, aesthetics, etc., the Planning Board shall not require additional landscaping except where deficiencies exist.

C. Architectural. The architectural design shall consider building facade, including color, and other significant design features such as exterior materials and treatments, roof structures, exposed mechanical equipment and service and storage areas. Architectural block or similar facades, especially along the road frontage, shall be required.

D. Utilities. Uses proposed within a C-1 District shall be served by sanitary sewers, adequate drainage control and/or storm sewers and a community water system where available. If none is available at the time of approval, the Planning Board shall require the owner to hook into a community water and sewer system as soon as one becomes available as defined by the New York State Uniform Fire Prevention and Building Code.

#### **§ 270-70.6. Nonconforming uses, buildings and structures.**

A. Nonconforming uses in the C-1 District.

(1) Continuation. Except as hereinafter provided, the lawful use of a building, structure or land existing at the effective date of this article may continue indefinitely and permanently although such use does not conform to the provisions herein.

(2) Whenever the use of a building or structure becomes nonconforming through a change in the provisions of this chapter or district boundaries established by this chapter, such use may continue indefinitely and permanently.

B. Change of nonconforming use. Once changed to a conforming use, no structure, building or land shall be permitted to revert to a nonconforming use.

C. Abandonment. Whenever any nonconforming use has been discontinued for a period of two years, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

D. Nonconforming buildings or structures in the C-1 District.

(1) Continuation. Where a nonconforming building or structure exists at the effective date of the adoption of or amendment to this chapter, such nonconformity may be continued so long as it remains otherwise lawful. No such nonconforming building or structure may be enlarged or altered in a way which increases its nonconformity by more than 30% of its existing capacity as of the effective date of this article. Such enlargement or alteration shall not tend to increase any inherent nuisance, nor shall such enlargement or alteration violate any provision of this chapter regarding yards, lot area or lot coverage for the district in which it is situated, nor increase any violation of such provision.

(2) Alterations and extensions. No nonconforming building or structure may be reconstructed or altered during its life to an extent exceeding in aggregate cost 30% of the full valuation of the building, unless said building or structure is changed to conform to this chapter, except as otherwise permitted for the repair or restoration of the structure.

E. Any land or building structure or use zoned in a C-1 District shall not be subject to the nonconforming use regulations set forth in § 270-153 of this chapter.

**ARTICLE XI. I-1 Light Industrial District**

**§ 270-71. Regulations to apply.**

The following regulations shall apply to all I-1 Districts.

**§ 270-72. Permitted uses.**

The following principal uses are permitted as of right in the I-1 District:

- A. All nonresidential uses permitted as of right in the B-2 District.
- B. Dry-cleaning, carpet-cleaning and laundry facilities.
- C. Bottling plants.
- D. Bus barns and public garages.
- E. Car washes.
- F. Contractor shops and equipment storage yards.
- G. Creameries and milk plants.
- H. Kennels and veterinary hospitals.
- I. Laboratories for scientific or industrial research, testing and development.
- J. Lumberyards and building material sales yards.
- K. Machine shops.
- L. Mechanical, optical, photographic, scientific or electronic manufacturing conducted entirely within a completely enclosed building.
- M. Newspaper and printing establishments.
- N. Saw and planing mills.
- O. Trucking terminals, warehousing and distributing, provided that no outdoor storage of materials shall be permitted.
- P. Woodworking mills.
- Q. Fuel-oil storage tanks.
- R. Wind energy facilities subject to the requirements of the Town of Rotterdam Wind Energy Facility Law. Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-73. Special uses.**

**[Amended 9-12-1990 by L.L. No. 18-1990; 4-11-2001 by L.L. No. 4-2001]**

The following uses may be permitted or denied subject to special use review under Article XIX of this chapter:

- A. Asphalt-mixing or concrete-mixing plants.
- B. Crematoriums.
- C. Facilities for the filling of portable tanks with liquid propane.

- D. Motor vehicle repair shops providing either major or minor motor vehicle repairs.
- E. Motor vehicle sales and rental establishments.
- F. Brick, glass, pottery, tile or terra-cotta manufacturing.
- G. Poultry killing and dressing.
- H. Public utility and communications installations.
- I. Structural steelworks.
- J. Trucking terminals, warehousing and distributing with outdoor storage of materials.
- K. Towers.
- L. Motor vehicle fuel filling stations.
- M. Convenience stores.
- N. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-74. Accessory uses.**

Accessory uses permitted in the I-1 District shall be limited to the following:

- A. Parking and loading.
- B. Bus shelters and loading areas.
- C. Temporary offices and storage.
- D. Buildings and uses customarily accessory to the permitted principal use.
- E. Dish antennas and permitted accessory towers.
- F. Permitted signs.
- G. Storage of registered vehicles, boats and trailers.
- H. Storage or parking of commercial vehicles.
- I. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law.  
Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-75. Prohibited uses.**

The following uses are expressly prohibited in the I-1 District:

- A. Residential dwellings except for caretaker, guard or watchman residences.
- B. Automobile wrecking establishments, junkyards, metal and material reclaiming facilities.
- C. All uses listed in the I-1 District, except those uses listed in this section as permitted.

**§ 270-76. Maximum building height.**

The maximum building height shall be 75 feet.

**§ 270-77. Lot area.**

**[Amended 12-26-1990 by L.L. No. 26-1990]**

The minimum lot area required for each principal use is 20,000 square feet, with a minimum lot width of 100 feet.

**§ 270-78. Lot coverage.**

Lot coverage shall not exceed 60%.

**§ 270-79. Yard requirements.**

Not less than 25 feet.

**§ 270-80. Parking.**

Off-street parking requirements applicable in the I-1 District are set forth in Article XVIII of this chapter.

**§ 270-81. Additional regulations.**

Regulations relative to specific uses found in Article XVIII of this chapter shall apply.

**ARTICLE XII. I-2 Heavy Industrial District**

**§ 270-82. Regulations to apply.**

The following regulations shall apply to all I-2 Districts:

**§ 270-83. Permitted uses.**

The following principal and accessory uses are permitted as of right in the I-2 District.

- A. All principal permitted and special uses listed in the I-1 District use regulations, except towers.
- B. Landfill operations subject to the provisions of Article XIX and Article XVIII, § 270-162, of this chapter.
- C. Wind energy facilities subject to the requirements of the Town of Rotterdam Wind Energy Facility Law. Editor's Note: See Ch. 269, Wind Energy Facilities.

**[Added 10-8-2008 by L.L. No. 10-2008]**

**§ 270-84. Special uses.**

The following uses may be permitted or denied subject to special use review under Article XIX of this chapter:

- A. Industrial, manufacturing and processing uses not listed as a permitted use.
- B. Junk, scrap, metal and rag storage or salvage yards, including automobile salvage and junkyards, subject to all applicable local and state requirements and the following:
  - (1) This use must be located at least 1/2 mile from any residential district and at least 75 feet from any public street or highway.
  - (2) The entire use is surrounded by a solid wooden fence eight feet in height above ground level or completely obscured year-round by an equivalent fence, wall or evergreen planting.
- C. Commercial extraction of topsoil, sand, gravel and stone.
- D. Towers.
- E. Facilities for the filling of portable tanks with liquid propane gas.
- F. Disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area as defined in this chapter.

**[Added 4-27-2005 by L.L. No. 9-2005]**

**§ 270-84.1. Accessory uses.**

**[Added 10-8-2008 by L.L. No. 10-2008]**

Accessory uses permitted in the I-2 Heavy Industrial District shall be limited to the following:

- A. Small wind energy facilities and wind measurement towers subject to the requirements of the Town of Rotterdam Wind Energy Facility Law. Editor's Note: See Ch. 269, Wind Energy Facilities.

**§ 270-85. Prohibited uses.**

The following uses are expressly prohibited in the I-2 District:

- A. The storage, dumping or disposal of slaughterhouse refuse, rancid fats, garbage, dead animals or offal.
- B. The storage, spilling, dumping or disposal of toxic chemicals, except as may be lawfully permitted by New York State.
- C. Stockyards and animal slaughtering (except poultry).
- D. Residential dwellings except for watchman's quarters.

**§ 270-86. Maximum building height.**

The maximum building height shall be 75 feet.

**§ 270-87. Lot area.**

**[Amended 12-26-1990 by L.L. No. 26-1990]**

The minimum lot area required for each principal use is 20,000 square feet, with a minimum width of 100 feet.

**§ 270-88. Lot coverage.**



Lot coverage shall not exceed 75%.

**§ 270-89. Yard requirements.**

Yard requirements shall be the same as the I-1 District.

**§ 270-90. Parking.**

Off-street parking requirements applicable in the I-2 District are set forth in Article XVIII of this chapter.

**§ 270-91. Additional regulations.**

Regulations relative to specific uses found in Article XVIII of this chapter shall apply.

**ARTICLE XIIA. LC Land Conservation Overlay District**

**[Added 9-15-2005 by L.L. No. 16-2005]**

**§ 270-91.1. Purpose.**

The LC Overlay District is established to provide for areas identified in the Comprehensive Plan for the preservation of recreation, open space, or environmentally sensitive lands. It is also intended to facilitate the classification of lands in need of preservation, to provide for the protection of the aquifer, the preservation of wetlands or other lands unsuitable for development. In most cases, these properties will contain deed restrictions and/or restrictive covenants.

**§ 270-91.2. Regulations to apply.**

The following regulations shall apply to all LC Overlay Districts.

**§ 270-91.3. Permitted uses.**

The following uses are permitted as of right in the LC Overlay District:

- A. Activities permitted within conservation areas and conservation easements in accordance with site plan approval and/or development agreements. Said use must be in compliance with underlying zoning.
- B. Public parks and public recreation facilities.
- C. Pumping and/or treatment of public water supplies.
- D. Wetland compensatory mitigation areas.
- E. Maintenance of existing utility/transmission lines, equipment, and associated activities.
- F. Maintenance of existing cemeteries.
- G. Routine maintenance activities, including vegetation control, forestry, field, and stream maintenance.

**§ 270-91.4. Special uses.**

The following special uses may be allowed:

- A. Installation of utility/transmission lines, equipment and associated activities.

**ARTICLE XIIA1. Conservation Easements**

**[Added 9-15-2005 by L.L. No. 16-2005]**

**§ 270-91.5. Purpose and intent.**

The Town of Rotterdam may acquire conservation easements over real property in accordance with § 239-y of the General Municipal Law and Article 49, Title 3, of the Environmental Conservation Law. This article establishes guidelines and criteria for the evaluation of such easements in order to clearly establish the public benefit associated with any offer to donate or sell such easements. The proposed easement shall have a definite public purpose, which benefits the Town and the community as a whole.

**§ 270-91.6. Term of easement.**

Any conservation easement offered to the Town shall be perpetual.

**§ 270-91.7. Evaluation.**

The proposed easement should be further evaluated according to the following criteria:

- A. The proposed easement shall conserve, preserve and protect one more of the following:
  - (1) An area which is significant because of its value as agricultural or forest land.
  - (2) An area which is significant because of its unique scenic or natural beauty.
  - (3) An area which is significant because of its value as a watercourse, water body, freshwater wetland or aquifer recharge area.
  - (4) An area which is significant because of its unique geological or ecological character.
  - (5) An area which is significant because of its historical, archaeological, architectural or cultural amenities.

(6) An area which is significant because of its value as a community recreational area, greenway corridor, or its relationship to an adjacent recreational area.

(7) An area which is significant because of its value as a wildlife habitat or its relationship to an adjacent wildlife preserve or wildlife corridor.

(8) An area which is significant because of its intrinsic value as open space necessary to preserve scenic vistas or otherwise enhance community character and attractiveness.

(9) An area which is significant because of its intrinsic value as open space in determining future land use development patterns within the Town.

B. Although conservation easements are not required to confer public use of the property, in certain cases, public use may be considered a factor in determining the significance of an area.

#### **§ 270-91.8. Enforcement.**

Responsibility for enforcement shall reside with the Town. The easement should contain the necessary terms and restrictions to ensure that the original character of the area is maintained and to provide sufficient detail that the Town can effectively enforce all the terms and conditions of the easement. It shall be clearly stated that the owner of the property is responsible for the maintenance of the area.

#### **§ 270-91.9. Additional structures.**

The fundamental purpose of the conservation easement is to conserve, preserve and protect open space. In the case of the reserved open space, limited structures or other improvements may be permitted to be constructed on the property under terms of the easement. Any structures or other improvements permitted under the easement must be strictly limited, must not encroach on the character of the area, and shall be fully defined in a manner satisfactory to the Town and consistent with zoning and other regulations prior to Town Board acceptance of the easement donation.

#### **§ 270-91.10. Donor donations.**

The Town Board may request an initial donation for costs relating to acceptance and ongoing monitoring of the conservation easement.

#### **§ 270-91.11. Review by other agencies.**

The Town is responsible for annual review of each conservation easement to verify the continued integrity of the easement. The Town Board may request advisory opinions from the Town Conservation Advisory Council, the Town Planning Board and the Town Parks Department, and other appropriate agencies prior to acquisition of such an easement.

#### **§ 270-91.12. Public hearing.**

In accordance with law, the Town Board is required to hold a public hearing on the proposed acquisition prior to any action.

#### **§ 270-91.13. Recording.**

The approved conservation easement shall be recorded with the Town Clerk, Town Tax Assessor, and the Schenectady County Clerk.

### **ARTICLE XIII. PRD Planned Residential Development District**

#### **§ 270-92. Legislative intent; objectives.**

##### **A. Intent.**

(1) It is the intent of these planned residential development provisions to provide flexible use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods or portions thereof may be developed within the Town which incorporate a variety of residential types and contain both individual building sites and common property which are planned and developed as a unit. Such a planned residential development is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This article specifically encourages innovation in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments.

(2) This article recognizes that, while the standard zoning function and the subdivision function are appropriate for the regulation of the land use in areas or neighborhoods which are already substantially developed, these controls represent a type of preregulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in this planned residential development concept. Further, this article recognizes that a rigid set of space requirements, along with bulk and use specifications, would frustrate the application of this concept. Thus, where planned residential development techniques are deemed appropriate through the rezoning of land to a Planned Residential Development District by the Town Board, the set of use and dimensional specifications elsewhere in this chapter are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

B. Objectives. In order to carry out the intent of this article, a planned residential development shall achieve the following objectives:

(1) A maximum choice on the types of environment, occupancy tenure (e.g., individual ownership, condominium, leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents at all economical levels, particularly elderly residents of the community.

(2) More usable open space and recreation areas.

(3) More convenience in location of accessory commercial and service areas.

(4) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.

(5) A creative use of land and related physical development which allows an orderly transition of land.

- (6) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.
- (7) A development pattern in harmony with the objectives of the Comprehensive Plan.
- (8) A more desirable environment than would be possible through the strict application of other articles of this chapter.

**§ 270-93. Minimum site size.**

Under normal circumstances, the minimum area required to qualify for a Planned Residential Development District shall be 25 contiguous acres of land.

**§ 270-94. Single and multiple ownership of land.**

The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners. Leaseholds shall be for a period of at least 50 years. All approved plans shall be binding on all successors of the applicants.

**§ 270-95. Location.**

The Planned Residential Development District shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article.

**§ 270-96. Common open space.**

Common open space shall comprise a minimum of 10% of the gross area of the planned residential development to be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development but shall not include public or private streets, driveways or utility easements. No more than 50% of the common open space of a proposed planned residential development shall be comprised of floodplains or slopes over 35%.

**§ 270-97. Permitted uses.**

Permitted uses within a PRD District shall be as follows:

- A. Residential uses: detached, semidetached or attached one-family dwellings, garden apartments and townhouses.
- B. Nonresidential uses: active and passive park and recreation areas, open space and facilities, including swimming pools, tennis courts, ball fields, playgrounds, walkways, bikeways, nature trails and similar structures and facilities.
- C. Accessory uses: those accessory uses and structures permitted in the R-3 District.

**§ 270-98. Standards and criteria.**

A planned residential development plan that is in conformance with the criteria established in §§ 270-92 through 270-97 hereof conserves natural amenities and is consistent with the following standards shall be deemed to have qualified for tentative approval:

A. General planning considerations.

- (1) The plan may provide for a mixture of those uses set forth in § 270-96 above; provided, however, that not more than 25% of the total number of proposed dwellings shall be townhouses.
- (2) No building or structure shall be more than 40 feet in height as defined in § 270-5 of this chapter.
- (3) The intent of this article is to encourage excellent quality development and to take into consideration the appearance of all elevations and the arrangement of the buildings and external spaces and materials used therein.
- (4) Nonresidential uses shall be designed and intended primarily for the use of the residents of the planned residential development and the immediate neighborhood, and the burden of proof shall be upon the applicant to prove that such is the case. No building designed or intended to be used in part or in whole for institutional purposes shall be constructed prior to the construction and completion of not less than 20% of the dwelling units proposed in the plan. Recreational and open space uses shall be incorporated into each phase or stage of development in the manner prescribed by the plan. Applicable recreational facilities shall be completed before construction of the next phase.
- (5) Maximum residential density. In consideration of the intent of the provisions of this article, the Town Board may permit a greater number of dwelling units per acre than is permitted by this chapter otherwise applicable to the site. Applicants requesting such density increase shall be required to submit the following:
  - (a) A preliminary sketch plan which conforms to all standards and criteria of the effective zoning to establish the maximum permitted density.
  - (b) A preliminary sketch plan which conforms to all requirements of this article illustrating the planned residential development based upon the requested density increase.

B. Consideration for density increase shall be governed by the criteria listed below, which are to be treated as additive, not compounded.

- (1) Open space (as defined in § 270-96) reservation shall be considered as a basis for density increases according to the following provisions:
  - (a) If 5% of the gross area of the planned residential development is reserved for common usable open space in addition to the minimum required open space set forth in § 270-96, the applicant shall receive a ten-percent density increase if such open space area is improved and a five-percent density increase if unimproved.

(b) If 10% of the gross area of the planned residential development is reserved for common usable open space in addition to the minimum required open space set forth in § 270-96, the applicant shall receive a fifteen-percent density increase if such open space area is improved and a seven-and one-half-percent increase if unimproved.

(c) If 20% of the gross area of the planned residential development is reserved for common usable open space in addition to the minimum required open space set forth in § 270-96, the applicant shall receive a fifteen-percent density increase if such open space area is improved and a ten-percent density increase if unimproved.

(2) Character, identity and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed 10%, provided that these factors make a substantial contribution to the objectives of a planned residential development. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase which the Town Board may approve. Such variations may include, but are not limited to, the following:

(a) Landscaping (a maximum increase of 5%), streetscaping, open spaces and plazas, use of existing landscape, pedestrian way treatment and recreational areas.

(b) Siting (a maximum increase of 2.5%), visual focal points, use of existing physical features such as topography, view, sun and wind orientation, circulation pattern, physical and environment, in building setbacks and building groups (such as clustering).

(c) Design features (a maximum of 2.5%), street sections, architectural styles, harmonious use of materials, parking areas broken by landscape features and varied use of house types.

#### **§ 270-99. Establishment of homeowners' association.**

A. In accordance with § 281, Subdivision 3(c), of the Town Law, the Town Board shall require the landowner to provide for and establish a homeowners' association for the maintenance, preservation and ownership of the common open space, including private streets, drives, service and parking areas and recreational areas. Membership in such homeowners' association shall be made a restriction to the deed conveying ownership of a dwelling in the planned residential development. Such organization shall not dispose of the common open space, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The applicant shall set forth the terms and requirements of ownership and maintenance of the common open space in a homeowners' association agreement, such agreement being made part of a deed of ownership. The homeowners' association agreement shall be submitted to the Town Board for review as part of the application for planned residential development approval.

#### **§ 270-100. Modification of specifications.**

A. The uniqueness of each proposal for a planned residential development may require that the specifications for the width and surfacing of streets and highways, alleys, ways for public utilities, for curbs, gutters, sidewalks, streetlights, public parks and playgrounds, school grounds, stormwater drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established in other Town ordinances.

B. The Board may therefore waive or modify the specifications otherwise applicable for a particular public facility where the Board finds that such specifications are not required in the interest of the residents of the planned residential development and that the modifications of such specifications are consistent with the interests of the entire town. Proposed specifications and standards which are inconsistent with those required under the prevailing Town ordinances shall be termed acceptable upon approval by the Board.

#### **§ 270-101. Site requirements.**

A. Where there is a question as to the suitability of lots for their intended use due to factors such as steep slopes, stream corridors, rock formations, flood conditions or similar circumstances, the Town Board may, after adequate investigation, withhold approval of such lots.

B. The Town Board may deny an application for planned residential development approval where a significant portion of the tract is unsuitable for development by reason of its geology and topography or other significant natural features (such as landscape, stands of mature trees, brooks, ponds, hilltops and views) or other environment or ecological constraints, or where the proposed development would substantially degrade unique or irreplaceable land types or the critical areas or substantially impair the regenerative capacity of aquifers and other groundwater supplies, or where the proposed development would not permit the preservation of historic sites in an appropriate setting.

C. Existing trees shall be preserved wherever possible. The location of trees must be considered when planning the common open space, location of buildings, underground services, walks, paved area, playgrounds, parking areas and finished grade levels.

D. The Board shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of topsoil, trees and natural features before the commencement of building operations will be discouraged by the Board.

E. The finished topography of the site shall adequately facilitate the proposed development without excessive earth moving and destruction of this and other natural amenities.

F. Natural features, such as lakes, streams, topsoil, trees and shrubs, shall be preserved and incorporated into the final landscaping of the development whenever possible.

G. Seeding, sodding and other planting shall be applied to stabilize topsoil on steep slopes and enhance the appearance of open areas.

H. Where adequate surface drainage is not possible by means of grading alone, a supplementary drainage system to be approved by the Town Engineer will be required.

**§ 270-102. Design standards.**

- A. All housing shall be designed with regard to topography and natural features of the site. The effects of prevailing winds, seasonable temperatures, most scenic views and hours of sunlight on the physical layout and form of the proposed land use and buildings shall be taken into account.
- B. To create architectural interest in the arrangement and character of housing fronting streets, variations in setbacks will be encouraged.
- C. All housing should be located so as to provide adequate privacy and ensure natural light in all principal rooms.
- D. Routes for vehicular and pedestrian access and parking access shall be convenient without creating nuisances or detracting from privacy.
- E. The approximate location and arrangement of buildings and open spaces must be shown so that the Board may review the intensity of land use and serve the public interest by protecting neighboring land uses.
- F. The following requirements shall apply:
- (1) No dwelling shall be within 20 feet of the curb of any road.
  - (2) No housing shall be erected within 35 feet of any other housing or within a distance equal to its height, whichever is greater.
  - (3) There shall be a minimum of 50 feet between any wall containing 10% or more of principal windows in living areas and any other such wall.
  - (4) There shall be a minimum of 30 feet between any facing wall containing principal windows in living areas and the curbs of any street.
  - (5) There shall be a minimum of 10 feet between any parking area and any structure, except when waived or modified by the Board. Such area shall contain a fence, a wall or dense landscaping, as deemed appropriate by the Board.
  - (6) No more than two adjacent dwelling units shall have the same setback.
  - (7) All structures shall be a minimum of 50 feet from the property lines of the development, and a planting strip of no less than 10 to 15 feet shall be provided along all property lines adjacent to the development where privacy of other parties is a consideration.
  - (8) Each townhouse unit must be at least 20 feet wide.

**§ 270-103. Street and sidewalk design.**

All streets and sidewalks must conform to the town's design standards with respect to rights-of-way, width, paving specifications, cartway design, horizontal and vertical alignment, site distances and drainage provisions, except when modified or waived by the Board. Pedestrian circulation systems must be provided as convenient, safe and attractive links between residential groupings, open space areas, recreation areas and schools.

**§ 270-104. Parking.**

- A. For each dwelling unit, there shall be two off-street parking spaces consisting of not less than 200 square feet each, half of which shall be garage space, with adequate access provided.
- B. Parking areas shall be arranged so as to prevent through traffic to other parking areas.
- C. Parking areas shall be screened from adjacent structures, roads and traffic arteries by means of hedges, dense planting, earth berms, changes in grade or walls.
- D. No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
- E. No more than 60 parking spaces shall be accommodated in any single parking area.
- F. All streets and any off-street loading area shall be paved, and the design thereof shall be approved by the Board. All areas shall be marked so as to provide for orderly and safe loading, parking and storage.
- G. Parking for nonresidential purposes shall be provided appropriate to the type of nonresidential use, as deemed adequate by the Board.
- H. All parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct the light away from adjoining residences.
- I. All parking areas and off-street loading areas shall be paved with a dust-free permanent surface, graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences.

**§ 270-105. Landscaping.**

- A. Landscaping shall be regarded as an essential feature of every planned residential development in order to enhance the appearance of housing, provide protection from wind and sun and screen roads, parking areas and nearby property from view. All trees and shrubs shall be maintained in healthy condition or replaced with others of similar size and type.
- B. All parking areas shall be landscaped. In addition to other requirements of this section, the interior of a parking lot shall have one four-inch-caliber shade tree for every four cars.

**§ 270-106. Street signs, street furniture and streetlighting.**

A. The quality and design of street signs, street furniture and streetlighting are subject to the approval of the Board. The names of streets must be submitted to and approved by the Board.

B. The character, size and shape of all outdoor signs shall comply with this chapter.

**§ 270-107. Application and approval procedure.**

Whenever any planned residential development is proposed, before any permit for the erection of a permanent building in such planned residential development shall be granted and before any subdivision plot of any part thereof may be filed in the office of the Schenectady County Clerk, the developer, or his authorized agent, shall apply for and secure approval of such planned residential development in accordance with the following procedures:

**A. Application for sketch plan approval.**

(1) In order to allow the Town authorities and the developer to reach an understanding on basic design requirements prior to detailed design investment, the development shall submit a sketch plan of his proposal to the Planning Board. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:

(a) The location of the various uses and their areas.

(b) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.

(c) Delineation of the various residential areas, indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling-unit type (i.e., single-family detached, duplex, townhouse, garden apartments) and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for such area based upon the method set forth in § 270-98A(5) above.

(d) The common open space system.

(e) The overall drainage system.

(f) If grades exceed 3% or portions of the site have a moderate-to-high susceptibility to erosion or a moderate-to-high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining the above susceptible soil areas, if any.

(g) Principal ties to the community at large with respect to transportation, water supply and sewage disposal.

(h) General description of the provisions of other community facilities, such as schools, fire-protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.

(i) A location map showing uses and ownership of abutting lands.

(2) In addition, the following documentation shall accompany the sketch plan:

(a) Evidence of how the developer's particular mix of land uses meets existing community demands.

(b) Evidence that the proposal is compatible with the goals of the Official Comprehensive Plan.

(c) If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project.

(d) Evidence of any sort in the applicant's own behalf to demonstrate his physical and financial competence to carry out the plan and his awareness of the scope of such a project.

(e) A long-form environmental assessment shall be submitted together with a list of other permits required and involved agencies. If determined necessary, an environmental impact statement will be prepared in accordance with the requirements of the New York State Environmental Quality Review Act. Editor's Note: See Environmental Conservation Law § 8-0105.

**B. Planning Board review.** The Planning Board shall review the sketch plan and other documents submitted by the applicant and shall render either a favorable or an unfavorable report to the Town Board.

(1) A favorable report shall include a recommendation to the Town Board that a public hearing be held for the purpose of considering planned unit development districting. It shall be based on the following findings, which shall be included as part of the report:

(a) The proposal conforms to the Town Comprehensive Plan.

(b) The proposal meets the intent and objectives of planned unit development, as expressed herein.

(c) The proposal meets all the general requirements of this article.

(d) The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in the proposed functional roadway system, land-use configuration, open-space system, drainage system and scale of the elements, both absolutely and to one another.

(e) There are adequate services and utilities available or proposed to be made available in the construction of the development.

(2) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for planned unit development districting with the Town Board. The Town Board may then determine, on its own initiative, whether or not it wishes to call a public hearing.

C. Completed application. The Chairman of the Planning Board shall certify when all of the necessary application material has been presented, and the Planning Board shall submit its report within 60 days of such certification. If no report has been rendered after 60 days, the applicant may proceed as if an unfavorable report were given to him.

#### **§ 270-108. Amendments.**

A. Town Board action. Upon completion of the requirements for review under the New York State Environmental Quality Review Act Editor's Note: See Environmental Conservation Law § 8-0105. and upon receipt of a favorable report from the Planning Board or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering planned residential development districting for the applicant's plan in accordance with the procedures established by the Town Law.

B. Referrals. The Town Board shall refer the application to amend the Zoning Map to the Schenectady County Planning Department and to the Commissioner of the Department of Public Works. The Commissioner shall report to the Town Board on the adequacy of the utilities, layout parking, site design, drainage, streets and other aspects of the development consistent with the purposes of this chapter. The report of the Commissioner may include such actions, stipulations or conditions which are deemed necessary and appropriate.

C. Decision. The Town Board shall act on the rezoning application in accordance with Town Law and may attach to its authorizing resolution any modifications, conditions, safeguards or requirements as may be appropriate.

D. Effect of approval.

(1) If the Town Board grants the planned residential development district, the Zoning Map shall be so annotated. Approval by the Town Board shall be deemed to authorize the applicant to proceed with detailed design of the initial stage(s) of the proposed development and to submit applications for final site plan approval of such stage(s) in accordance with the approved planned residential development sketch plan and any modifications, conditions, safeguards or requirements thereto, and to thereafter design and submit detailed site plan applications for each subsequent stage(s).

(2) Approval by the Town Board shall not be deemed to waive any right of the Planning Board to a detailed review of any aspect of the development under the site plan authorization procedures set forth in this chapter.

E. Expiration. Approval or approval with modifications of the planned residential development zoning shall expire at the end of 12 months after the effective date, unless the applicant has submitted at least one final site plan application for all or a section of the planned residential development, or such time limit is extended by action of the Town Board.

#### **ARTICLE XIV. AO Aquifer Overlay District**

##### **§ 270-109. Purpose.**

The AO Aquifer Overlay District is intended to preserve and maintain the quality and quantity of water found in the Schenectady Aquifer and thereby protect this principal water supply source for the Town and surrounding communities. The AO District provides a means of reviewing, on a case-by-case basis, those actions proposed within the aquifer and a means of prohibiting uses and activities which may be incompatible with the goal of long-term groundwater protection.

##### **§ 270-110. Mapping; requirements to apply.**

The AO District shall not be independently mapped upon the Zoning Map but shall be mapped only in conjunction with an underlying residential or nonresidential district. The AO District shall apply the requirements of this section together with all the limitations and requirements applicable in the underlying district.

##### **§ 270-111. Review of actions.**

**[Amended 7-9-2003 by L.L. No. 9-2003; 7-12-2006 by L.L. No. 9-2006]**

A. As a matter of original jurisdiction, the Town Board shall hear and decide upon any proposed action requiring a building permit or other authorization under the Rotterdam Zoning Local Law or land subdivision regulations. Editor's Note: See Ch. 249, Subdivision of Land. In addition to the maps, plans and information required for such authorizations or for review under the New York State Environmental Quality Review Act, Editor's Note: See Environmental Conservation Law § 8-0101 et seq. the Town Board may require additional information, analysis or documentation as may be necessary and appropriate to show compliance with the standards imposed by this article and to fully and properly consider the particular action proposed. Upon receipt of a complete application and information, a public hearing shall be set, advertised and conducted by the Town Board in the manner prescribed by § 270-175 of this chapter. More than one public hearing is allowed if circumstances so warrant.

B. The following permits and/or activities are exempt from the requirements of § 270-111: boundary line adjustments, fences, residential accessory structures, swimming pools, additions to existing residential buildings, signs, home occupations, and variances.

##### **§ 270-112. Decisions by resolution.**

Every decision of the Town Board on each Aquifer Overlay District proposed action shall be by written resolution. Such resolution shall include findings of fact, shall specify the reason or reasons for such decision and shall contain a statement which shall set forth the decision of the Board to grant approval, to grant approval subject to expressly stated conditions or safeguards or to deny approval. Every resolution shall expressly set forth any limitations, conditions or safeguards imposed by the Board. Violation of such conditions or safeguards shall be a violation of this chapter.

**§ 270-113. Standards for approval of proposed action.**

No proposed action at the AO Aquifer Overlay District shall be approved unless the Town Board finds that, based upon available information, analysis and evidence, the proposed action will not:

- A. Alter the subsurface flow of groundwater to public and private water supply wells at the Schenectady Aquifer.
- B. Degrade the quality of groundwater through the introduction of sewage wastes, stormwater runoff, liquid chemicals, petroleum products, dissolved metals or other toxic substances.
- C. Increase the long-term risk of groundwater contamination through the siting, establishment or expansion of uses which store, transport or utilize significant quantities of material which are potentially harmful to groundwater quality.
- D. Increase the long-term risk of groundwater contamination through the introduction of relatively small quantities of hazardous or toxic substances which, over a period of time, may accumulate in groundwater.
- E. Increase the risk of groundwater contamination through the removal of soil, sand, stone or gravel which provide a protective mantle for groundwater or which are part of the geologic deposits making up the Schenectady Aquifer.

**§ 270-114. Use requirements and limitations.**

**[Amended 2-12-1992 by L.L. No. 2-1992]**

The following use limitations and requirements shall apply to all land within the AO Aquifer Overlay District. To the extent that any of the provisions of this section are more restrictive than those requirements and limitations set forth in the Schenectady Intermunicipal Watershed Rules and Regulations, Article XXII, then the provisions of this section shall be controlling.

- A. Application of wastes. The land application of municipal wastewater, sludge or septage is prohibited. The disposal of septage, sludge or municipal wastewater into any watercourse is prohibited.
- B. Disposal wells. The installation or use of disposal wells is prohibited.
- C. Recharge basins. The installation or use of stormwater runoff recharge basins is prohibited.
- D. Snow disposal. The stockpiling or dumping of snow removed from urban areas is prohibited.
- E. Animal wastes.
  - (1) Farm animal wastes shall not be concentrated in one area except where provision has been made to prevent seepage into groundwater.
  - (2) Suitable storage facilities are required when it is not possible to spread or dispense of wastes on a daily basis.
- F. Sewers. All sewers installed shall be as leakproof as the state of art allows. Remedial measures shall be taken by the owner if evidence indicates excessive infiltration or exfiltration is occurring.
- G. Industrial sludge and toxic chemicals. No toxic chemical identified by the United States Environmental Protection Agency or the New York Department of Environmental Conservation shall be stored except under permit from those agencies.
- H. Wastewater lagoon and pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be watertight, located aboveground and under permit by the Department of Environmental Conservation.
- I. Disposal. Disposal of toxic chemicals, industrial sludge or radioactive materials is prohibited.
- J. Fertilizer storage. All bulk storage of artificial fertilizers for agricultural or commercial use must be within a completely enclosed building or structure which will prevent any seepage and runoff.
- K. Pesticide and herbicide use. No pesticides or herbicides shall be stored or applied unless expressly authorized by the Town Board following review under the procedure and standards of this section. All such use, storage or application shall be under permit as provided by State Environmental Conservation Law.
- L. Storage tanks and pipelines. The installation construction, placement or replacement of underground storage tanks, pipelines or containers for petroleum products or any other toxic chemical is prohibited. All aboveground storage tanks, pipelines and transfer areas shall, to the maximum extent feasible, be designed to minimize the risk of groundwater contamination by incorporating backup containment structures, impervious surfaces, catchment areas and other features. The Town reserves the right to prohibit installation or expansion of aboveground storage tanks and pipelines where consistent with the purpose and standards of this section. Further, the owner of any storage tank, pipeline, container or transfer area is responsible for prompt reporting of any spills or leaks and for the cost of cleanup, containment and damages.
- M. Salt and coal stockpiles. The storage of chloride salts, nitrate salts or coal is prohibited except in a completely enclosed building or structure which will prevent any seepage and runoff containing such materials.
- N. Water wells. All water supply wells shall be constructed in accordance with the requirements of the Department of Health.



O. Abandoned wells. All abandoned wells shall be sealed in accordance with the requirements of the Department of Health.

P. Mining and the commercial extraction of topsoil, sand, gravel or stone. Mining and the commercial extraction of topsoil, sand, gravel or stone are prohibited uses within the Aquifer Overlay District as described in § 270-115 of this article.

#### **§ 270-115. Description of Aquifer Overlay District.**

**[Amended 2-28-1990 by L.L. No. 5-1990; 3-27-1991 by L.L. No. 1-1991; 2-12-1992 by L.L. No. 2-1992]**

A. The area is described in Sheet 5 of 6, entitled "Well Yield," in the United States Geological Survey Open-File Report 82-84, dated 1981, entitled "Geohydrology of the Valley-Fill Aquifer in the Schenectady Area, Schenectady County, New York," prepared in cooperation with the New York State Department of Health.

B. The land area is more fully described as follows: beginning at a point, said point being the intersection of the boundary of the Town of Rotterdam and the Mohawk River in Pattersonville; thence in a southwesterly direction along said boundary to the intersection of the boundary of the Town of Rotterdam and the Town of Princetown; thence in a southerly direction along said boundary to the Boston and Maine Railroad; thence in a southeasterly direction along said Boston and Maine Railroad to Route No. 5S; thence in a southeasterly direction along Route No. 5S to a road on the southerly side of Route No. 5S known as "Turnbull Lane"; thence in a southwesterly direction along said Turnbull Lane to the Old Erie Canal; thence southeasterly along said Old Erie Canal to Route No. 5S; thence still in a southeasterly direction along said Route No. 5S to where Route No. 5S meets and becomes Route No. 890; thence in a southeasterly direction along Route No. 890 to a point directly opposite and at right angles to Lock No. 8; thence leaving Route No. 890 at right angles to Lock No. 8 following contour line denoting elevation 250 feet (United States Geological Survey Datum) until such line intersects the boundary of the Town of Rotterdam and the City of Schenectady; thence following said boundary line to the intersection of the Mohawk River; thence following the Mohawk River to the point of beginning.

#### **ARTICLE XV. FH Flood Hazard District**

##### **§ 270-116. Purpose.**

The Flood Hazard District is created to minimize public and private losses due to flooding in areas of flood hazard. Further, it is the intent of this article to promote the purposes of the Town of Rotterdam Flood Damage Prevention Law (Local Law No. 1 of 1988)EN and to highlight, by reference, the special restrictions that apply. This section recognizes that such riverfront land may also possess special scenic or natural characteristics that preclude intense use or development.

##### **§ 270-117. Special uses.**

The establishment or expansion of the following principal uses may be permitted or denied subject to special use permit review under Article XIX of this chapter:

A. Single-family dwellings.

B. Customary agricultural operations, including all buildings, structures and uses appurtenant to and used in general farming, agricultural truck farming, gardening, poultry raising, tree nurseries and greenhouses, except there shall be no concentration of animal wastes, manure piles, feedlots or confined yard areas and no storage of chemical fertilizers, pesticides or similar materials which may pose a risk to surface water or groundwater quality.

C. Public parks, playgrounds, boat-launch facilities, nature areas, preserves, bike/hike trails and similar public recreational facilities.

D. Riding clubs and public stables, provided that there shall be no concentration of animal wastes, manure piles or confined yard areas.

##### **§ 270-118. Accessory uses.**

Accessory uses permitted in the FH District shall be limited to the following:

A. Private garages with not more than three stalls for the parking or storage of private automobiles.

B. Buildings and structures for lawn care, property maintenance and permitted agriculture.

C. Private swimming pools, tennis courts and other private recreational facilities for use of residents and not run for gain.

D. Permitted home occupations.

E. Accessory kennels.

F. Accessory parking and loading.

G. Fallout shelters.

H. Dish antennas and accessory towers.

##### **§ 270-119. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet, for every residential use and not exceeding 75 feet for permitted agricultural buildings.

##### **§ 270-120. Yard requirements.**

A. Front yard depth shall be 30 feet.

B. Side yard width shall be 15 feet.

C. Rear yard depth shall be 25 feet.

**§ 270-121. Lot area.**

The minimum lot area required for each principal use is two acres.

**§ 270-122. Lot coverage.**

Lot coverage shall not exceed 10%.

**§ 270-123. Parking.**

Off street parking requirements applicable in the FH District are set forth in § 270-149 of this chapter.

**§ 270-124. Additional regulations.**

Every building, structure and use shall comply with the standards and requirements found in Town of Rotterdam Local Law No. 5 of 1984, entitled "Flood Damage Prevention," as amended. Editor's Note: Local Law No. 5-1984, adopted 6-20-1984, was superseded 1-13-1988 by L.L. No. 1-1988. See Ch. 134, Flood Damage Prevention.

**ARTICLE XVI. F-1 Floodway Channel District**

**§ 270-125. Permitted uses.**

Subject to the restrictions and limitations set forth in this article, uses permitted within the floodway channel district shall be the same as those permitted within the district through which the Floodway Channel District runs, except, however, where two different districts adjoin a Floodway Channel District, the use regulations of the more restrictive district shall apply.

**§ 270-126. Restrictions.**

The following restrictions shall apply to all land within the Floodway Channel District:

A. Building prohibited. The erection, use or occupancy of any structure or building within the F-1 District is prohibited.

B. Obstruction. The obstruction of any stream or streambed is prohibited except as may be authorized by special use permit under Article XIX of this chapter and by permit under New York Environmental Conservation Law.

C. Dumping. The dumping or draining of any waste, septage, solid waste, hazardous material, earth, ashes, rubbish, tree trunks, stumps, rubble, concrete, masonry, garbage, refuse or other trash is prohibited.

D. Modification. No stream channel in an F-1 District shall be channeled through any underground pipe or culvert except where approved in writing by the Rotterdam Town Engineer and subject to conditions and restrictions as may be necessary. Every such pipe or culvert shall be sized, designed, installed and maintained in accordance with standard water resource engineering practices acceptable to the Town Engineer.

**[Amended 12-9-1992 by L.L. No. 37-1992]**

**§ 270-127. Mapping; requirements to apply.**

The F-1 Floodway Channel District shall be mapped as a line on the Zoning Map, the location of which shall be the center line of the stream. The aerial minimum limit of the F-1 District shall extend a distance, on each side, of 30 feet from said center line, except such limit shall in no case be less than the distance to the top of the bank or ravine edge through which the stream flows. Where such stream is contained with a pipe, the minimum limit of the district shall extend to a distance, on each side, of 30 feet of the pipe center line.

**ARTICLE XVII. Site Plan Approval**

**§ 270-128. Statutory authorization.**

In accordance with § 274-a of New York Town Law, the Planning Board is authorized to review and approve, approve with modifications or disapprove all site plans for uses required by § 270-130 of this article.

**§ 270-129. Purpose.**

It is the purpose of this site plan authorization procedure to provide a means for the Town review of the standards listed in this section. Further, the Planning Board's review of each site plan application shall be guided by the following:

A. The full conformance of the site plan with the standards and requirements of this chapter, the subdivision code and other applicable local laws and ordinances. Editor's Note: See Ch. 249, Subdivision of Land.

B. The adequacy and arrangement of vehicular and pedestrian traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and control devices.

C. The impact of traffic generated on adjacent properties and roads.

D. The location, arrangement, appearance and sufficiency of off-street parking and loading.

E. The location, arrangement, site design and compatibility of buildings, structures, lighting and signs.

F. The adequacy, type and arrangement of landscaping, screening, buffer zones and open space.

G. In the case of multiple-family dwellings, the adequacy of common property or open space for play areas and informal recreation.

H. The adequacy and means for complete disposal of stormwater, sanitary waste, water supply for fire protection and consumption, fire and emergency vehicle access, solid waste disposal and snow removal.

I. The adequacy of structures, roadways and landscaping in area with susceptibility to ponding, flooding and/or erosion.

J. The protection of adjoining or nearby properties against noise, vibration, dust, odor, glare, unsightliness or other objectionable features.

K. The retention of existing trees to as great a degree as is practicable.

**§ 270-130. Uses requiring site plan approval.**

A. Building permits. Site plan review and approval is required for the following structures and uses before the issuance of a building permit:

(1) Any principal permitted or special use except for a single-family dwelling and related accessory uses or an agricultural building, structure or use permitted by right.

(2) Any nonresidential, nonagricultural principal use or accessory use thereto in the R-1, R-2 or A District.

(3) Any development or redevelopment involving the creation of more than 10 off-street parking spaces or, for all nonresidential uses, any change in the approved site configuration.

(4) Any conversion, redevelopment or renovation of an existing building or structure to a multiple-family or a nonresidential use.

(5) Any multiple-family development or redevelopment.

(6) Any accessory use using or occupying more than 2,000 square feet of land area.

(7) Any accessory building or structure containing or enclosing more than 300 square feet of gross floor area.

(8) Any wind energy facility or wind measurement tower.

**[Added 10-8-2008 by L.L. No. 10-2008]**

B. Change of use. A use which is established either by right or special permit or which is legally nonconforming consistent with the provisions of this chapter may not be changed to any other use or activity without prior notice to the town. Such request for a change of use shall be made by filing an application for a building permit with the Town Building Inspector/Code Enforcement Officer. Said application shall be reviewed by the Planning Board, which may require that the applicant submit all materials and information as may be required for site plan review.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

C. Exempted uses. Notwithstanding the foregoing requirements for site plan review, the Planning Board may waive the requirement of review and approval where it finds, in writing, served to the Building Inspector/Code Enforcement Officer and applicant, that such review and approval is unnecessary and would not serve the purposes of this article.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

D. Site plan approval is required for seasonal sales of produce, holiday decorations, Christmas trees and similar activities which occur for limited time frames and do not result in year-round commercial activity. Seasonal sales are subject to the standards imposed in Chapter 228, Seasonal Sales, of the Town Code.

**[Added 11-24-1993 by L.L. No. 22-1993]**

**§ 270-131. Application and transmittal.**

**[Amended 7-9-2003 by L.L. No. 9-2003; 7-12-2006 by L.L. No. 10-2006]**

Applications for site plan approval shall be filed with the Town Planner or other person designated by the Department of Public Works and must include the material and information as required by § 270-132. Applications for special use permits shall also include the information and material required for site plan approval. Upon receipt of such complete application, the Town Planner or other person designated by the Department of Public Works shall transmit copies of such application and material to the Planning Board. Every complete application for site plan approval shall be accompanied by a fee in the amount established by the Town Board. Editor's Note: See Ch. 126, Fees.

**§ 270-132. Materials to be submitted; exemptions.**

A. Preliminary plans. Application for preliminary site plan approval shall be accompanied by the following information unless waived pursuant to Subsection B:

(1) A map of the applicant's entire lot, plot or parcel of land at the scale of one inch equals 40 feet, unless the Planning Board determines a different scale more appropriate, showing all properties, subdivisions, streets, watercourses and easements which pass through the property or are known to abut the applicant's property.

(2) The name and address of the applicant, vendee, contract vendee or owner and title of drawing.

(3) The North symbol, date and scale.

- (4) The name, address, title and license number of the person or firm responsible for the preparation of the map.
- (5) Structures and circulation: one set of preliminary plans, elevations and sections of proposed structures and roads, showing the proposed location, use and design of all buildings and structures, including any proposed division of buildings into units of separate occupancy and location of drives thereto, and showing the proposed location of all roads, pedestrian walkways and fire lanes.
- (6) Landscaping: preliminary grading and landscaping plan.
- (7) Cut and fill: extent and amount of cut and fill for all disturbed areas, including "before" and "after" profiles of typical development areas, parking lots and roads.
- (8) Stormwater retention: provisions for on-site stormwater retention basins during and after construction, designed to handle any increased rate of runoff.
- (9) Wells: location and test yields in gallons per minute of all proposed on-site wells.
- (10) Drainage fields or percolation tanks: location and percolation test results of all proposed drainage fields or percolation tanks.
- (11) Water supply and sewage disposal: description of method of water supply and sewage disposal and location of such facilities.
- (12) Location of existing wetlands and floodplains.
- (13) Lighting, power and communication facilities: location and design of lighting, power and communication facilities.
- (14) Signs: location, design and size of all signs.
- (15) Site improvements: location of all existing and proposed drains, culverts, retaining walls and fences.
- (16) Outdoor storage: location of any outdoor storage and other accessory uses.
- (17) Uses: detailed breakdowns of all proposed floor space by type of use.
- (18) Other industrial uses: In an industrial district, specific uses proposed, number of employees for which buildings are designed, type of power to be used for any manufacturing process and the proposed method of disposal of such wastes or by-products shall also be shown.
- (19) State environmental quality review: No application shall be deemed complete without compliance with state environmental quality review (SEQR), including where necessary, a lead agency determination, a negative or positive declaration and the submission of an acceptable draft environmental impact statement (DEIS).
- (20) A stormwater pollution prevention plan (SWPPP) consistent with § 270-215 shall be required.

**[Added 4-27-2005 by L.L. No. 9-2005]**

B. Exemptions. For minor site development plans, or in other appropriate circumstances, the Planning Board may waive the provision of any items or information listed in this section. The Planning Board may allow the applicant to submit only that information which it deems necessary for review of a particular application.

C. Additional information. The Planning Board may require other and further information or documentation as the Board may deem to be necessary and appropriate to a full consideration and disposition of a particular application.

D. Other sources. The Planning Board may consult with appropriate town, county, state and federal personnel as may be necessary and appropriate for a proper consideration of a particular application.

**§ 270-133. Review of application; decision.**

A. Review procedure. Within 45 days following receipt by the Planning Board of a completed application, the Planning Board shall consider the application for site plan approval. The Planning Board may hold any advertised public hearing thereon where the Planning Board Chairman deems a public hearing necessary and appropriate. The Planning Board shall decide upon such application within 62 days of the meeting or hearing at which such application is considered and shall either approve the application, approve it subject to certain specific modifications or disapprove the site plan application. The time within which the Planning Board may render its decision may be extended by mutual consent of the applicant and the Planning Board.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

B. Standards for review. The Planning Board's review of the site plan application shall be guided by the standards listed in § 270-129.

C. Contents of report.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

(1) If the Planning Board determines that the preliminary site plans meets the standards for review, then it shall grant the applicant approval, endorse its approval on the preliminary site plan and authorize its Chairman to affix his signature to the endorsement. Said site plan, together with supporting facts for the approval action, shall be forwarded to the Building Inspector/Code Enforcement Officer.

(2) If the Planning Board determines that one or more aspects of the site plan do not meet the standards set forth in § 270-129, and that revisions, additions, changes or alterations are required, it may grant the applicant conditional approval. Said site plan, together with a written statement setting forth the basis and reasons for the conditional approval, shall be forwarded to the Building Inspector/Code Enforcement Officer. A site plan receiving conditional approval shall always authorize the submission of a final site plan application, accompanied by the final site plan and related documents.

(3) The Planning Board shall not disapprove any site plan submitted pursuant to this article except on the basis of specific written findings directed at one or more of the standards for review. The Planning Board may recommend further study and resubmission of the preliminary site plan following revision or redesign.

#### **§ 270-134. Final site plan approval.**

**[Amended 7-9-2003 by L.L. No. 9-2003]**

##### **A. Application.**

(1) After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to ensure that it is in literal conformance with all conditions to preliminary approval which may have been imposed by the Planning Board. All such compliances shall be clearly indicated by the applicant on the appropriate submission. If the Building Inspector/Code Enforcement Officer finds that the plan conforms to the preliminary approval of the Planning Board, the Inspector shall issue the building permit.

(2) If more than six months have elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to the Building Inspector/Code Enforcement Officer's acceptance and review of the proposed final site plan. With respect to this subsection, if necessary plan modifications are minor, the Planning Board may, in writing, waive preliminary site plan review and grant final approval subject to review of the revised plans by the Building Inspector/Code Enforcement Officer, who shall issue the building permit and provide the plans for the Planning Board's records.

##### **B. Review by Planning Board.** Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a decision to the Building Inspector/Code Enforcement Officer.

(1) Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward such copy to the Building Inspector/Code Enforcement Officer.

(2) Upon disapproval of a final site plan, the Planning Board shall so inform the Building Inspector/Code Enforcement Officer, and the Building Inspector/Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

#### **§ 270-135. Performance guaranty and security requirements.**

**[Amended 7-9-2003 by L.L. No. 9-2003; 7-12-2006 by L.L. No. 6-2006]**

A. The Planning Board may require the applicant to provide the Town of Rotterdam with adequate security to ensure prompt and continuous compliance with the site plan, such security being in the form of a letter of credit or a client fund account, to be held by the Town pending satisfactory completion of the site plan. The amount of such security in whatever form shall be equal to the full estimated cost of the completed site plan. The amount of security necessary shall be determined by the Department of Public Works after a review of the cost estimate of the site plan prepared by the applicant or his representative. The security may be reduced as implementation of the site plan progresses. It shall not be reduced to less than the amount determined for that work which is still uncompleted plus 20% of the amount determined for that work which is completed and approved. If needed, the reduced security may be required to remain in effect for one year after the date of issuance of the permanent certificate of occupancy, unless required to be extended further as provided for in the following section.

B. In no event shall a certificate of occupancy be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Department of Public Works after consultation with the Building Inspector/Code Enforcement Officer, Town Engineer or other competent persons.

##### **C. Compliance with Board requirements subsequent to issuance of permanent certificate of occupancy; penalties for noncompliance.**

(1) It is the intent of this subsection that compliance with all Board-approved special conditions shall be required. In that regard, this subsection shall be applicable to all site plan requirements set by the Planning Board (PB), to all special conditions attached to a variance by the Zoning Board of Appeals (ZBA) and to all special conditions attached to a special use permit. In the following subsections of this section, the term "Board" shall mean either the Planning Board or the Zoning Board of Appeals, and the term "special conditions" shall mean either a site plan, variance or special use permit, as appropriate.

(2) The Town shall, at all times, have the right to reinspect the premises if any Building Inspector has reason to believe the site is, not in compliance, either by personal observation or a report from a Town official or Board member or upon the receipt of a signed, written complaint alleging that the site is not in compliance and detailing the manner in which the compliance is lacking.

(3) Upon receipt of an application for site plan approval, variance or special use permit, the Department of Public Works may review any and all conditions of a prior approval on said site, as well as the conditions of a prior approval on any other site previously sought by the applicant or any party related in any manner to the applicant, and shall have the premises of all those sites inspected to determine whether said site is in compliance with those approved conditions. If the site is found not to be in compliance, then the applicant shall be so advised in writing and no new application for any site plan approval, variance or special use permit shall be entertained or deemed complete until the violation has been corrected. If the violation is not correctable (i.e., removal of existing trees that were required to be protected), then the applicant will appear before the appropriate Board to determine what mitigation will be acceptable, and upon completion thereof, the present application shall be entertained.

(4) If, at any time subsequent to the issuance of a permanent certificate of occupancy, the Department of Public Works or Building Inspector finds that any conditions of a Board approval have been violated, the owner and/or occupant shall be issued a notice of violation in writing (in the same manner as provided for in § 265-14 regarding Property Maintenance) and given 30 days either to bring the site into compliance or to appear before the appropriate Board to determine mitigation and/or secure a time extension, if required. If the owner/occupant elects to appear before the appropriate Board, then the Building Inspector shall issue a revised notice of violation based on the determinations made by the Board.

(5) If, after having received a notice of violation (or a revised notice of violation), the owner fails to correct the violation within the time period stated therein, then the Board will have the authority to take action as provided for in § 265-15, and the penalties for an offense may include any or all of the following:

(a) Any person or persons, association, firm or corporation which shall be found in violation shall be guilty of an offense and shall be punishable by a minimum fine of \$1,000, not more than \$25,000, or imprisonment for not more than 30 days, or both. Each day that a violation continues, after notification in writing by personal delivery or first-class mail unreturned, to the sender, shall be deemed a separate offense.

(b) The cost of clean up of the property shall be assessed as a lien against the property taxes.

(c) An administrative fee: \$500 per incident of noncompliance.

#### **§ 270-136. Inspection.**

**[Amended 7-9-2003 by L.L. No. 9-2003]**

The Building Inspector/Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town Engineer and other officials and agencies, as appropriate.

#### **§ 270-137. Compliance with special use procedures.**

**[Amended 7-9-2003 by L.L. No. 9-2003]**

Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this zoning chapter or the requirements of the Town land subdivision regulations Editor's Note: See Ch. 249, Subdivision of Land. the Planning Board shall attempt to integrate as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.

#### **§ 270-137.1. Application and fees.**

**[Added 12-9-1992 by L.L. No. 37-1992; amended 8-8-2007 by L.L. No. 9-2007; 2-25-2009 by L.L. No. 1-2009]**

A. Except as noted below, all site plan applications shall be accompanied by a fee as affixed by the Rotterdam Town Board and designated in Chapter 126 of the Town Code, entitled "Fees."

(1) There shall be no fee required to accompany a site plan approval application for any person, firm, corporation, association or partnership that has as the primary purpose of said application to install "green" energy production on improved property or if said application contains the construction or implementation of at least 10% of "green" energy production for the proposed site plan for any new construction. For purposes of this subsection, "green energy production" shall include but is not limited to power obtained through wind, solar, geothermal, hydroelectric, and/or solar voltaic (electric).

B. Administrative fees. The costs incurred for the review of a site plan application by the Town Engineer, for consulting engineering fees or other consulting fees in conjunction with the Planning Board's review for a proposed application, including reviews required under the New York State Environmental Quality Review Act, Editor's Note: See Environmental Conservation Law § 8-0101 et seq. shall be charged to the applicant. The Planning Board shall obtain an estimate from any designated consultant for an amount sufficient to defray the costs of such services. The applicant shall enter into an escrow agreement with the Town of Rotterdam Planning Board, and said agreement shall be executed by the Rotterdam Planning Board Chairman, upon authorization from the Rotterdam Planning Board. The Rotterdam Planning Board Attorney shall prescribe the terms and appropriate form of the escrow agreement. Any portion of the estimated charges so collected by escrow agreement which is not expended by the Town shall be returned to the applicant.

### **ARTICLE XVIII. Specific Use Regulations**

#### **§ 270-138. Accessory structures and uses.**

Accessory structures and uses, as defined herein, are permitted subject to the restrictions, limitations and standards imposed by district regulations, this section and applicable specific use requirements. Regulations for fences are contained in § 270-143 of this chapter.

A. Location. No accessory structure shall be located in the front yard of any lot.

B. Yards.

(1) Attached structures. Every accessory structure attached to the principal structure shall be considered a part thereof and the applicable front, side and rear yard requirements shall apply.

(2) Detached structures. Every detached accessory structure shall be located no less than five feet from a side or rear property line. No detached accessory structure shall be located in the front yard of any lot.

(3) Parking. See § 270-149 for required yards for parking.

C. Lot coverage. The total lot coverage by accessory structures shall not exceed 40% of the permitted lot coverage of the minimum permitted lot size in the A, RA, R-1, R-2 and R-3 Districts. The floor area of any accessory structure shall not exceed 15% of the total habitable floor area of an

existing or proposed principal structure in the A, RA, R-1, R-2 and R-3 Districts. The aforesaid floor area limitations shall not apply to private garages. With respect to private garages, the floor area for each stall for the enclosed parking or storage of private motor vehicles shall not exceed 300 square feet. Calculations computed for square footage shall be based upon exterior foundation dimensions. No accessory garages shall exceed a maximum height of 15 feet in all existing zoning districts.

**[Amended 4-26-1989 by L.L. No. 6-1989; 5-26-1993 by L.L. No. 9-1993]**

**§ 270-139. Welding.**

All welding, including electric, oxyacetylene or any other type, shall be conducted within a completely enclosed structure, except where temporarily required for on-site construction or where permitted in an I-2 District.

**§ 270-140. Commercial extraction of topsoil, sand, gravel or stone.**

A. Permit required. The commercial extraction of topsoil, sand, gravel or stone, other than mining, shall be permitted by special use permit only in the A and I-2 Zoning Districts, exclusive of any areas within the A and I-2 Zoning Districts which are also within the Aquifer Overlay District. The commercial extraction of topsoil, sand, gravel or stone is a prohibited use in the Aquifer Overlay District.

**[Amended 5-10-1989 by L.L. No. 12-1989; 11-22-1989 by L.L. No. 20-1989; 2-12-1992 by L.L. No. 2-1992]**

B. Term. Every special use permit for the extraction of topsoil, sand, gravel or stone shall be granted for a period of not greater than three years.

**[Amended 5-10-1989 by L.L. No. 12-1989; 11-22-1989 by L.L. No. 20-1989]**

C. Additional information required. Together with any other plans and information required by this chapter for special use permit review, the applicant for a special use permit for the extraction of topsoil, sand, gravel or stone shall provide the following information:

- (1) The name and a description of the mineral or product to be extracted and an estimate of the annual amount to be removed.
- (2) A detailed map showing the area to be mined or quarried at a scale of not more than one inch to 50 feet.
- (3) A statement and map detailing the planned reclamation method and final proposed use. The Planning Board may require additional information where required for adequate review of the proposed special use.

D. Minimum setback. The edge of every pit, quarry or excavated area resulting from removal of topsoil, sand, gravel or stone shall not be located nearer than 100 feet from any dwelling, school, institution, park or playground. The Planning Board may require that the applicant erect a fence, screen or landscape planting to obscure the operation.

E. Special use permit standards and authorization. The Planning Board, in compliance with the requirements of Article XIX governing special permits, may grant or renew a special use permit, subject to appropriate conditions and safeguards, to permit the proposed extraction of topsoil, sand, gravel or stone for a limited period of time not exceeding three years. In addition to the standards set forth in Article XIX, no such special use permit shall be granted unless the Planning Board finds that:

- (1) Nuisances. The proposed use and reclamation scheme will not have a detrimental impact or create a nuisance to the surrounding land uses due to dust, noise, vibration, odor, fumes or other nuisance elements.
- (2) Groundwater impact. The proposed use will not impair or increase the risk of contamination to groundwater at the site or within any adjacent aquifer areas.
- (3) Drainage. The proposal provides for proper drainage both during and after the extraction and will not adversely affect the safety and occupancy of adjoining lands.
- (4) Loading and access. The proposed truck access, loading area and heavy equipment use will not create safety or traffic hazards.
- (5) Reclamation. The reclamation plan ensures that the property will be left in a safe, attractive and useful condition.

F. Bonding. The applicant shall furnish an irrevocable standby letter of credit of the same time period as the special use permit and in an amount sufficient to ensure the full implementation of the reclamation plan. Every irrevocable standby letter of credit shall be approved by the Rotterdam Town Board, by resolution, and be accompanied by a recommendation of the Rotterdam Town Engineer prior to final Planning Board approval of any extractive special use permit.

**[Amended 12-9-1992 by L.L. No. 37-1992]**

**§ 270-140.1. Mining.**

**[Added 5-10-1989 by L.L. No. 12-1989; amended 11-22-1989 by L.L. No. 20-1989; 2-12-1992 by L.L. No. 2-1992]**

A. Generally. Mining in districts other than A and I-2 Zoning Districts and within the A and I-2 Zoning Districts, to the extent these districts coincide with the Aquifer Overlay District, is absolutely prohibited. Mining in the A and I-2 Zoning Districts, exclusive of the Aquifer Overlay District, may be permitted by special use permit upon those conditions set forth in the Mined Land Reclamation Law, § 23-2703, Subdivision 2b, of the Environmental Conservation Law, which conditions include:

- (1) Limitations and restrictions regarding ingress and egress to public thoroughfares controlled by local government.
- (2) Limitations and restrictions regarding routing of mineral transport vehicles on roads controlled by the local government.

(3) Requirements and conditions as specified in the mined land reclamation permit issued by the Department of Environmental Conservation concerning setbacks from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, if required, dust control and hours of operation, when such requirements and conditions are established pursuant to Subdivision 3 of § 23-2711 of the New York State Environmental Conservation Law.

(4) Enforcement of reclamation requirements contained in mined land reclamation permits issued by the Department of Environmental Conservation.

B. The Supervisor of the Town of Rotterdam, as the chief administrative officer, is hereby authorized to participate in the review by the Department of Environmental Conservation of an application for a mined land reclamation permit, including, but not limited to, making a determination, as set forth at Subdivision 3 of § 23-2711 of the New York State Environmental Conservation Law, in regard to the following:

- (1) Appropriate setbacks from property boundaries or public thoroughfare rights-of-way.
- (2) Man-made or natural barriers designed to restrict access if needed, and, if affirmative, the type, length, height and location thereof.
- (3) The control of dust.
- (4) Hours of operation.
- (5) Whether mining is prohibited at that location.

C. The determination shall be accompanied by supporting documentation justifying the particular determinations on an individual basis. The determination, including supporting documentation, shall be provided to the Department of Environmental Conservation within 30 days after receipt of the notice provided by the Department of Environmental Conservation. The Department of Environmental Conservation is required to send this notice by certified mail upon its receipt of a complete application for a mining permit.

#### **§ 270-141. Unenclosed spray painting.**

No outside spraying of paint shall be permitted except where required temporarily for the construction or normal maintenance of a building or structure.

#### **§ 270-142. Outdoor storage and dumping of waste.**

A. Storage. All waste, garbage and refuse resulting from the operation of permitted business and manufacturing uses or from the occupancy of multiple-family apartment developments shall, if stored in the open air, be placed in covered metal containers located on a concrete or comparable base slab and shall be obscured from every adjoining residential property and the public way.

B. Disposal. It shall be unlawful for any person, firm or corporation to dump, deposit or store for more than two months any type of material, solid or otherwise, which would be determined to be detrimental or harmful to the health, safety and general welfare of the people or future residents of the town.

#### **§ 270-143. Fences.**

A. Location and height.

(1) Fences shall be permitted anywhere on a lot or parcel of land provided that the height thereof does not exceed four feet in a front yard or six feet in a side or rear yard, measured from ground level on the interior side of the fence to the uppermost part thereof, except in Light Industrial (I-1) and General Industrial (I-2) Zoning Districts where six-foot fences are permitted in any yard. The Planning Board has the authority to modify these requirements and/or limitations for any project undergoing review and/or approvals by the Planning Board.

**[Amended 11-12-2008 by L.L. No. 11-2008]**

(2) On corner lots. No fence or other obstruction higher than two feet above an adjacent curb elevation shall be permitted on a corner lot within a triangular area encompassed by three imaginary lines, one of which runs along the edge of the pavement abutting the lot on one intersecting street and another of which runs along the edge of the pavement abutting the lot of the other intersecting street, and the third formed by a line drawn between two points, one on each side of the aforesaid lines located 30 feet from the intersection thereof.

(3) Exceptions. The Zoning Board of Appeals may permit the construction of a fence in excess of the height limitations imposed by this subsection if it determines that there is a practical need therefor and that it will not be detrimental to the appearance of adjoining properties and/or the neighborhood. Application to the Board of Appeals to exceed the height limitation shall be made in accordance with rules and regulations prescribed by said Board.

(4) Front yard fences. All fences situated in front yards shall be constructed so that the fence is uniformly less than fifty-percent solid or opaque when viewed from a point normal to the plane created by the fence surface. If the lot is developed as a townhouse, a fence may only be erected in the front, rear, and side yard on the noncommon lot lines.

**[Amended 11-12-2008 by L.L. No. 11-2008]**

B. Location of posts. Fence posts and other structural fence supports which, because of the construction of the fence, must be situated on one side thereof shall not be located on the side of the fence abutting adjacent properties.

C. Aesthetics. The more aesthetically attractive side of the fence shall face abutting properties. The side which is more aesthetically attractive shall be the side which is more pleasing in appearance to a reasonable person because of finish, painting, woodwork or for whatever other reason.

D. Barbed-wire and electrically charged fences.



(1) Permit required. No barbed-wire fences or electrically charged fences shall be permitted except by authorization and permit issued by the Board of Zoning Appeals. Such permit shall not be issued except for the following:

(a) Fences situated in business and industrial zoning districts may be topped with barbed wire, provided that the bottommost strand of barbed wire is at least five feet above ground level.

(b) Electrically charged fences may be permitted in agricultural zoning districts for the purpose of providing an enclosure of barrier to contain the roaming of animals.

(2) Standards. The Board shall issue permit upon written application in form prescribed by it if it determines that there is a practical need for such a fence and that the existence of the fence in the proposed location is not inconsistent with the character of the neighborhood and does not pose a threat of injury to persons lawfully in the vicinity of such fence.

E. Fences on public property. No fence may be erected by others on property owned by the Town of Rotterdam or to which the Town has a right of access by easement or license.

F. Exception for junkyards. The provisions of this section shall not apply to fences enclosing junkyards as required by Chapter 173 of the Town Code.

#### **§ 270-144. Motor vehicle sales.**

A business having three or more new or used motor vehicles for sale or lease shall be deemed a motor vehicle sales business and may be permitted in the B-2 and I-1 Districts subject to the issuance of a special use permit as provided by Article XIX, and subject to the additional requirements hereinafter set forth.

A. Vehicle condition. No motor vehicle which cannot be started and moved under its own power shall be stored in any open area of the motor vehicle sales establishment. All motor vehicles shall be maintained in running condition.

B. Showroom. Any motor vehicle sales establishment shall include an enclosed showroom sufficient to display two automobiles.

C. Location of vehicles. No vehicles shall be parked less than 10 feet from any property line.

D. Motor vehicle repairs. Motor vehicle repair facilities accessory to any motor vehicle sales establishment shall be known only by special use permit authorization and shall conform to the requirements for such uses set forth in § 270-145.

#### **§ 270-145. Motor vehicle repair establishments.**

Motor vehicle repair establishments may be permitted in the B-2, I-1 and I-2 Districts subject to the issuance of a special use permit as provided by Article XIX and subject to the additional requirements herein set forth.

A. Major and minor repairs. Every special permit authorizing the establishment or expansion of a motor vehicle repair establishment shall specify, as a condition of the permit, the type of repairs to be permitted as either major motor vehicle repairs or minor motor vehicle repairs, as defined by this chapter. Such condition shall be binding on the permit holder.

B. Location of vehicles. No vehicles shall be parked or stored less than 10 feet from any property line.

C. Location of work area. All repairs shall be performed within the principal building on the premises.

D. Storage of vehicles. Not more than 20 motor vehicles may be stored in an open area at any motor vehicle repair establishment, and such motor vehicles must be so stored for the purpose of repair and reconditioning thereof only. Such vehicles may not be stored more than 60 consecutive days in any three-hundred-sixty-five-day period at the same premises. The Planning Board may require higher standards for such storage as a condition of any special use permit.

E. Location of vehicles. No vehicles shall be parked less than 10 feet from any property line.

F. Storage of materials and refuse. All permanent storage of materials and equipment shall be within the principal building, with the exception of refuse and trash, which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from the ground level.

#### **§ 270-145.1. Motor vehicle fuel filling stations.**

**[Added 9-12-1990 by L.L. No. 18-1990]**

Motor vehicle fuel filling stations may be permitted in the B-2, I-1 and I-2 Districts, subject to special use permit review by the Planning Commission. Such uses shall conform to any conditions and standards imposed by the Planning Commission during site plan or special use permit review. All New York State statutes, rules and regulations applicable to motor vehicle fuel filling stations or to the storage or dispensing of motor vehicle fuels shall be considered by the Planning Commission in its review process. The affirmative vote of five members of the Planning Commission shall be required for the approval of a special use permit for motor vehicle fuel filling stations. The following shall be observed:

A. Location of fuel pumps. Motor vehicle fuel pumps and service facilities shall be set back a minimum of 25 feet from every property line.

B. Service area. All repairs and services shall be performed within completely enclosed buildings, except for the dispensing of motor vehicle fuel, oil and similar products.

C. Location of petroleum storage tanks. Underground petroleum storage tanks shall be set back a minimum of 25 feet from any property line. Aboveground petroleum storage tanks for dispensing of motor vehicle fuel oil shall be set back a minimum of 25 feet from every property line and shall comply with all applicable National Fire Protection Association (NFPA) minimum requirements and specifications.

**§ 270-146. Convenience stores.**

**[Amended 4-11-2001 by L.L. No. 4-2001]**

Convenience stores with motor vehicle fuel filling pumps are not permitted in the B-1 Zoning District. Convenience stores with or without motor vehicle fuel filling pumps may be permitted in the B-2 and I-1 Districts subject to the issuance of a special use permit as provided in Article XIX and subject to the additional requirements hereinafter set forth.

A. Location of pumps. Motor vehicle fuel pumps and storage tanks shall be set back a minimum of 25 feet from every property line. Where residentially zoned or occupied property adjoins the filling station, the Town may, as a condition of special use permit approval, require a greater setback where necessary and appropriate to serve the purpose of this chapter.

B. At aquifer. The establishment or expansion of convenience stores with fuel filling pumps is prohibited within the Aquifer Overlay District.

**§ 270-147. Ski areas.**

A. Commercial ski-lift equipment, ski slopes and trails may be permitted in the RA District subject to the issuance of a special use permit as provided by Article XIX, and subject to the additional requirements hereinafter set forth.

B. Permit standards. In addition to the standards set forth in Article XIX, no special permit for the establishment or expansion of a ski area shall be granted unless the Planning Board finds that:

(1) Nuisances: the noise, vibration, glare or other nuisance elements created by the operation of the ski area, including accessory lighting, ski lifts and snow-making, will not have a detrimental impact on surrounding land uses.

(2) Accessory uses: any use of buildings for sales of food and drink is strictly incidental to the principal use of the property as a ski area. The use of every building or structure shall be restricted to accessory uses as defined herein.

**§ 270-148. Towers.**

A. Purpose. The purpose of the following requirements is to protect property values, public safety and the scenic attractiveness of the Town by prescribing minimum standards and requirements for the erection of towers.

B. Accessory towers. Towers accessory to a permitted principal use may be established, provided that they are in full compliance with the following requirements:

(1) Accessory to principal use. Every accessory tower shall be clearly accessory to a permitted principal use and shall comply with the definition of accessory use.

(2) Maximum height. No accessory tower shall exceed 75 feet in height or 1 1/2 times the maximum permitted building height, whichever is less.

(3) Setback. Every accessory tower shall be located no closer to an exterior lot line than a distance equal to the tower height.

(4) Compliance. Every accessory tower shall comply with the other applicable requirements of this section.

C. Special permit. Except for permitted accessory towers, towers may be permitted in the A, I-1 and I-2 Districts only, subject to the issuance of a special use permit as provided in Article XIX, and in compliance with the standards and requirements of this section.

(1) Additional application information. In addition to the preliminary site plan and other material required for special use permit review, every application shall contain the following information:

(a) A description and the proposed dimensions of the tower.

(b) A certification by a registered professional engineer or manufacturer's certification that the tower design will meet or exceed all applicable load requirements.

(c) An assessment of the proposed tower's visual impact together with any proposed measures, including landscaping or alternative siting, which may mitigate the visual impact of the proposal.

(d) A list of the owner of record of all residentially occupied properties within 1,000 feet of the proposed tower, together with an assessment of any adverse impact such use may have.

(e) Other information as may be necessary to comply with the standards listed below.

(2) Permit standards. In addition to the standards set forth in Article XIX, no special permit for the establishment or expansion of a tower shall be granted unless the Planning Board finds that:

(a) There is a public need for the tower.

(b) The applicant has made a good faith effort to consider alternative sites and to obtain shared use arrangements with other towers and has provided evidence of such.

(c) The scale and height of the tower is the minimum necessary to fulfill the needs of the applicant.

(d) All practicable measures have been taken to minimize the adverse visual impact of the tower on the surrounding community.

D. General requirements.

- (1) Location. Every tower shall be no closer to any lot line than a distance equal to the tower height; no guy wire or anchor shall be less than five feet from any lot line.
- (2) Fencing. Every tower shall be fenced or secured in a manner which prevents unauthorized access to the structure.
- (3) Noise. No tower used for energy generation shall produce a level of noise at any lot line greater than the ambient nighttime noise level.
- (4) Screening. In so far as practicable, towers shall be sited and screened in a manner which obscures the base of the structure from the public way.
- (5) Signs. No tower shall be used for or have placed upon it any type of sign except warning signs needed for public safety.

E. Exemptions. The following towers are exempt from the regulation found in this section:

- (1) Public utility poles supporting wire or cable used for power transmission or communications.
- (2) Water towers erected by a duly created public water district.

**§ 270-149. Off-street parking.**

**[Amended 9-12-2007 by L.L. No. 11-2007]**

A. General requirements. For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory off-street parking shall be provided as required by Table 1, Editor's Note: Table 1 is located at the end of this chapter. as related to specific use or occupancy, except where additional parking may be required as a condition for the issuance of a special permit as provided in Article XIX of this chapter. Further, when the intensity of use of any building or structure shall be increased, parking space as herein required shall be provided for such increase in intensity of use.

B. Preexisting parking. Whenever a use existing on the effective date of this chapter is changed thereafter to a new use, parking facilities shall be provided as required herein for such new use, except that when any such existing use was deficient in required parking spaces on such effective date, such new use may be established with a deficiency in required spaces equal in number to not more than the preexisting deficiency.

C. Screening and location. All open automobile parking areas containing more than six parking spaces shall be located not less than 10 feet from any residential property line. Such open automobile parking area located in residential districts shall be screened on each side adjoining a residential use. Parking spaces required by this section shall be located on the same lot as the use for which such parking is required.

D. Landscaping. Parking areas with more than 12 spaces shall be landscaped over not less than 10% of the total interior area of the parking lot. Landscaping and planting areas shall be dispersed throughout the parking lot. Required screening and side yards may be considered as a part of the interior landscape requirement if suitably planted and maintained.

E. Collective provision. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces is not less than the sum of the separate requirements, except where such parking facility is shared at different hours of the day. If the applicant(s) can establish that such collective parking facilities serving two or more uses will experience reduced parking demand due to staggered hours of operation, then the Planning Board may authorize a reduction of the total number of spaces by no more than 20% of the total which would normally be required by this chapter.

F. Uses not listed. Persons undertaking uses not listed herein shall be required to provide parking facilities as determined by the Planning Board.

G. Residential district restrictions. Parking of more than one commercial vehicle, as defined by this chapter, per dwelling unit in a residential district is prohibited unless such vehicle is parked in a completely enclosed garage.

H. Handicapped parking. During site plan review for commercial projects, the Planning Commission shall require handicapped parking spaces and access aisles to be located in close proximity to the primary public entrance to the establishment.

**§ 270-150. Off-street loading.**

A. Spaces required. In order to ensure that vehicular traffic is unimpeded and to reduce traffic safety hazards, sufficient off-street space shall be provided for loading and unloading materials and goods related to the operation of the business activities in conjunction with the following uses. For retail, wholesale, industry, warehouse and service business establishments, restaurants and fast-food restaurants, a minimum of one parking space for the first 4,000 square feet of gross floor area or major portion thereof and one additional space for each additional 50,000 square feet of gross floor area or major portion thereof shall be provided.

B. Size of space. Each off-street loading space shall be at least 15 feet in width, at least 40 feet in length and at least 14 feet in height, exclusive of access and turning area, except that adjacent loading spaces may be each 12 feet in width.

C. Location. Off-street loading spaces may be located within any structure, within a side or rear yard or within a required off-street parking area or any parking space, except that no such space or access drive serving a space shall be located closer than 10 feet to any lot line adjoining a residentially zoned parcel of land.

D. Reduction in requirement. Upon consideration of all factors entering into the loading and unloading needs of each use, the Planning Board may make appropriate reductions in the loading requirements of the above structures and uses and may determine reasonable and appropriate loading requirements for structures and uses which do not fall within the categories listed above.

**§ 270-151. Signs.**

A. Applicability. No signs, whether new or existing, shall hereafter be erected or altered except in conformance with the provisions of this chapter. Nonconforming signs existing prior to the effective date of this section shall be permitted to remain; however, any change of use or sign shall conform to the requirements of this section.

B. Exceptions. For the purposes of this section, the term "sign" does not include signs erected and maintained in connection with the discharge of any governmental function, nor does it include political signs. Political signs are subject to the provisions of § 270-151.1 of this chapter. Billboards, that is any sign that directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot or parcel on which such sign is located, and is not a directional sign as defined herein, shall conform to the requirements of § 270-152 of this chapter.

**[Amended 8-14-1996 by L.L. No. 7-1996]**

C. General requirements. In any district, all signs shall comply with the following general requirements:

(1) Illumination. No sign shall be illuminated in a manner which will cause undue distraction, confusion or glare to vehicular traffic or which will create a nuisance to adjoining property.

(2) Structure. Any sign, except signs painted on a building or structure, shall comply with the Building Code as to strength. Editor's Note: See Ch. 154, Housing and Building Standards.

(3) Directional signs. Each principal nonresidential use may erect and maintain not more than three necessary directional signs for guidance of the public. A directional sign is a sign containing only the name of an establishment having goods, services or entertainment and any necessary directional guidance. Such sign may not be greater than 10 feet in sign area. A directional sign may also include the standard symbol for guide signs as shown in the Manual of Uniform Traffic Control Devices.

(4) Temporary signs. No temporary or portable signs or signs on a trailer shall be placed on any premises or building except as otherwise permitted herein.

(5) Flashing signs. Except for public schools and public firehouses, no sign shall be illuminated by or contain a flashing, intermittent, rotating or moving light or lights.

**[Amended 4-9-2008 by L.L. No. 2-2008]**

(6) Location of signs. On a corner lot, no sign, landscaping or structure shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining street lines at points which are 30 feet distant from the point of intersection, measured along the street lines. No sign shall be placed so as to obstruct the necessary sight distance of vehicular traffic.

(7) Sign area calculation. Sign area is the surface area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. One face of the sign shall be counted in computing the sign area. Any neon tube, string of lights or similar device shall be deemed to have a minimum dimension of one foot for the purpose of computing sign area.

D. Signs in residential districts. No sign or other device for advertising purposes of any kind may be erected or established in any A, RA, R-1, R-2 or R-3 District except as follows:

**[Amended 5-26-1993 by L.L. No. 9-1993]**

(1) One sign not exceeding one square foot in area which announces the name and profession or permitted home occupation of the occupant of the premises will be permitted.

(2) One temporary real estate or construction sign not exceeding 12 square feet in area will be permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.

(3) One sign or bulletin board customarily incidental to religious institutions, mobile home parks, cemeteries and other permitted nonresidential uses, which sign shall not exceed 20 square feet in area.

(4) Posting of notice to the public pertaining to but not limited to fishing, trespassing, hunting and snowmobiling, provided that each sign does not exceed 1 1/2 square feet in area.

E. Signs in business and industrial districts. In the B-1, B-2, I-1 and I-2 Districts, no sign or other device for advertising purposes shall be erected or established except as follows:

(1) Signs permitted in the residential districts. (See Subsection D above.)

(2) Building-mounted signs accessory to a business or industrial use shall not extend more than 12 inches beyond the building facade and shall not extend above the roof of the building. The aggregate total surface display of such signs shall not exceed, in square feet, two times the number of linear feet of the width of the building front. In the case of a corner lot, the sign area may be increased one times the number of linear feet of the building face fronting on the secondary street or roadway. However, such increased permitted sign area shall be use only for the erection of a permitted sign on the length of the building which faces the secondary street or roadway.

(3) One ground-mounted sign may be erected and maintained not less than five feet from the property line. Such sign may contain a total sign area of 15 square feet or not more than one square foot for each 1,000 square feet of the lot or parcel area containing such sign, whichever is greater, up to a maximum sign area of 200 square feet.

**[Amended 5-12-2004 by L.L. No. 2-2004]**

(4) Signs in the business and industrial district shall contain no information beyond the name, nature or principal use, symbol and other information necessary for the business or use. Such sign shall contain no information or advertising for any product or service not sold or performed on the premises. However, no part of such sign nor supporting upright or pole shall be closer than five feet to the property line or the vertical extension of such property line.

#### **§ 270-151.1. Political signs.**

**[Added 8-14-1996 by L.L. No. 7-1996]**

A. The Town Board of the Town of Rotterdam has determined that the unrestricted proliferation of political signs throughout the Town of Rotterdam can be aesthetically detrimental to the environment, may be distracting to motorists and thereby create a traffic hazard and may contribute to littering of public and private property when not timely removed. The purpose of this section is to preclude these undesirable consequences by placing reasonable restrictions on the placement and erection of political signs.

B. For purposes of this section, a "political sign" is any sign which bears the name and/or political party of a candidate or candidates for public office. "Public office" includes federal, state, county, city, town, village and school district offices.

C. No person shall place or erect a political sign on any property owned by the federal government, State of New York, the Town of Rotterdam, New York, or any other municipality, special Town water or sewer district or school district, including the paved and unpaved rights-of-way of roadways, located in the Town of Rotterdam, New York.

D. No candidate shall place or cause to be placed or erect a political sign exceeding two feet by four feet in size on any privately owned property situate in an RA, R-1, R-2 or R-3 residential zoning district as enumerated in § 270-6 of this Code. The post or supporting standard shall not be considered in computing the aforesaid size limitation. It is the presumption of this section that all signs erected on the above-referred-to residential property have been so erected by the candidate whose name appears on said sign and with the permission of the owner of said property. Said sign shall be the sole responsibility of the candidate whose name appears on said sign including the duties, obligations and penalties as provided for in this section.

E. No signs shall be placed on the sides of overpass or underpass vehicular bridges or railroad bridges, on poles carrying utility lines, traffic signals, streetlights or telephone lines and on direction or traffic signs.

F. No signs shall be erected or placed as to obstruct or impair vision at any road intersection or the entrance to and exit from private driveways.

G. Political signs shall not be erected or placed earlier than September 1 of the year of the primary and general election for the candidate named on the sign and shall be removed within 14 days after the election. It shall be the responsibility of the person erecting or placing the sign to cause its removal.

**[Amended 4-14-1999 by L.L. No. 6-1999]**

H. The Town Building Inspector/Code Enforcement Officer, Zoning Officer and all police officers are empowered to remove any sign which is erected or placed in violation of the provisions of this section and to dispose of the sign in any appropriate manner, including trashing. Removal shall be without the necessity of prior notice to the candidate or anyone else.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

I. A person violating any provision of this section shall be subject to the penalties contained in § 270-180 of this chapter.

#### **§ 270-152. Billboards.**

**[Amended 9-9-1998 by L.L. No. 14-1998]**

A. Definition. A "billboard" is any sign that directs attention to an idea, product, business, activity, service or entertainment that is conducted, sold or offered elsewhere than upon the lot or parcel on which such sign is located, and is not a directional sign as defined in § 270-151.

B. Billboards of any nature or kind are hereby prohibited in the Town of Rotterdam and shall not be permitted.

#### **§ 270-153. (Reserved)**

Editor's Note: Former § 270-153, Nonconforming uses, buildings and structures, as amended, was superseded 9-9-2009 by L.L. No. 9-2009. See now § 270-153.1, Nonconforming uses, and § 270-153.2, Nonconforming buildings and structures.

#### **§ 270-153.1. Nonconforming uses.**

**[Added 9-9-2009 by L.L. No. 9-2009]**

A. Nonconforming uses.

(1) Continuation. Except as hereinafter provided, the lawful use of a building, structure or land existing at the effective date of this chapter may continue although such use does not conform to the provisions herein.

(2) Whenever the use of a building or structure becomes nonconforming through a change in the provisions of this chapter or district boundaries established by this chapter, such use may continue subject to the requirement of this section.

B. Change of nonconforming use. Once changed to a conforming use, no structure, building or land shall be permitted to revert to a nonconforming use. The nonconforming use of a building or structure may be changed to a use permitted in a more restrictive district than the particular district in which such nonconforming use is first permitted as a permitted use or to a permitted use within the district in which such nonconforming use is located.

C. Abandonment. Whenever any nonconforming agricultural use has been discontinued for a period of five years, or whenever any other nonconforming use has been discontinued or abandoned for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

D. Displacement. No nonconforming use shall be extended or enlarged so as to displace a conforming use.

E. Site plan review. Any application for a building permit involving the alteration or extension of a nonconforming building or structure shall be reviewed by the Planning Board under the requirements of Article XVII, entitled "Site Plan Approval." The Board shall ascertain that no previous expansion has taken place as a nonconforming expansion.

#### **§ 270-153.2. Nonconforming buildings and structures.**

**[Added 9-9-2009 by L.L. No. 9-2009]**

A. Continuation. Where a nonconforming building or structure exists at the effective date of the adoption of or amendment to this chapter, such nonconformity may be continued so long as it remains otherwise lawful. No such nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity. The nonconformity as it pertains to yards is limited to the building or structure footprint, except for single-family and two-family residential structures. Such enlargement or alteration shall not tend to increase any inherent nuisance, nor shall such enlargement or alteration violate any provision of this chapter regarding yards, lot area or lot coverage for the district in which it is situated nor increase any violation of such provision.

B. Alterations and extensions. No nonconforming building or structure may be reconstructed or altered during its life to an extent exceeding, in aggregate cost, 30% of the full valuation of the building, unless said building or structure is changed to conform to this chapter, except as otherwise permitted for the repair or restoration of the structure.

C. Restoration and repair.

(1) In the event that a building or structure which is nonconforming is destroyed or damaged by fire or other casualty or act of God, no repairs or reconstruction shall be made unless such restoration is started within 12 months from the date of partial destruction and is diligently prosecuted to completion. Otherwise, the building shall not be restored unless said building or structure and the use thereof shall conform to all of the regulations of the district in which it is located.

(2) Site plan review. Any application for a building permit involving the alteration or extension of a nonconforming building or structure shall be reviewed by the Planning Board under the requirements of Article XVII, entitled "Site Plan Approval." The Board shall ascertain that no previous expansion has taken place as a nonconforming expansion.

(3) Exemption of single-family residence. The limitations of Subsection C(1) shall not apply to a single-family residential building that is nonconforming only in respect to lot area. However, no single-family dwelling shall be reconstructed to expand into an already deficient lot area or to reduce an already deficient amount of land area for the dwelling. Notwithstanding the above, no single-family residence shall be reconstructed in a nonconforming zoning district. This exemption is permissible only if reconstruction commences within 24 months of partial or total destruction.

#### **§ 270-154. Unsafe buildings and structures.**

Any building or structure found to be unsafe or a nuisance to public safety shall be subject to the provisions of the Town of Rotterdam Local Law No. 5 of 1969, entitled "Dangerous Buildings and Structures." Editor's Note: Local Law No. 5-1969 was repealed 4-23-1997 by L.L. No. 8-1997. See Ch. 90, Unsafe Buildings.

#### **§ 270-155. Town and public district uses.**

The Town of Rotterdam and any public school or fire districts may use land or erect buildings or structures thereon for use in any district of any nature, provided that such uses, buildings or structures are for the purpose of carrying out the duly authorized powers and duties of said Town and its districts.

#### **§ 270-156. Lighting.**

All exterior lighting accessory to any use, including the lighting of signs, parking area and recreational facilities shall be so arranged to prevent direct glare of beams onto any adjacent public or private property or street.

#### **§ 270-157. Home occupations.**

A. Purpose. The standards and regulations of this section are designed to protect and maintain the character of residential areas while recognizing that certain professional and trade activities may, on a limited scale, be appropriate accessory uses in residential dwelling.

B. (Reserved) Editor's Note: Former Subsection B, regarding the definition of a home occupation, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now the definition of "home occupation" in § 270-5.

C. Where permitted. Subject to the standards and requirements of this section, one home occupation is permitted in any residential dwelling unit or structure accessory thereto.

D. Issuance, terms and revocation of permits. The Building Inspector/Code Enforcement Officer may issue a home occupation permit following submission of an application and a fee, as set forth in Chapter 126 of the Town Code, entitled "Fees," Editor's Note: The schedule of fees is on file in the office of the Town Clerk. If it is determined that such application conforms to the standards and provisions of this section. Should, at any time during the period which a home occupation permit is in effect, the Building Inspector/Code Enforcement Officer find that the operation of such home occupation is in violation of the provisions of this section, he shall, by declaration, serve notice of revocation of the home occupation permit.

**[Amended 12-9-1992 by L.L. No. 37-1992 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]**

E. Use limitations. No home occupation shall be permitted unless it complies with the following restrictions:

- (1) No person who is not residing on the premises shall be employed in any home occupation.
- (2) No more than 1/3 or 400 square feet of the combined floor area of the principal building and accessory building, whichever is less, shall be devoted to the home occupation.
- (3) No alteration of the principal building shall be made which changes the character and appearance thereof as a dwelling.
- (4) There shall be no exterior display of stock-in-trade.
- (5) No sign, other than one exterior sign not exceeding one foot square, shall be displayed.
- (6) There shall be no exterior storage of equipment or materials used in the occupation.
- (7) The home occupation shall be conducted entirely within the principal dwelling unit or in a private garage accessory thereto.
- (8) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- (9) No extra parking spaces shall be constructed to serve the home occupation.

F. Permitted home occupation. In particular, a home occupation includes but is not limited to the following:

- (1) Limited office facilities for accountants, architects, brokers, engineers, land surveyors, lawyers, therapists, insurance agents and members of similar professions.
- (2) Consultation or emergency treatment by a doctor or a dentist, but not the general practice of such profession.
- (3) Limited office facility of a salesperson, sales representative or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises.
- (4) Home crafts such as model making, rug weaving, lapidary work and cabinet making.
- (5) Workshop or studio for an artist, photographer, craftsman, writer, composer, dressmaker, tailor, typist or computer programmer.
- (6) Facilities for instruction to not more than three pupils at any given time such as in music, dance or driver training.
- (7) Homebound employment of a physically or mentally handicapped person who is unable to work away from home by reason of disability.
- (8) Nursery schools and day care for not more than four children.
- (9) Barbershop, hair stylist or beauty salons with a maximum of one commercial chair, sink and other accessory facilities for hair styling, cutting or grooming and subject to the use limitation prescribed in § 270-157E.

**[Added 2-28-1996 by L.L. No. 3-1996]**

G. Prohibited home occupations. Permitted home occupations shall not be interpreted to include:

- (1) Antique or furniture shops.
- (2) Barbershops, hair stylists or beauty salons, except those exempted in § 270-157F(9).

**[Amended 2-28-1996 by L.L. No. 3-1996]**

- (3) Commercial stables, kennels or animal hospitals.
- (4) Funeral homes or mortuaries.
- (5) Real estate offices.
- (6) Private clubs or lodges.
- (7) Restaurants.

- (8) Tourist homes or boardinghouses.

**§ 270-158. Mobile home parks.**

A. Generally. All development purposes, standards, controls and procedure normally applicable to planned residential developments shall also be applicable to mobile home parks, in addition to the following standards, controls and requirements.

B. Applicability. No person shall use or park any mobile home within the Town of Rotterdam except within the limits of a duly authorized mobile home park; except however, these provisions shall not apply to the sale, storage or garaging of travel trailers or motor homes, provided that the same are unoccupied and not used for sleeping or living purposes and are in compliance with other Town laws and ordinances.

C. Preexisting mobile home. Lawfully installed mobile homes in occupancy at the effective time of this chapter are permitted to continue subject to the requirements for nonconforming uses.

**§ 270-159. Temporary construction sheds and trailers.**

After building permits for basic construction have been granted in accordance with the provisions of this chapter, a temporary construction shed or trailer may be erected on the lot at which primary construction is to be undertaken. Prior to the issuance of a certificate of occupancy, such temporary shed or trailer shall be immediately removed. Under no circumstances shall any such shed or trailer be used for residential purposes.

**§ 270-160. Storage of travel trailers.**

Not more than one travel trailer may be stored in the open air at any one residentially developed lot. All such exterior storage of travel trailers must comply with the following requirements:

- A. No travel trailer shall be used for sleeping or living purposes.
- B. No travel trailer shall be stored on the front yard of the property.
- C. No travel trailer shall be stored within five feet of any side or rear lot line.

**§ 270-161. Factory-manufactured homes.**

Factory-manufactured homes may, for the purposes of this chapter be considered a single-family dwelling, provided that they meet the following requirements:

- A. Each such home shall be permanently installed upon a full concrete slab or a concrete block and slab basement.
- B. Each such home shall be served with a water and sewage disposal system meeting New York State Health Department standards.
- C. Each such home shall comply with applicable lot, bulk, minimum floor area and other requirements set forth in this chapter and in the New York State Fire Prevention and Building Code.

**§ 270-162. Landfill operations.**

A. Permit required. The operation of a landfill shall be permitted by special use permit only in I-2 Heavy Industrial Districts. In addition to requirements for a special use permit by the Town of Rotterdam, all landfill operators shall obtain all approvals and permits for operation proscribed by the New York State Department of Environmental Conservation and Chapter 244 of the Code of the Town of Rotterdam, entitled "Solid Waste." Evidence of state operating permits shall be submitted with applications for special use permits from the town.

B. Special use permit standards and authorization.

(1) In addition to conditions and requirements set forth herein, an operator of a landfill must have a current and valid operating permit which demonstrates ongoing compliance with 6 NYCRR 360, the latest New York State Landfill Regulations (effective July 14, 1985), and any amendment thereto.

(2) The Planning Board may grant or renew special use permits subject to the standards and conditions set forth in Article XIX herein and applicable state laws, in addition to which permit applications shall be considered in accordance with the findings of the Solid Waste Disposal Study for the Schenectady Intermunicipal Solid Waste Disposal Board (February 1986).

**ARTICLE XIX. Special Use Permits**

**§ 270-163. Purpose.**

This article recognizes that there are certain uses which, because of their unique or inherent characteristics, cannot be properly classified in a particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

**§ 270-164. Authorization.**

As a matter of original jurisdiction, the Planning Board shall have the right to issue or deny a special use permit for each special use listed in the respective districts, as specified by this chapter and following the requirements set forth herein.

**§ 270-165. Application procedure.**

A. Application. Application for a special use permit shall be filed with the Building Inspector/Code Enforcement Officer. The application shall be accompanied by seven copies of site plans and material as required for preliminary site plan approval. The Building Inspector/Code Enforcement Officer shall transmit six copies of the application, site plans and other material to the Planning Board as required by Article XVII for site plan approval. Special use permits may be issued only for those uses listed as special uses in the district use regulations. An application for a special



use permit may be filed by the owner of, or other person having a contractual interest in, the subject property. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**B. Review and public hearing.**

(1) The Planning Board shall review the material submitted and the application under the requirements for preliminary site plan approval as described in Article XVII. In addition, the Planning Board shall hold at least one duly advertised public hearing on the proposed special use. Not less than five days prior to the date of such public hearing, notice shall be placed in a local newspaper stating the time, date and purpose for the hearing. The applicant and all interested parties shall have the opportunity to speak at the public hearing.

(2) Within 62 days of the public hearing and the receipt of all necessary information and studies, including environmental impact statements, if required, the Planning Board shall act to either: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(a) Tentatively grant the special use permit, subject to final site plan review and approval;

(b) Tentatively grant the special use permit with conditions or modifications to be implemented in the construction and/or operation of the requested special use and subject to final site plan approval; or

(c) Deny the special use permit.

(3) The Planning Board, in acting to tentatively grant or to deny such special use permit, shall state its reasons for such action, together with any conditions or modifications required, and shall include this as a part of the record. A report stating the action taken and any conditions or modifications required shall be sent to the applicant and the Town Building Inspector/Code Enforcement Officer. A copy of such report shall also be filed with the application. Tentative approval of the special use permit and preliminary site plan authorizes the applicant to proceed to file a final site plan in accordance with the provisions of Article XVII. Final approval of the special use permit shall be subject to final site plan review by the Planning Board under the procedure of this chapter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the authorized board on the application after the holding of the public hearing shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 270-166. Conditions to be imposed.**

Prior to the granting of any special use permit, the Planning Board may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as is deemed necessary to secure compliance with the standards and requirements of this chapter. Such conditions and restrictions shall be expressly set forth in the special use permit. Violation of such condition or restriction shall be a violation of this chapter.

**§ 270-167. Standards for granting permits; additional requirements.**

**A. Standards. No special use permit may be granted unless the Planning Board finds that:**

(1) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.

(2) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

(3) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property.

(4) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

(5) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public street.

(6) The special use shall, in all other respects, conform to applicable rules, regulations and ordinances of the Town and be consistent with any adopted plan or policy of the town.

**B. Additional requirements.** In addition to the above standards for review of special use permits, this chapter specifies other requirements for certain types of special uses. Such requirements are listed with specific use regulation.

**C.** In addition to the standards set forth in Subsection A, the following standards must be met for special use permits in wetland and/or watercourse areas or their respective buffers.

**[Added 4-27-2005 by L.L. No. 9-2005]**

(1) A permit, with or without conditions, may be issued for any proposed disturbance on a wetland or watercourse area of any class or in a wetland or watercourse buffer area if it is determined by the Planning Commission that the activity:

(a) Would be compatible with preservation, protection and conservation of the wetland and/or watercourse and its benefits; and

(b) Would result in no more than insubstantial degradation to, or loss of, any part of the wetland and/or watercourse; and

(c) Would be compatible with the public health and welfare.

(2) The applicant shall provide a copy of the joint application form for either the New York State DEC freshwater wetlands/stream protection permit or US Army Corps of Engineers Wetlands Permit to the Town of Rotterdam prior to granting of a special use permit (if applicable). If the applicant is proceeding under a nationwide permit (NWP), and the acreage and location of the wetlands/streams lost or created/preserved as mitigation must be clearly identified on the subdivision and/or site plan. If preconstruction notification (PCN) to the District Engineer (DE) is required by the terms of the NWP, the Town reserves the right to delay final action until the DE completes the PCN review process.

**§ 270-168. Special uses considered lawful.**

If a use is lawfully established prior to the effective date of this chapter and it becomes a special use under the provisions of this chapter, it shall be considered a lawful special use.

**§ 270-169. Expiration; amendments; resubmission.**

A. Expiration. In any case where a special use is not in operation within one year after the date of granting thereof, the special use or authorization thereof shall be null and void. Further, a use shall expire if such use shall cease for more than six consecutive months for any reason.

B. Amendments. A special use permit shall be deemed to authorize only the particular use for which it was issued. No special use shall be expanded or added to in any manner unless the special use permit is amended pursuant to the procedures established in this Article XIX.

C. Effect of denial. No application for a special use permit which has been denied by the Planning Board shall be resubmitted for a period of one year from the date of the order of denial, unless the applicant can provide new evidence or proof of change of conditions found to be valid by the Planning Board.

D. Special use permit fees. An application fee and advertising fee shall be provided upon application submission in amounts established by the Rotterdam Town Board and set forth in Chapter 126 of the Town Code, entitled "Fees."

**[Added 12-9-1992 by L.L. No. 37-1992]**

**ARTICLE XX. Administration and Enforcement**

**§ 270-170. Designation of enforcement official.**

**[Amended 7-22-1992 by L.L. No. 14-1992; 7-9-2003 by L.L. No. 9-2003]**

This chapter shall be enforced by the Building Inspector/Code Enforcement Officer of the Town of Rotterdam or a duly appointed representative thereof or a duly appointed representative by the Rotterdam Town Board.

**§ 270-171. Powers and duties of Building Inspector/Code Enforcement Officer.**

**[Amended 5-10-1989 by L.L. No. 9-1989; 7-9-2003 by L.L. No. 9-2003]**

A. In addition to the requirements of Chapter 154 of the Town Code providing for the Building Inspector/Code Enforcement Officer to enforce all laws and ordinances relating to the location, construction, alteration, repair, removal, demolition, equipment use, occupancy and maintenance of buildings and structures, it shall also be the duty of the Building Inspector/Code Enforcement Officer to keep written records of all applications for building permits, together with any conditions or requirements for issuance. He shall file and safely keep copies of all plans and documents submitted, which shall be available for the Town Board, Town Planning Board, Zoning Board of Appeals and the general public. The Building Inspector/Code Enforcement Officer shall maintain a file of all applications, documents and conditions of approval for special permits authorized by this chapter.

B. The Building Inspector/Code Enforcement Officer shall issue no building permit or certificate of occupancy, except where provisions of this chapter, together with applicable Town ordinances and local laws, shall be complied with. Such Inspector/Code Enforcement Officer shall have no power to vary the regulations herein required.

**§ 270-172. (Reserved)**

Editor's Note: Former § 270-172, Building permit, as amended, was repealed 5-10-1989 by L.L. No. 9-1989.

**§ 270-173. (Reserved)**

Editor's Note: Former § 270-173, Certificate of occupancy, as amended, was repealed 5-10-1989 by L.L. No. 9-1989.

**§ 270-174. Amendments.**

A. Town Board power to amend. The Town Board may, from time to time, on its own motion, on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter in the manner provided by this chapter and § 265 of the Town Law of New York State.

B. Referral to Planning Board. Each such proposal, amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report and recommendation thereon, before public hearing. In recommending the adoption of any such proposed amendment, the Planning Board shall state its reasons for such recommendation. On recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

C. Approval by Town Board. A majority vote of the Town Board shall be required to approve such amendment or change except as noted below:

(1) In the case of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or by the owners of 20% or more of the immediately adjacent land within 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of four out of five members of the members of the Town Board.

(2) In the case where approval is contrary to the report of the Schenectady County Planning Department, a majority plus one vote shall be required to approve such amendment or change.

D. Entering minutes. Every zoning local law and every amendment to a zoning local law, excluding any map incorporated therein, adopted shall be entered on the minutes of the Town Board pursuant to the provisions of § 264 of the Town Law of New York State.

**[Amended 7-9-2003 by L.L. No. 9-2003]**

**§ 270-175. Notice of public hearing; written notification; posting.**

**[Amended 11-23-1988 by L.L. No. 12-1988; 5-11-2005 by L.L. No. 12-2005]**

A. Public hearings by the Town Board required for zoning amendments shall require published notice giving at least 10 calendar days' notice of the time and place of such hearing in the official newspaper designated by the Town Board. Such notice may include the proposed amendment or amendments, but shall include a statement sufficient to inform the public of the content of the amendment, change or permit application.

B. Service of written notice. At least 10 days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including any amendments thereto, affecting property within 500 feet of the following shall be served personally or by mail by the Town upon each person or persons listed below:

(1) The property of the housing authority erecting or owning a housing project authorized under the public housing law: upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto.

(2) The boundary of a city, village or town: upon the clerk thereof.

(3) The boundary of a county: upon the clerk of the board of supervisors or other person performing like duties.

(4) The boundary of a state park or parkway: upon the regional state park commission having jurisdiction over such state park or parkway.

C. Service of written notice on property owners. On change of zone requests and zoning amendments involving 150 acres or less, sending notice of the pending land use action by ordinary mail not less than 10 calendar days in advance of the hearing to property owners within 300 feet of the affected property or properties.

D. Posting. The Town reserves the right to post notice of pending land use actions on or adjacent to the affected property or properties.

**§ 270-176. Fees.**

**[Amended 12-9-1992 by L.L. No. 37-1992; 8-8-2007 by L.L. No. 10-2007]**

A. A fee payable to the Town of Rotterdam for application and advertising shall be required with each application for approval as established by the Rotterdam Town Board and designated in Chapter 126 of the Town Code, entitled "Fees."

B. Except as noted below, a fee payable to the Town of Rotterdam shall be required for building permits. The fee schedule for building permits is established by the Rotterdam Town Board and designated in Chapter 126 of the Town Code, entitled "Fees."

(1) There shall be no fee required to obtain a building permit on residential construction for any person, firm, corporation, association or partnership that has as the primary purpose of said building permit to install "green" energy production on improved property or if said permit contains the construction or implementation of at least 10% of "green" energy production for the proposed site plan for any new construction. For commercial construction, said building permit fees shall be reduced by one-half. For purposes of this subsection "green energy production" shall include but is not limited to power obtained through wind, solar, geothermal, hydroelectric, and/or solar voltaic (electric).

**§ 270-177. Zoning Board of Appeals.**

**[Amended 7-9-2003 by L.L. No. 9-2003; 1-14-2004 by L.L. No. 1-2004; 5-10-2006 by L.L. No. 2-2006]**

A. Creation and procedure. The Zoning Board of Appeals, which is established under § 267 of the Town Law of New York State, shall consist of five members. The Town Board shall annually designate a member of said Zoning Board to act as Chairman thereof, or, on failure to do so, the Zoning Board shall elect a Chairman from its members. The Zoning Board of Appeals shall have the power to adopt, for its procedure and government, rules not inconsistent with law or ordinance. Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman or, in his absence, the Acting Chairman shall preside. The presence of three members shall constitute a quorum. The concurring vote of a majority of the members of such Board shall be necessary to reverse any order, requirements, decision or determination of the Building Inspector/Code Enforcement Officer or to grant any variance from the requirements of this chapter. All hearings shall be open to the public and duly advertised as to nature, time and place of meeting. Such notice shall be not less than five days in advance of such meeting. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the offices of the Town Clerk and shall be a public record.

B. Jurisdiction. The Zoning Board of Appeals is hereby vested with the following jurisdiction and authority:

(1) Orders, requirements, decisions, interpretations, and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Building Inspector/Code Enforcement Officer charged with the enforcement of the Zoning Code and to that end shall have all the powers of the Building Inspector/Code Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.

(2) Use variances.

(a) The Zoning Board of Appeals, on appeal from the decision or determination of the Building Inspector/Code Enforcement Officer, shall have the power to grant use variances, as defined herein.

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

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

[3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and

[4] The alleged hardship has not been self-created.

(c) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(3) Area variances.

(a) The Zoning Board of Appeals shall have the power, upon an appeal from, or upon a decision or determination from, the Building Inspector/Code Enforcement Officer, to grant area variances as defined herein.

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

[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

[3] Whether the requested area variance is substantial;

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(c) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(4) Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Education and training policy. The Town Board of the Town of Rotterdam shall establish and maintain a policy regarding education and training requirements for all Zoning Board members.

**§ 270-178. Amendment referrals.**

In accordance with §§ 239-l and 239-m of the General Municipal Law of New York State, any amendment to this chapter which would change the district classification or regulations applying to real property or any special permit or variance or site plan authorization affecting such real property within a distance of 500 feet from the boundary of any city, village or town; the boundary of any existing or proposed county or state park or other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated shall be referred to the Schenectady County Department of Planning by the Town Board, Planning Board or the Zoning Board of Appeals, whichever is appropriate, before such body shall take final action on said amendment, special use permit or variance or site plan authorization.

**§ 270-179. Planning Board.**

[Amended 7-9-2003 by L.L. No. 9-2003; 5-24-2006 by L.L. No. 3-2006]

A. Creation and procedure.

(1) The Planning Board established under § 271 of the Town Law of the New York State shall consist of seven members appointed by the Town Board. The Town Board shall designate a member of said Planning Board to act as Chairman thereof, or, on failure to do so, the Planning Board shall elect a Chairman from its members. The terms of the members of the Planning Board shall be consistent with Town Law § 271. The Chairman or, in his absence, the Vice Chairman shall preside. The presence of four members shall constitute a quorum. A majority vote of the Planning Board members shall be necessary to decide on matters required by this chapter.

(2) All hearings shall be open to the public and duly advertised in a newspaper designated by the Town Board as to nature, time and place of the meeting. Such notice shall be no less than five days in advance of such meeting. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its findings, recommendations and actions. Every decision or determination of the Planning Board shall be filed in the office of the Town Clerk and shall be public record.

B. Planning jurisdiction. The Board is hereby vested with the following duties under this chapter:

(1) Review all applications for special use permits, site plan review and amendments to this chapter and report said findings and recommendations to the Town Board, Building Inspector/Code Enforcement Officer, Zoning Board of Appeals and/or Town Clerk in the manner prescribed by this chapter.

(2) Review the effectiveness of this chapter and report its conclusions and recommendations to the Town Board.

(3) Make investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the Town.

(4) Hear and decide matters pursuant to the subdivision rules and other applicable local laws or ordinances. Editor's Note: See Ch. 249, Subdivision of Land.

C. Education and training policy. The Town Board of the Town of Rotterdam will establish a policy regarding education and training requirements for all Planning Board members.

#### **§ 270-180. Penalties for offenses; enforcement actions.**

A. Penalties. The Town Board intends to exercise its authority under § 10, Subdivision 1(ii)(d)(3), of the Municipal Home Rule Law, and any other applicable provision of law now or hereinafter enacted, to supersede the applicable provisions of § 268, Subdivision 1, of the Town Law, and any other applicable or successor law, in order to impose a penalty and fine structure that best reflects the needs of the community. Except as set forth in Chapter 270, Article XXII, Schenectady Intermunicipal Watershed Rules and Regulations, for each violation of the provisions of this chapter, the owner, general agent, person in charge of the premises, architect, engineer and/or contractor of the building, structure or premises where such violation has been committed or exists shall be guilty of an offense punishable by a fine or penalty of not less than \$250 nor more than \$5,000 or by imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; upon conviction of a second violation, where the offense is committed within a period of five years of the first offense, a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent violation where the offense is committed within a period of five years of the first and second offense, a fine of not less than \$1,500 nor more than \$15,000 or by imprisonment for a period not to exceed six months, or both. Each day such violation continues following notification by the Town or service of a summons shall constitute a separate offense punishable in like manner. The Town Board shall have such other remedies as are allowable by law.

[Amended 7-9-2003 by L.L. No. 9-2003; 7-12-2006 by L.L. No. 7-2006]

B. Enforcement actions. The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any such ordinance, rule or regulation, notwithstanding that the ordinance, rule or regulation may provide a penalty or other punishment for such violation.

#### **§ 270-181. Complaints.**

[Amended 7-9-2003 by L.L. No. 9-2003]

Whenever a violation of this chapter occurs, any person may file a complaint. Such complaint shall be in writing and shall be filed with the Building Inspector/Code Enforcement Officer. Such complaint shall be recorded by the Building Inspector/Code Enforcement Officer, immediately investigated and a written report thereon filed with the Town Board within 30 days.

#### **§ 270-182. Compliance with SEQRA.**

The requirements of this chapter shall be applied and administered in a manner consistent with the New York State Environmental Quality Review Act (SEQRA). Editor's Note: See Environmental Conservation Law § 8-0101. No proposed action determined under SEQRA to be of environmental significance shall be approved, granted a building permit or otherwise authorized until said action has been approved by the designated SEQRA lead agency. The Town may, where practicable and appropriate, utilize the information contained in any required environmental assessment or statement in reaching a decision on an action being considered.

#### **ARTICLE XXI. Miscellaneous Provisions**

##### **§ 270-183. Interpretation of provisions.**

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, morals, safety or the general welfare.

#### **ARTICLE XXII. Schenectady Intermunicipal Watershed Rules and Regulations**

[Added 2-28-1990 by L.L. No. 6-1990]

##### **§ 270-184. Applicability.**

A. These rules and regulations herein set forth, duly made and enacted in accordance with the provisions of §§ 1100 through 1107 of the New York State Public Health Law, shall apply to the wells which comprise the sources of public water supply for the following municipal jurisdictions in Schenectady County:

- (1) Town of Rotterdam.
- (2) City of Schenectady.
- (3) Town of Glenville.
- (4) Town of Niskayuna.
- (5) Village of Scotia.

B. These rules and regulations shall apply to any lands, premises and uses within the respective protection zones created herein and shown on the Intermunicipal Watershed Rules and Regulations Schenectady Aquifer Protection Zones Map, Plate No. 2 and Plate No. 3, dated February 19, 1988, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps. Said map or series of maps, all notations or other information shown thereon are part of these rules and regulations and are located in the office of the Town Clerk of the Town of Rotterdam. These rules and regulations are intended to be superimposed upon the existing land use laws of each municipality served by the Schenectady Aquifer to augment and enhance those protective measures already in place. These rules and regulations shall in no way affect the limitations or requirements applicable in the underlying municipal land use and zoning districts.

#### **§ 270-185. Definitions.**

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

##### **ABOVEGROUND STORAGE FACILITY**

Any tank, pipe or other vessel, used singularly or in combination, at least 90% of which is above the surface of the ground and is used for the purpose of material holding, storage or containment.

##### **BOARD**

The Intermunicipal Watershed Rules and Regulations Board, comprised of the chief elected official of each of the municipal jurisdictions in Schenectady County served by the Schenectady Aquifer and established to enforce and administer these rules and regulations and to conduct the central review function of actions taking place within the designated protection zones. The Board was established by adoption of An Agreement for Intermunicipal Cooperation for an Aquifer Protection Program and was previously known as the "Watershed Committee."

**[Amended 5-8-1991 by L.L. No. 2-1991]**

##### **BULK STORAGE**

The holding or containment of dry, semidry or liquid materials in large quantities, either packaged or loose, usually dispensed in smaller quantities for sale, use or consumption.

##### **CHLORIDE SALT**

The solid compounds or solutions of potassium chloride (commonly used as fertilizer), calcium chloride (commonly used for winter road maintenance) or sodium chloride (commonly used for winter road maintenance and water softener regeneration).

##### **FERTILIZER**

Any commercially produced mixture, generally containing phosphorus, nitrogen and/or potassium, which is applied to the ground to provide nutrients to plants.

##### **FUNGICIDE**

Any substance used to destroy or inhibit fungus growth.

##### **GENERAL AQUIFER RECHARGE ZONE**

The land outside of the primary recharge zone through which runoff and precipitation flow directly and rapidly into the ground, also known as "Zone III." (See Schenectady Aquifer Protection Zones Map, Plate No. 1).

##### **GROUNDWATER**

The slowly moving subsurface water resources present in the aquifer.

##### **HAZARDOUS MATERIAL**

Any substance listed in regulations promulgated under authority of either the Federal Resource Conservation and Recovery Act (RCRA) or Comprehensive Environmental Response Compensation and Liability Act or the New York State Environmental Conservation Law, Articles 40, 27 or 37 and amendments thereto, alone or in combination, including but not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to two, alkalies with a pH greater than or equal to 12.5, radioactive substances, pathogenic or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or Toxicity Characteristic Leaching Procedure (TCLP) toxicity.

**[Amended 5-8-1991 by L.L. No. 2-1991]**

##### **HERBICIDE**

Any man-made substance used to destroy or inhibit plant growth.

##### **HUMAN EXCRETA**

Human feces and urine.

##### **LINEAR DISTANCE**

The shortest horizontal distance from the nearest point of a structure or object to the boundary of any protection zone or to the edge, margin or steep bank forming the ordinary high-water line of a waterbody.

##### **MUNICIPAL WATER PURVEYOR**

The local official or board responsible for the operation, maintenance and provision of the public water supply in each of the respective municipal jurisdictions served by the Schenectady Aquifer, also to be known as the "Director of the Department of Water and Wastewater" in the City of Schenectady, the "Superintendent of Public Works" in the Village of Scotia, the "Superintendent of Water" in the Town of Glenville, the "Commissioner of Public Works" in the Town of Niskayuna and the Town Board of the Town of Rotterdam.

**[Amended 8-28-1991 by L.L. No. 11-1991]**

##### **NONCONFORMING USE**

A building, structure or permitted use of land lawfully existing at the time of the effective date of these rules and regulations or any amendments thereto, and which does not conform to the standards and prohibitions of the protection zone in which it is situated.

**ON-SITE DISPOSAL SYSTEM**

Any system used for the disposal of sewage, "industrial waste" or "other wastes," as defined in § 17-0105 of Article 17 of the New York State Environmental Conservation Law, and including sewer systems and sewage treatment works, on a site or parcel of land.

**OPEN STORAGE**

The holding of a material in such a way which permits exposure to the elements of nature.

**PESTICIDE**

Any man-made substance used to destroy or inhibit pests such as rodents and insects.

**PRIMARY RECHARGE ZONE**

Those land areas of general aquifer recharge, also to be known as "Zone II" (see Schenectady Aquifer Protection Zones Map, Plate No. 1, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps), that contribute groundwater to the public wells, including and encompassing the Wellhead Protection Zone.

**PROTECTION ZONES**

Specific areas, also known as "Zones I through IV," that define a hierarchy of aquifer-sensitive land as designated and described herein and delineated on the Schenectady Aquifer Protection Zones Map, Plate No. 1, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps.

**RADIATION**

Ionizing radiation, that is, any alpha particle, beta particle, gamma ray, X-ray, neutron, high-speed proton and any other atomic particle producing ionization, but shall not mean any sound or radio wave or visible, infrared or ultraviolet light.

**RADIOACTIVE MATERIAL**

Any material in any form regulated as a spontaneous emission of radiation within 10 NYCRR Part 16.

**SALVAGE YARDS**

An area where two or more unregistered, old or secondhand motor vehicles are being accumulated for purposes of disposal, resale of used parts or reclaiming certain materials such as metal, gas, fabric and/or the like.

**SCHENECTADY AQUIFER**

The saturated and overlying unsaturated geologic formations generally existing in the Mohawk Valley lowland areas within the municipal boundaries of the City of Schenectady, Village of Scotia and the Towns of Rotterdam, Glenville, Niskayuna and Princetown.

[Amended 5-8-1991 by L.L. No. 2-1991]

**SEPTAGE**

Residue removed from wastewater disposal systems.

**SEWAGE**

Any liquid, semiliquid or solid human or animal waste matter from a domestic, commercial, private or industrial establishment or other place, together with such groundwater infiltration and surface water as may be present, including mixtures of sewage with industrial wastes or other wastes as defined in § 17-0105 of Article 17 of the New York State Environmental Conservation Law.

**SLUDGE**

The solid residue resulting from a municipal or industrial process of wastewater or water treatment.

**SOLID WASTE**

All putrescible and nonputrescible materials or substances discarded or rejected, including but not limited to garbage, refuse, industrial and commercial waste, sludges, ashes, contained gaseous materials, incinerator residue, demolition and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted waterborne materials.

**SOLID WASTE MANAGEMENT FACILITY**

Any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste oil storage, reprocessing, refining facilities, recyclables handling and recovery facilities and waste tire storage facilities.

**SPILL**

Any intentional or unintentional action or omission resulting in an unpermitted releasing, spilling, discharging, leaking, pumping, pouring, emitting, emptying or dumping of a petroleum product, toxic substance or any other potentially hazardous material so that such substances, products or materials may enter the environment.

**TOXIC SUBSTANCE**

Any compound or material which is or may be harmful to human health, as defined by § 4801, Subdivision 2, of the New York State Public Health Law.

**TRIBUTARY WATERSHED ZONE**

Land outside the aquifer area that contributes runoff overland and/or through surface streams for groundwater recharge, also known as "Zone IV." (See Schenectady Aquifer Protection Zones Map, Plate No. 1, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps).

**UNDERGROUND INJECTION**

The emplacement of fluids into the subsurface of the earth, including but not limited to radioactive hazardous and nonhazardous waste, and the use of this procedure for the production of oil or gas productions, the excavation of minerals or the emplacement of fluids into the subsurface of the earth, with the exception of sanitary wastewater discharges.

[Amended 5-8-1991 by L.L. No. 2-1991]

**UNDERGROUND STORAGE FACILITY**

Any tank, pipe or other vessel at least 10% of which is beneath the surface of the ground and is used for the purpose of material holding, storage or containment, except those used for public water and sewer.

**WASTE TREATMENT FACILITY**

Any facility used for the purpose of treating, neutralizing, stabilizing or disposing of sewage, but excluding small-scale septic systems and leachfields serving fewer than five residential units.

**WATERBODY**

Any river, stream, spring, pond, lake, reservoir or channel of water or any man-made culvert which flows directly into one of the aforementioned.

**WELLHEAD PROTECTION ZONE**

The surface extent of the cone of depression, immediately adjacent to the public wells, where groundwater is diverted to the public wells, also known as "Zone I." (See Schenectady Aquifer Protection Zone Maps, Plate No. 1, and the Intermunicipal Watershed Rules and Regulations Municipal Property Inventory Maps.)

**§ 270-186. General provisions.**

A. Agency actions:

(1) No state, county or local government agency having jurisdiction shall perform any act nor grant any permit or approval for any use or activity within any of the herein defined protection zones which may result in the contravention of water quality standards as set forth in regulations promulgated under authority of the New York State Public Health law § 1100 regarding sources of water supply, and the New York State Environmental Conservation Law, Article 17, Water Pollution Control, and amendments thereto.

**[Amended 5-8-1991 by L.L. No. 2-1991]**

(2) Where groundwater deterioration is likely to be caused by land development, municipal officials shall ensure that appropriate zoning or other controls are implemented to prevent groundwater contamination.

B. Accidental spills. Within any of the herein-defined protection zones, any person who is the owner of or in actual or constructive possession or control of a hazardous substance or any agent or employee thereof or any person in a contractual relationship therewith who is responsible for or has knowledge of any spill, as defined in § 270-185 above, of any petroleum, hazardous material, toxic substance or radioactive material to the ground surface or any water body, which is likely to have an adverse effect on water quality or quantity, shall notify the appropriate Municipal Water Purveyor and the New York State Departments of Environmental Conservation and Health, as described in the following Subsection B(1) and (2) of this section. The Municipal Water Purveyor shall notify all other appropriate agencies and the Board of any spill.

(1) All spills shall be reported to the appropriate Municipal Water Purveyor and the New York State Department of Environmental Conservation within two hours of such spill or as soon as knowledge of such spill is obtained and shall be addressed in accordance with the provisions of Article 12 of the Navigation Law, §§ 170 through 197, and Article 17 of the New York State Environmental Conservation Law. Cleanup of spills is the responsibility of the owners; in case of material in transit, cleanup is the responsibility of the carrier.

(2) The State Department of Health shall be advised of any spills within 12 hours.

C. SPDES permits. Within any of the herein defined protection zones, all applicants for a permit under the New York State Pollutant Discharge Elimination System (SPDES) shall simultaneously submit a copy of the application to the New York State Department of Environmental Conservation and the appropriate Municipal Water Purveyor. The Municipal Water Purveyor shall transmit a copy of this application to the Board for its information.

D. Exceptions. Exception to the rules and regulations may be granted by the Commissioner of Health after appropriate study and review, based on prior usage and unique local conditions, if, in his judgment, the health and safety of the consuming public will be protected because of treatment provided or other remedial action taken. Such exceptions shall be given to the applicant for such exception, the Municipal Water Purveyor and the Board, in writing, and only after a hearing on the question has been held.

E. Protection zone boundary adjustments.

(1) When the location of a protection zone boundary, as shown on the adopted Protection Zones Map, is in dispute by any owner or abutter affected by said boundary, the owner or abutter, at his own expense, may engage a licensed engineer or professional hydrogeologist to conduct such investigations as are necessary to determine if a discrepancy exists in the mapped boundary. The owner or abutter shall submit all pertinent findings to the appropriate Municipal Water Purveyor. The Municipal Water Purveyor shall transmit the submission to the Board. The Board shall investigate and hear evidence regarding the proposed adjustment and make a recommendation to the appropriate municipality. The appropriate municipality shall in turn hear evidence regarding the proposed boundary zone adjustment and make a recommendation to the Commissioner. The Commissioner shall act to grant, grant with conditions or deny the boundary adjustment request.

**[Amended 5-8-1991 by L.L. No. 2-1991]**

(2) All amendments and adjustments to a protection zone boundary or designation shall be officially recorded on the Intermunicipal Watershed Rules and Regulations Protection Zones Map. The Board shall transmit to the State Commissioner of Health a copy of any such recorded amendments or adjustment.

F. Nonconforming buildings, structures and/or uses.

(1) Nonconforming buildings, structures and/or uses of land may be continued subject to the owner of such building, structure or use of land demonstrating compliance with conditions set forth in Subsection F(1)(a), (b) and (c) below:

(a) Provide a written annual report with the following information submitted to and approved by the appropriate Municipal Water Purveyor:

[1] Changes in operation;

[2] Intended sale(s) of property;

[3] Results of state agencies programs, test results and audits from such programs as Petroleum or Chemical Bulk Storage, Resources Conservation and Recovery Act (RCRA), etc.; and

[4] Accidental spills (see § 270-186B).

(b) Develop and implement a plan to protect the aquifer from potential contaminations associated with land use activities.

[1] This plan must include:

[a] Restrictions or management of activities on the property.

[b] Dam/berm (revised drainage control) planned.



[c] Identification and development of operating procedures for potential pollution activities (i.e., changing oil of a car).

[d] Disposal procedure of toxic substance or hazardous material.

[2] The plan must be approved by the appropriate Water Purveyor.

(c) Should procedures described in Subsection F(1)(a) and (b) not prevent contamination of the Schenectady Aquifer or any portion thereof, the owner shall immediately cease the offending activity and shall be responsible to immediately remove the contamination of the aquifer.

(2) No nonconforming building, structure or use of land shall be enlarged, altered or extended in any manner without a site plan review and specific prior approval by the Local Water Purveyor. No nonconforming building, structure or use of land may be modified in any way which is deemed by the Local Water Purveyor to increase its threat to the groundwater or otherwise contravene the purpose and intent of these watershed rules and regulations; however, in no event shall a nonconforming building, structure or use of land be permitted to expand, enlarge or extend the capacity to store or handle any materials or substances deemed to be a threat to the Schenectady Aquifer, including but not limited to pesticides, herbicides, fungicides, fertilizers, chloride salt, septage, sewage, sludge, solid waste, hazardous materials, toxic materials or radioactive materials.

**[Amended 5-8-1991 by L.L. No. 2-1991]**

(3) In the event that any nonconforming use is discontinued for a period of six months or more, it shall permanently desist. Any new building, structure or use of land shall conform to the purposes, intent and literal provisions of these rules and regulations and any amendment thereto. A nonconforming use of land may only be changed to a conforming use of land.

**§ 270-187. Zone IV, Tributary Watershed Zone.**

A. The discharge or disposal of any hazardous material, toxic substance or radioactive materials is prohibited, except as allowed by a valid permit per regulations promulgated under authority of the New York State Environmental Conservation Law, Articles 1, 3, 8, 15, 17, 19, 23, 27, 52 and 70, and New York State Public Health Law § 225 and amendments thereto.

**[Amended 5-8-1991 by L.L. No. 2-1991]**

B. The discharge, land application, burial or disposal of any septage, sewage, animal wastes, animal remains or human excreta within 100 feet of any water body is prohibited, except as allowed by a valid permit in accordance with regulations promulgated under authority of the New York State Environmental Conservation Law, Articles 1, 3, 8, 15, 17, 19, 23, 27, 52 and 70, and the New York State Public Health Law § 225, and amendments thereto.

C. The dumping or disposing of snow or ice collected off-site from roadways or parking areas is prohibited within 100 feet of any water body.

D. The open storage of agricultural chemicals, pesticides, herbicides, fungicides and fertilizers within 100 feet linear distance of any water body is prohibited.

E. The open storage of coal or chloride salts within 100 feet linear distance of any water body is prohibited.

**§ 270-188. Zone III, General Aquifer Recharge Zone.**

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this section, all regulations and provisions applicable to Zone IV shall also apply to Zone III.

A. The construction, installation, maintenance or use of any aboveground storage facility that discharges any petroleum product, hazardous material or toxic substance into the groundwater or into any water body, except as allowed by a valid SPDES permit, is prohibited.

B. The establishment of any raw waste landfill, ash landfill, construction/demolition landfill, junkyard, salvage yard or dump is prohibited.

C. Any form of underground injection for any purpose is prohibited, with the sole exception of underground injection activities specifically and directly related to development or maintenance of water supply wells. With the exception of single-family residences, proposals to undertake water supply well development or maintenance-related underground injection require prior review and approval from the appropriate Municipal Water Purveyor.

D. The aboveground discharge, land application or disposal of any septage, sewage, sludge, animal wastes, animal remains or human excreta is prohibited.

E. The dumping or disposing of snow or ice collected off site from roadways or parking areas into or within 100 feet of any water body is prohibited.

F. The storage of pesticides, herbicides, fungicides and fertilizers for wholesale, retail or commercial agricultural purposes is prohibited unless authorization has been obtained from the New York State Department of Environmental Conservation as provided by Article 33 of the New York State Environmental Conservation Law. The open storage of such material is prohibited.

G. The bulk storage of coal or chloride salts is prohibited except in a watertight ventilated structure constructed on an impervious surface that prevents all seepage and runoff. To protect the structure's contents from exposure to the weather, all entrances without permanent doors shall be covered with a properly secured waterproof material. Any outside areas used for loading, handling or mixing shall be constructed of impervious material, sealed and diked in such a manner so as to prevent all seepage and runoff from entering the groundwater or any water body.

H. The owner of any aboveground or underground storage facility existing on the effective date of these rules and regulations shall notify the appropriate Municipal Water Purveyor and all other appropriate agencies of any leak or spill promptly upon its discovery. The owner shall

immediately undertake any such actions as may be necessary to prevent contamination of the groundwater. The Municipal Water Purveyor shall transmit this information to the Board and all other involved or interested agencies.

I. The drilling, construction, installation, discontinuance and abandonment of all individual or private water supply wells shall comply with the requirements and standards of the New York State Department of Health.

J. Any underground storage facility that is out of service for more than one year shall be removed. Any liquid residue shall be removed from the facility, and all connecting lines shall be securely capped or plugged.

K. Sanitary sewer lines, pipes and mains shall meet the tightness specifications set by the Water Pollution Control Federation. Remedial measures shall be taken by the owner if there is evidence of excessive exfiltration.

#### **§ 270-189. Zone II, Primary Recharge Zone.**

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this section, all regulations and provisions applicable to Zones IV and III shall also apply to Zone II.

A. Uses that pose a risk to groundwater quality due to associated storage, use or handling of hazardous materials or toxic substances, as defined by regulations promulgated under authority of the New York State Environmental Conservation Law, Articles 3, 17, 37 or 40, and amendments thereto, are prohibited. These uses include but are not limited to motor vehicle service or body shops; salvage yards; trucking or bus terminals; coin or commercial laundries; on-site processing relating to dry cleaning and dyeing establishments; furniture stripping and refinishing operations; printing and photographic establishments; the storage for sale of gasoline, diesel fuel, heating oil, lubricants, antifreeze, solvents or agricultural or industrial chemicals.

#### **[Amended 5-8-1991 by L.L. No. 2-1991]**

B. The commercial excavation or extraction of soils, sands and gravels, with the exception of those existing mining operations authorized by the New York State Department of Environmental Conservation under Article 23, Title 27, of the New York State Environmental Conservation Law, is prohibited.

C. The introduction into an existing on-site disposal system of any material that is potentially hazardous to groundwater quality, including but not limited to petroleum products, solvents or brines, is prohibited.

D. The establishment of any solid waste management or waste treatment facility is prohibited.

E. The installation of any underground storage facility is prohibited.

F. The interment of human or animal remains is prohibited.

G. The dumping or disposing of snow or ice collected off-site from roadways or parking areas is prohibited.

H. Approval is required from the appropriate municipal authority having jurisdiction prior to the installation of any new on-site septic disposal system or the replacement or expansion of any existing on-site septic disposal system. Conditions for approval shall include an engineering plan deemed acceptable by the Municipal Building Inspector/Code Enforcement Officer and/or Engineer, a site-specific soils analysis, verification of the site's percolation rate and inspection of the site before backfilling. A copy of the approval will be forwarded to the Water Purveyor. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

I. Approval is required from the appropriate Municipal Water Purveyor prior to the spreading, application or use of any pesticide, herbicide or fungicide for commercial agricultural purposes. Applications for approval shall include a description of the area to be covered and identification of the type and volume of the material to be used, plus a full environmental assessment of the activity's potential to contaminate the groundwater. A referral is required from the county's Soil and Water Conservation District representative and the county's Cooperative Extension Office representative prior to the spreading, application or use of any pesticides, fungicides or herbicides by any licensed applicator.

#### **[Amended 5-8-1991 by L.L. No. 2-1991]**

#### **§ 270-190. Zone I, Wellhead Protection Zone.**

Except to the extent that broader prohibitions or more stringent limitations and requirements are set forth in this section, all regulations and provisions applicable to Zones IV, III and II shall also apply to Zone I.

A. All land uses and development activities other than those directly connected with the pumping and treatment of public water supplies are prohibited, with the exception of existing single-family residences to which the relevant restrictions of these regulations shall apply.

B. The storage or handling of any septage, sewage, sludge, animal wastes, human excreta, hazardous material, toxic substances or radioactive materials, with the exception of existing single-family residences to which the relevant restrictions of these regulations shall apply and except for fuels and chemicals necessary for pumping and treatment of water supply wells, is prohibited.

C. The bulk storage of coal or chloride salts is prohibited.

D. The use of pesticides, herbicides, fungicides and fertilizers for commercial/agricultural purposes is prohibited.

E. No filling, excavation or dredging other than those activities specifically referenced in § 270-189B, is permitted in any manner without prior site plan review and specific approval by the appropriate Municipal Water Purveyor. Conditions for approval shall include certification and concurrence from the Local Water Purveyor that the activity shall not contravene water quality standards as set forth in regulations promulgated under authority of the New York State Environmental Conservation Law, Article 17, and amendments thereto, based upon an environmental assessment specifically addressing the need for the activity and its potential impact.

[Amended 5-8-1991 by L.L. No. 2-1991]

F. All other use of pesticides, herbicides, fungicides and fertilizers shall be in conformance with the application rates recommended by the Cooperative Extension Association of Schenectady.

**§ 270-191. Inspections.**

A. Each Municipal Water Purveyor, by such agents as may be charged with the maintenance or operation of the water supply system, is authorized to make reasonable and periodic inspections of all properties within the boundaries of the protection zones, consistent with all constitutional limitations, to ascertain conformance with these intermunicipal rules and regulations. Through the course of a year, the aforesaid shall make regular reports to the Board describing the results of these inspections, plus any other information relevant to the enforcement and administration of these rules and regulations.

B. Information necessary to demonstrate compliance shall be submitted at the request of the Municipal Water Purveyor. The aforesaid shall cause copies of any provisions violated to be served upon the violator, together with notices of such violations. If said violator does not immediately comply, the Municipal Water Purveyor shall take any and all appropriate remedial action and shall promptly notify the Board and the State Commissioner of Health of such violations.

C. The Board shall make annual reports to the State Commissioner of Health prior to the 30th day of January, including such information as the number of inspections, violations found, notices served, violations abated, the general condition of the resource and any other information relevant to the enforcement and administration of these rules and regulations.

**§ 270-192. Variances.**

A. Standards. An owner who experiences unnecessary hardship as a consequence of the literal interpretation of the provisions of these rules and regulations may request a hearing by the Commissioner of Health. The Commissioner may grant a variance of the requirements of the rules and regulations if the Commissioner finds that the health, welfare and safety of the consuming public will be protected. In making this determination, the Commissioner shall consider the following factors and make findings with respect to each:

- (1) Whether the use or activity to be authorized by the variance is in harmony with the purpose and intent of these rules and regulations.
- (2) Whether a substantial change will be produced in the general condition of the resource or a substantial risk to groundwater quality or quantity will be created as a result of the variance.
- (3) Whether the hardship can be alleviated by some other method that is feasible for the applicant to pursue.
- (4) After considering all permitted uses, whether the property in question cannot yield a reasonable return if used for any purpose allowed in that protection zone.
- (5) Whether the variance requested is the minimum variance necessary to afford relief. To this end, the Health Department may grant a lesser variance than that applied for.
- (6) Whether the hardship has not been created by the applicant.

B. Decision of the Commissioner. The Commissioner may request the Municipal Water Purveyor and the Board to review any application for a variance prior to reaching a determination with respect to the request. The Commissioner may impose such conditions as he may deem necessary to serve the purpose and intent of these rules and regulations.

- (1) The Commissioner shall act on all requests within 60 days of a complete variance application. Failure to act within this sixty-day period shall be deemed a denial of the application.
- (2) Every decision of the Health Department to grant, grant with conditions or deny a variance request shall be made in writing and served to the Board, the appropriate Municipal Water Purveyor and the applicant and shall include all findings made with respect to the aforementioned factors. All conditions shall be expressly set forth and the reasons for such conditions specified. Violations of the conditions of a variance shall be deemed a violation of these rules and regulations.
- (3) The issuance of a variance shall not authorize the establishment or extension of any use nor the construction of any structure but shall merely authorize the filing of an application for any permit or approval that may be required by the municipality in which such action is proposed.

C. Variance application procedure. Applications for a variance shall be submitted to the appropriate Municipal Water Purveyor in the form of a registered letter and shall contain at least the following information:

- (1) The applicant's name, address and interest in the subject property; or the owner's name and address, if different from the applicant, and the owner's signed consent to file the application.
- (2) The protection zone location, along with the street address and legal description of the subject property.
- (3) A narrative description of the proposed use or action, together with any other pertinent information that may be necessary to adequately review the application.
- (4) A sketch plan illustrating all proposed site alterations, all structures existing on site, the existing uses and zoning of adjacent parcels, site contours and drainage patterns.

(5) A statement articulating the hardship imposed by the enforcement and administration of these rules and regulations, with specific reference to the factors listed in § 270-192A of these rules and regulations.

(6) A statement assessing the potential impact on groundwater quality of the use or activity to be authorized by the waiver or variance.

**§ 270-193. Penalties for offenses.**

Any person, firm or corporation who violates any provisions of these intermunicipal watershed rules and regulations or a permit or other approval granted hereunder shall be subject to those penalties specified in § 1103 of the New York State Public Health Law. Any such violation may be enjoined subject to §§ 1104 and 1105 of the New York State Public Health Law.

**§ 270-194. Amendments.**

A. The Board, from time to time, on its own motion or on a recommendation from any community in Schenectady County served by the Schenectady Aquifer, may propose to amend, supplement or change the provisions of these rules and regulations. In proposing any amendment, supplement or change, the Board shall, in writing, state the reason for such action.

B. No amendment, supplement or change proposed by the Board shall become a valid part of these rules and regulations until it is duly adopted by resolution of the governing bodies of each of the communities in Schenectady County served by the Schenectady Aquifer, approved by the State Commissioner of Health and filed in the office of the Secretary of State.

**§ 270-195. Severability.**

In the event that any section, paragraph or part of these rules and regulations is for any reason declared invalid or held unconstitutional by the courts, every other section, paragraph and part shall continue in full force and effect.

**§ 270-196. Administrative procedures.**

**[Added 5-8-1991 by L.L. No. 2-1991]**

Procedures for the administration of these rules and regulations are contained within the Schenectady Aquifer Schenectady Intermunicipal Watershed Rules and Regulations Administrative Procedures Manual. Such administrative procedures may be revised by the Board as it deems necessary.

**ARTICLE XXIII. RA Residential Agricultural District**

**[Added 5-26-1993 by L.L. No. 9-1993]**

**§ 270-197. Regulations to apply.**

The following regulations shall apply to all RA Districts.

**II. § 270-198. Permitted uses.**

The following principal uses are permitted as of right in the RA District:

- A. Single-family dwellings.
- B. Churches or similar places of worship, parish houses, convents and community houses.
- C. Public and private schools.
- D. Firehouses.
- E. Public parks, playgrounds and other municipal recreational uses.
- F. Public libraries and museums.

**§ 270-199. Special uses.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

The following special uses may be permitted or denied subject to special use review under Article XIX of this chapter:

- A. Golf courses and accessory facilities.
- B. New York State Department of Motor Vehicles driver training classes operated by a nonprofit or municipal corporation.
- C. Care homes.
- D. Temporary accessory home-care units per Article IV, § 270-15.2.
- E. Bed-and-breakfasts.

**§ 270-200. Accessory uses.**

Accessory uses in the RA District shall be limited to the following:

- A. Private garages with no more than three stalls for the parking or storage of private automobiles subject to the provisions contained in Article XVIII.

- B. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run for gain.
- C. Permitted home occupations.
- D. Accessory parking and loading.
- E. Buildings for lawn care, gardening or maintenance of residential property.
- F. Fallout shelters.
- G. Dish antennas and permitted accessory towers.

**§ 270-201. Maximum building height.**

The maximum building height shall be three stories, not exceeding 40 feet for residential principal uses.

**§ 270-202. Lot area.**

**[Amended 11-24-1999 by L.L. No. 17-1999]**

The required minimum lot area shall be not less than 1/2 acre, with a front property line minimum of 100 feet.

**§ 270-203. Lot coverage.**

Lot coverage shall not exceed 40% percent.

**§ 270-204. Yard requirements.**

- A. Front yard depth shall be 25 feet.
- B. Side yard width shall be not less than 10 feet.
- C. Rear yard depth shall be not less than 25 feet, except that a detached garage may be built five feet from the rear and side property lines.

**§ 270-205. Parking.**

Off-street parking requirements applicable in the RA District are set forth in § 270-149 of this chapter.

**§ 270-206. Additional uses.**

For additional regulations relative to specific uses, see Article XVIII.

**ARTICLE XXIV. Conservation Advisory Council**

**[Added 1-12-2000 by L.L. No. 1-2000]**

**§ 270-207. Legislative intent.**

The preservation and improvement of the quality of the natural and man-made environment within the Town of Rotterdam, in the face of population growth, urbanization, and technologic change with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare and economic well-being of present and future inhabitants and require forthright action by the governing board of the Town of Rotterdam. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and the natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the Town of Rotterdam working in partnership with local and state officials and with various public and private industries, agencies and organizations, establishment of a Conservation Advisory Council is a necessary step in fostering unified action on environmental problems.

**§ 270-208. Membership; terms of office.**

- A. The Council shall consist of seven members, all of whom shall be appointed by the Town Board of the Town of Rotterdam and who shall serve at its pleasure. Persons residing within the Town of Rotterdam who are interested in the improvement and preservation of our environment shall be eligible for appointment as a member of the Council. Vacancies on the Council shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term. Three of the members appointed shall hold office for a term of one year; the second four members appointed shall hold office for a term of two years; the successors of all seven initial appointees shall be appointed for full terms of two years.
- B. The Town Engineer, or anyone designated by the Town Engineer, shall be an ex officio, nonvoting member.

**§ 270-209. Officers, meetings and committees.**

At the first meeting of the Council, its members shall elect from among themselves a Chairperson and a Recording Secretary. The Council shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 270-210 of this article.

**§ 270-210. Powers and duties of Council.**

The powers and duties of the Council shall be to:

- A. Advise the Town Board of the Town of Rotterdam on matters affecting the preservation, development and use of the natural and man-made features and conditions of the Town insofar as beauty, quality, biologic integrity and other environmental factors are concerned and in the case of man's activities and developments, with regard to any major threats posed to environmental quality, so as to enhance the long-range value of the environment to the people of the town.

B. Develop and, after receiving general approval by resolution of the Town Board, conduct a program of public information in the community which shall be designed to foster increased understanding of the nature of environmental problems and issues and support for their solutions.

C. Conduct studies, surveys and inventories of the natural and man-made features within the Town of Rotterdam and such other studies and surveys as may be necessary to carry out the general purposes of this article.

D. Maintain an up-to-date inventory or index of all open spaces in public or private ownership within the municipality, including but not limited to natural landmarks, glacial and other geomorphic or physiographic features; streams and their floodplains, swamps and marshlands; other wetlands; unique biotic communities; and scenic and other open areas of natural or ecological value, and of the ownership, present use and proposed use of such open areas, so as to provide a base of information for recommendations by the Council for their preservation and/or use.

E. Seek to coordinate, assist and unify the efforts of private groups and individuals within the Town of Rotterdam in accord with the purposes of this article.

F. Act as liaison and maintain communications with public and private agencies and organizations of local, state and national scope whose programs and activities have an impact on the quality of the environment or who can be of assistance to the Council. The Chairperson of the Rotterdam Conservation Advisory Council shall be the voting member of the Schenectady County Environmental Conservation Advisory Council.

G. Working in cooperation with the Planning Board, recommend from time to time to the Town Board features, plans and programs relating to environmental improvement for inclusion in the Master Plan of the Town of Rotterdam and, similarly, recommend to the Town Board appropriate and desirable changes in existing local laws and ordinances relating to environmental control or recommend new local laws and ordinances. The Council shall also interface with the Planning and Zoning Boards and make recommendations to them on environmental aspects of contemplated changes of zoning or land use.

H. Prepare, print and distribute books, maps, charts and pamphlets in accordance with the purposes of this article.

I. Obtain and maintain in orderly fashion maps, reports, books and other publications to support the necessary researches of the Council into local environmental conditions.

J. When authorized by resolution of the Town Board, the Council may accept, by gift, grant, devise, bequest or otherwise, property both real and personal in the name of the Town of Rotterdam, as may be necessary to conserve and otherwise property utilize open spaces and other land and water resources within the boundaries of the Town of Rotterdam.

K. Carry out such other duties as may be assigned from time to time by the Town Board and to carry out such tasks or responsibilities, consistent with the objectives of Article 12-F of the General Municipal Law, as may be assigned by resolution of the Town Board.

#### **§ 270-211. Reports.**

The Council shall submit an annual report to the Town Board, not later than the first day of April of each year, concerning the activities and work of the Council and from time to time shall submit such reports and recommendations as may be necessary to fulfill the purposes of this article.

#### **§ 270-212. Compensation and expenses.**

The members of the Council, including ex officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available thereof. The Council may prepare and submit an annual budget request in writing to the Town Board to defray expenses for professional staff, consultants, clerical assistants and printing and distribution of publications.

#### **§ 270-213. Construction.**

This article shall be deemed an exercise of the powers of the Town of Rotterdam to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This article is not intended and shall not be deemed to impair the powers of any other public corporation.

### **ARTICLE XXV. Supplemental Regulations**

**[Added 8-8-2001 by L.L. No. 9-2001]**

#### **§ 270-214. Adult entertainment uses.**

A. Findings and legislative intent.

(1) It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics under certain circumstances, which produce a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The Town Board of the Town of Rotterdam finds it in the public interest to enact these regulations. The purpose of these regulations is to prevent or lessen the secondary effects of adult entertainment uses, and not to inhibit freedom of speech.

(2) The unrestrained proliferation and inappropriate location of such businesses is inconsistent with existing development and future plans for the Town of Rotterdam in that they often result in influences on the community which increase the crime rate and undermine the economic and social welfare of the community. The deleterious effects of these businesses change the economic and social character of the existing community and adversely affect existing businesses and community and family life.

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

#### **ADULT ENTERTAINMENT USES**

(1) **ADULT BOOK AND/OR VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, periodicals or other printed matter or photographs, films, videos, slides or other visual representations, which are

characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities which are for sale, rental or viewing on or off the premises.

(2) **ADULT ENTERTAINMENT CABARET** — A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters or waitresses, male or female impersonators, lingerie models or exotic dancers, or other similar entertainment or films, motion pictures, videos, slides or other photographic material, or which utilizes employees who, as part of their employment, regularly expose patrons to specified sexual activities or specified anatomical areas.

(3) **ADULT THEATER** — A theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.

(4) **ADULT MOTION PICTURE THEATER** — Any motion-picture theater where, for any form of consideration, films, motion pictures, videocassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(5) **MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths or steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

(6) **ADULT MODEL STUDIO** — Any place where a person who appears in a state of nudity or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

(7) **PEEP SHOWS** — A theater which presents materials distinguished or characterized by primary emphasis on matters depicting, describing or relating to specified sexual activities or specified sexual anatomical areas, in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged.

#### **SPECIFIED ANATOMICAL AREAS**

(1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

(2) Human male genital in a discernible turgid state even if completely and opaquely covered.

#### **SPECIFIED SEXUAL ACTIVITIES**

(1) Human genitals in a state of sexual stimulation or arousal; or

(2) Acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or breasts.

C. Location restrictions. Notwithstanding Chapter 217 of the Rotterdam Code, adult entertainment uses shall be permitted only in Industrial Zoning Districts known as "Duanesburg Road, Rotterdam, New York," Tax Identification Numbers 58.00-1-200./1, 58.00-1-200./3, 58.00-1-2.2, 48.18-7-35, 48.18-7-36, 48.18-7-37, 48.18-7-38, 48.18-7-39, and subject to the following restrictions:

(1) Adult entertainment uses are prohibited within:

(a) Five hundred feet of any zoning district which is zoned to allow residential use.

(b) Five hundred feet of any single-family, two-family or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes.

(c) Five hundred feet of any public or private school.

(d) Five hundred feet of any church or other religious facility or institution.

(e) Five hundred feet of any public park, public bike path, playground or playing field, cemetery, civic or recreational facility.

(2) No adult entertainment use shall be allowed within 500 feet of another existing adult entertainment use.

(3) No more than one adult entertainment use shall be located on any lot.

(4) The distances provided hereinabove shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment use is to be located to the nearest point of the parcel of property or the land use district boundary line from which the adult entertainment use is to be separated.

#### **D. Other restrictions.**

(1) No adult entertainment use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not containing an adult entertainment use. This provision shall apply to any display, decoration, sign, show, window or other opening.

- (2) There shall be no outdoor sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment.
- (3) Adult entertainment uses shall obtain site plan approval from the Planning Board in accordance with Chapter 270, Article XVII, of the Zoning Code.
- (4) Adult entertainment uses shall meet all other regulations of the Town of Rotterdam, including but not limited to district lot and bulk regulations, parking regulations and signage.
- (5) It shall be unlawful to operate an adult entertainment use between the hours of 12:00 midnight and 8:00 a.m.

#### **ARTICLE XXVI. Erosion and Sediment Control**

**[Added 4-27-2005 by L.L. No. 9-2005]**

##### **§ 270-215. Requirements and regulations.**

###### **A. Findings and legislative intent:**

- (1) Uncontrolled drainage and runoff associated with land development activity has a significant impact upon the health, safety and welfare of the community.
- (2) Eroded soil endangers water resources by reducing water quality and causing the silting of streams, lakes and other water bodies, adversely affecting aquatic life.
- (3) Stormwater runoff and sediment transports pollutants such as heavy metals, hydrocarbons, nutrients and bacteria to water resources, degrading water quality.
- (4) Eroded soil necessitates repair and accelerates the maintenance needs of stormwater management facilities.
- (5) Clearing, grading and altering natural topography during construction tends to increase erosion.
- (6) Improper design and construction of drainage facilities can increase the velocity of runoff, thereby increasing stream bank erosion and sedimentation.
- (7) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- (8) Improperly managed stormwater runoff can increase the incidence of flooding and the severity of floods that occur, endangering property and human life.
- (9) Substantial economic losses can result from these adverse impacts.
- (10) Stormwater runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of land development activities.

**B. Purpose.** The purpose of this article is to safeguard persons, protect property, and prevent damage to the environment in the Town of Rotterdam, New York. This article will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other land development activity. This article seeks to meet these purposes by achieving the following objectives:

- (1) Minimize soil erosion and sedimentation on streams, water bodies, and neighboring properties.
- (2) Avoid excessive and/or unnecessary tree and vegetation removal.
- (3) Minimize air quality degradation that can occur as a result of windblown soil associated with properties being cleared and graded for development.
- (4) Maintain the integrity of watercourses and sustain their hydrologic functions.
- (5) Prevent increases in the magnitude and frequency of stormwater runoff to prevent an increase in flood flows and the hazards and costs associated with flooding.
- (6) Prevent decreases in groundwater recharge and stream base flow to maintain aquatic life, assimilative capacity, and water supplies.
- (7) Facilitate the removal of pollutants in stormwater runoff to perpetuate the natural biological function of water bodies.

**C. Statutory authority.** In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Rotterdam has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of Rotterdam and for the protection and enhancement of its physical environment. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.



D. Applicability. Unless specifically exempted in Subsection D(1) below, no person, corporation, or other legal entity shall engage in land clearing activity or grading in the Town without having received a site development permit from the Town of Rotterdam Department of Public Works (DPW). Depending upon the project, this permit may also require approval of a stormwater pollution prevention plan (SWPPP).

**[Amended 3-11-2009 by L.L. No. 2-2009]**

(1) No SWPPP is required by this Code for the following exempt activities:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Agricultural operations conducted as a permitted principal or accessory use.
- (c) Construction activities on property used for agriculture or silviculture involving a disturbance of less than five acres.
- (d) Mining, as defined as any activity regulated by the New York State Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).
- (e) The renovation/replacement of a septic system serving an existing dwelling or structure.
- (f) Lawn and landscaping maintenance on developed properties unless such activity meets the definition of "major project" or "minor project" under this Code.
- (g) Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- (h) Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management and/or MS4 Coordinator.
- (i) Cemetery graves.
- (j) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles.

(2) Applicants must also obtain all other permits required by state, federal, and local laws. Whenever the particular circumstances of a proposed land development activity require compliance with special use, site plan, or subdivision procedures of the Town of Rotterdam, the Planning Commission should make every effort possible to integrate the requirements prescribed herein as appropriate and determine the adequacy of the SWPPP.

**E. Review and approval.**

(1) No application for a land development activity permit, special permit or site plan approval shall be approved until the appropriate board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications contained herein.

**[Amended 3-11-2009 by L.L. No. 2-2009]**

(2) For land development activity not subject to special permit, site plan, or subdivision requirements, the Stormwater Management Officer and/or his or her designee shall review the SWPPP to determine its completeness and conformance with the provisions herein. Within 30 days of receipt of a SWPPP, the Stormwater Management Officer and/or his or her designee shall make a determination as to whether it is complete. If it is deemed not complete, the Stormwater Management Officer and/or his or her designee shall notify the applicant in writing as to the deficiencies in the plan and the requirements for completeness. Within 30 days after receiving a complete plan, the Stormwater Management Officer and/or his or her designee, shall, in writing:

- (a) Approve the permit application;
- (b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
- (c) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(3) Failure of the Stormwater Management Officer and/or his or her designee to act on a complete original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the Town. Pending preparation and approval of a revised plan, land development activities shall not be allowed to proceed. Nothing herein shall relieve an applicant's need to obtain a building permit or other approvals as required by the Town Code.

**[Amended 3-11-2009 by L.L. No. 2-2009]**

(4) For projects subject to special permit, site plan, or subdivision requirements, the DPW shall refer the application to the Town Planning Commission for incorporation into the required review process. The Stormwater Management Officer and/or his or her designee shall determine the completeness of the SWPPP. For projects subject to subdivision requirements, preliminary approval shall not be granted until the Planning Commission has received a SWPPP prepared in accordance with the specifications contained herein.

(5) In its review of the plan, the Stormwater Management Officer may consult with the Town Designated Engineer, the Schenectady County Soil and Water Conservation District, the New York State Department of Environmental Conservation, or any other appropriate agency or firm qualified in the review and/or design of stormwater management and erosion control plans.

F. Stormwater Pollution Prevention Plan contents.

(1) The SWPPP shall include the following:

- (a) A written narrative identifying the project's scope, including the location, type and size of the project.
- (b) A site map/construction drawing(s) for the project, including 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; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of stormwater discharge(s). The specific location(s), size(s), and length(s) of each erosion and sediment control practice shall also be shown. The site map should be at a scale no smaller than one inch equals 100 feet.
- (c) A natural resources map identifying existing vegetation; on-site and adjacent off-site surface water(s), wetlands, and drainage patterns that could be affected by the construction activity; and existing and final slopes.
- (d) A description of soil(s) present at the site along with any existing data that describes the stormwater runoff characteristics at the site.
- (e) A construction phasing plan describing the intended sequence of construction activities including clearing, excavation and grading; utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation. Consistent with the New York Standards and Specifications for Urban Erosion and Sediment Control, most current version or its successor, there shall not be more than five acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation.
- (f) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges.
- (g) A 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.
- (h) A description of the 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. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (i) The dimensions, material specifications (e.g., seeding mixtures and rates, types of sod, kind and quantity of mulching) and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
- (j) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
- (k) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices, including estimates of the cost of maintenance.
- (l) A delineation of SWPPP implementation responsibilities for each part of the site.
- (m) A description of structural practices 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.

(2) For major projects, the following shall also be provided:

- (a) A site map/construction drawing(s) of each postconstruction stormwater practice including a description of each postconstruction stormwater control practice, including specific location(s) and size(s), dimensions, material specifications and installation details. The New York State Stormwater Management Design Manual, most current version or its successor, shall serve as the technical design standard. Deviations from this Design Manual are permitted subject to review and approval by the New York State Department of Environmental Conservation within 60 business days of receipt of a completed notice of intent (NOI).
- (b) A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.
- (c) A comparison of postdevelopment stormwater runoff conditions with pre-development conditions.
- (d) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater control practice.

G. Plan certification.

- (1) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer. The SWPPP must be signed by the professional preparing the plan, who shall make the following certification:
- (2) For major projects, the licensed/certified professional, or his or her designee, who prepared the SWPPP shall be on site upon commencement of clearing and grading, and shall certify that all erosion and sediment control measures have been installed in accordance with the plan. Such certification shall be submitted to the Town of Rotterdam Stormwater Management Officer. In addition, a licensed/certified professional shall be on site on all days when construction or grading activity takes place.

H. Contractor certification. The SWPPP must clearly identify the contractor(s) and subcontractor(s) that will implement each stormwater and erosion control measure. All contractors and subcontractors identified in the SWPPP shall sign a copy of the following certification statement before undertaking any land development activity:

I. SWPPP review and amendment.

(1) The permittee shall amend the SWPPP whenever there is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP as determined by the licensed/certified professional, the Stormwater Management Officer and/or his or her designee, or the NYS Department of Environmental Conservation.

(2) The SWPPP shall be amended if it proves to be ineffective in:

(a) Eliminating or significantly minimizing pollutants from sources identified in the SWPPP; or

(b) Achieving the general objectives of controlling pollutants in stormwater discharges from permitted construction activity.

(3) Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP. Amendments to the SWPPP shall be processed and approved or disapproved in the same manner as in Subsection E of this section by written authorization to the permittee.

J. Design and performance standards.

(1) In general, wetlands, watercourses and natural drainage channels should not be filled, graded or altered. When protection of wetlands, trees, steep slopes or other environmentally sensitive area is required, the location shall be shown on the erosion control plan and the method of protection during construction identified (e.g., silt fence, construction fence, stakes, etc.).

(a) A vegetative buffer (25 feet minimum) shall be maintained between disturbed areas and protected federal designated wetlands. The twenty-five foot buffer shall not be disturbed without special use permit approval as provided by Article XIX of this chapter.

(b) A vegetative buffer (100 feet minimum) shall be maintained between disturbed areas and protected state designated wetlands. The one-hundred-foot adjacent area shall not be disturbed without special use permit approval as provided by Article XIX of this chapter and any applicable approvals/permits as required by the NYS Department of Environmental Conservation.

(c) A watercourse buffer shall not be disturbed without special use permit approval as provided by Article XIX of this chapter.

(2) Grading, erosion, and sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the New York Standards and Specifications for Erosion and Sediment Control published by the Empire State Chapter of the Soil and Water Conservation Society. For the design of postconstruction structures, the technical standards are currently detailed in the publication "New York State Storm water Management Design Manual, published by the Department of Environmental Conservation.

(3) Cut-and-fill slopes shall be no greater than 2:1, except where retaining walls, structural stabilization or other methods acceptable to the Department of Public Works and/or Town Designated Engineer are used. Disturbed areas shall be restored as natural appearing landforms, and shall blend in with the terrain of adjacent undisturbed land. Abrupt, angular transitions shall be avoided.

(4) Clearing and grading shall be substantially confined to designated building envelopes, utility easements, driveways, and parking footprint. Clearing and grading techniques that retain natural vegetation and drainage patterns, as described in the most recent version of Standards and Specifications for Erosion and Sediment Control referenced above shall be used to the satisfaction of the responsible board. No clearing or grading shall take place within the established fifty-foot watercourse buffer area except to provide road crossings where permitted.

(5) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(6) Phasing shall be required on all sites disturbing greater than 20 acres, with the size of each phase to be established at plan review and as approved by the Town Planning Commission (if applicable), the Stormwater Management Officer, and/or his or her designee. There shall not be more than five acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation.

(7) The permittee shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:

(a) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;

(b) Where construction activity on a portion of the site is temporarily ceased, and earth-disturbing activities will be resumed within 21 days, temporary stabilization measures need not be initiated on that portion of the site.

(8) The mere parking and moving of construction vehicles around the site does not constitute construction or earth-disturbing activity. If the permittee is not diligently pursuing the project toward completion as determined by the Stormwater Management Officer or designated agent, he/she may issue a notice of violation and stipulate that the stabilization measures as outlined above shall be undertaken to prevent site erosion.

(9) If seeding or another vegetative erosion control method is used, it shall become established within 14 days or the applicant may be required to reseed the site or use a nonvegetative option.

(10) Special techniques that meet the design criteria outlined in the most recent version of Standards and Specifications for Erosion and Sediment Control shall be used to ensure stabilization on steep slopes or in drainageways.

(11) Soil stockpiles must be stabilized or covered at the end of each workday.

(12) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(13) Techniques that divert upland runoff past disturbed slopes shall be employed.

(14) Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with sediment controls.

(15) Stabilization shall be adequate to prevent erosion located at the outlets of all pipes and paved/rip-rap channels.

(16) Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(17) Development should relate to site conditions and disturbance of steep slopes avoided. Grading should be minimized by utilizing the existing topography whenever possible. Roads and driveways shall follow the natural topography to the greatest extent possible.

(18) In areas of severe slopes (exceeding 25%), land-disturbing activities are not permitted unless approved by a licensed professional civil engineer. A twenty-five-foot buffer must be maintained between any disturbed area and the top of slopes 25% and greater unless approved by a licensed professional Civil Engineer

K. Water quality standard. Any land development activity shall not result in:

(1) An increase in turbidity that will cause a substantial visible contrast to natural conditions;

(2) An increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses; or

(3) Residue from oil and floating substances, nor visible oil film, or globules of grease.

L. Erosion and sediment control inspection.

(1) The Town of Rotterdam's Stormwater Management Officer and/or his or her designated agent may require such inspections as necessary to determine compliance with this article 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 article and the SWPPP as approved. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least 48 hours before the following as required by the SWPPP:

(a) Start of construction and initial installation of sediment and erosion controls.

(b) Installation of sediment and erosion measures as site clearing and grading progresses.

(c) Completion of site clearing.

(d) Completion of rough grading.

(e) Completion of final grading.

(f) Close of the construction season.

(g) Completion of final landscaping.

(h) Successful establishment of landscaping in public areas.

(2) 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. Corrective actions may include, but are not limited to, the repair and/or restoration of off-site impacts. Depending upon the severity of the violation, in certain circumstances, 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 Town of Rotterdam's Stormwater Management Officer and/or designated agent.

(3) The operator shall have a qualified professional conduct an assessment of the site prior to the start of construction and certify in an inspection report that the appropriate erosion and sediment controls described in the SWPPP have been adequately installed or implemented to ensure overall preparedness of the site. Following the start of construction, site inspections shall be conducted by a qualified professional at least every seven calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. During each inspection, the qualified professional shall record the following information:

(a) On a site map, indicate the extent of all disturbed site areas and drainage pathways. Indicate site areas that are expected to undergo initial disturbance or significant site work within the next fourteen-day period.

(b) Indicate on a site map all areas of the site that have undergone temporary or permanent stabilization;

(c) Indicate all disturbed site areas that have not undergone active site work during the previous fourteen-day period;

(d) Inspect all sediment control practices and record the approximate degree of sediment accumulation as a percentage of the sediment storage volume;

(e) Inspect all erosion and sediment control practices and record all maintenance requirements such as verifying the integrity of barrier or diversion systems and containment systems. Identify any evidence of rill or gully erosion occurring on slopes and any loss of stabilizing vegetation or seeding/mulching. Document any excessive deposition of sediment or ponding water along barrier or diversion systems. Record the depth of sediment within containment structures, any erosion near outlet and overflow structures, and verify the ability of rock filters around perforated riser pipes to pass water, and

(f) All deficiencies that are identified with the implementation of the SWPPP.

(4) A copy of the NOI and a brief description of the project shall be posted at the construction site in a prominent place for public viewing. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the beginning of construction activities to the date of final stabilization. The SWPPP and inspection reports are public documents that the operator must make available for inspection, review and copying by any person within five business days of the operator receiving a written request by such person to review the SWPPP and/or the inspection reports. Copying of documents will be done at the requester's expense.

(5) The operator shall maintain a record of all inspection reports in a site log book. The site log book shall be maintained on-site and be made available to the Town upon request. The operator shall post at the site, in a publicly accessible location, a summary of the site inspection activities on a monthly basis.

(6) Any employee of the Department of Public Works, the Stormwater Management Officer, or the Town's designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Subsection L(3) above.

#### M. Inspections of stormwater management practices (SMP).

(1) The Stormwater Management Officer or designated agent is responsible for conducting inspections of stormwater management structures and practices. All operators are required to submit as-built plans certified by a licensed/certified professional for any permanent stormwater management practices located on-site after final stabilization. [NOTE: Final stabilization" means that all soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches, or geotextile mats) have been employed on all unpaved areas and areas not covered by permanent structures.] Operators shall also provide the owner(s) of such structure(s) with a manual describing the operation and maintenance practices that will be necessary in order for the structure to function as designed. The operator must also certify that the permanent structure(s) have been constructed as described in the SWPPP. This certification may be able to be accomplished by providing to the Town of Rotterdam a copy of the notice of termination (NOT) filed with the NYSDEC.

(2) All certified as-built plans, lands, structures, and/or appurtenances to be dedicated to the Town of Rotterdam shall be reviewed, inspected and approved by the Town Stormwater Management Officer or designated agent prior to acceptance by the Town of Rotterdam.

(3) Upon certification by the operator's licensed/certified professional that a final site inspection has been conducted and that final stabilization has been accomplished and all stormwater management practices have been constructed as described in the SWPPP, the operator shall complete and file a notice of termination as prescribed by the NYSDEC and file a copy with the Town of Rotterdam to notify it that he or she have complied with this section and that the project is complete.

N. 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; 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 facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

#### O. 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 of Rotterdam in its approval of the stormwater pollution prevention plan, the Town of Rotterdam 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 of Rotterdam as the beneficiary. The security shall be in an amount determined by the Town of Rotterdam 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 of Rotterdam, provided that such period shall not be less than one-year from the date of final acceptance or such other certification that the facilities have 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.

(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 of Rotterdam 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 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 of Rotterdam may require entities subject to this article to maintain records demonstrating compliance with this article.

#### P. Retention of licensed/certified professional; payment.

(1) The Town Planning Commission and/or DPW is hereby authorized to retain licensed/certified professionals as are determined to be necessary to carry out the review of an SWPPP or to make regular inspections of all control measures in accordance with the approved plan.

(2) Payment for the services of such professionals is to be made from funds deposited by the applicant with the Town in escrow accounts for such purposes.

(3) It shall be the responsibility of the applicant to submit to the Town certified check(s) in amounts equal to the estimate of the licensed/certified professional for the cost of services to be rendered. Estimates shall reflect reasonable costs at prevailing rates. The Town shall make payments to said professional for services rendered to it upon acceptance by the Town of said service.

**Q. Enforcement and penalties.**

(1) The operator and all contractors and subcontractors must comply with all conditions of a SWPPP issued pursuant to this article. In the event that a permit holder violates the terms of the SWPPP or implements site development in such a manner as to adversely affect the health, safety, or welfare of the public, the Building Inspector/Code Enforcement Officer or Stormwater Management Officer may issue a stop work order. In addition, the Building Inspector/Code Enforcement Officer or Stormwater Management Officer may issue a stop-work order for violations of this article. 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 of Rotterdam 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 penalties in accordance with the enforcement measures authorized in this article.

(2) The Building Inspector/Code Enforcement Officer or Stormwater Management Officer may notify the permittee at any time that the SWPPP does not meet one or more of the requirements herein. Such notification shall identify those provisions of the permit that are not being met by the SWPPP and identify which provisions of the SWPPP require modifications in order to meet the minimum requirements of the permit. Within seven days of such notification (or as otherwise provided by the Town), the permittee shall make the required changes to the SWPPP and shall submit to the Town a written certification that the requested changes have been made.

(3) Any violation of this article shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both. Each day the violation exists shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be required to bear the expense of any restoration work required. To the extent that the noncompliance with this article constitutes a violation of the Clean Water Act and the Environmental Conservation Law, there are substantial criminal, civil, and administrative penalties.

(4) If any building or land development activity is installed or conducted in violation of this article, the Town Building Inspector/Code Enforcement Officer or Stormwater Management Officer may prevent the occupancy of said building or land.

(5) 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 of Rotterdam Building Inspector/Code Enforcement Officer or Stormwater Management officer may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

R. Severability. The provisions and sections of this article shall be deemed to be severable, and the invalidity of any portion of this article shall not affect the validity of the remainder.

**ARTICLE XXVII. Swimming Pools**

**[Added 7-12-2006 by L.L. No. 8-2006]**

**§ 270-216. Yard and property line requirements.**

A. Side and rear yard. Side and rear yard property line requirements shall be as follows:

(1) Above ground pools, including decking: not less than 10 feet from side and rear property lines.

(2) In-ground pools: not less than 10 feet from side and rear property lines.

(3) Pool filters and associated equipment shall be situated not less than 10 feet from side and rear property lines.

B. Distance from principal structure. Above ground and in-ground pools shall be situated at least 10 feet from the principal structure on the lot.

C. Distance from septic system.

(1) Above ground and in-ground pools shall be situated a minimum of 10 feet from the septic tank.

(2) Above ground and in-ground pools shall be situated a minimum of 10 feet from the leach field and/or dry well.

D. Corner lots. The placement of a swimming pool on a corner lot shall be permitted; a swimming pool is allowed to encroach 10 feet into the front yard but must maintain all other required setbacks.

**§ 270-217. Fencing.**

A. Pool to be inaccessible to children. Every person owning or leasing land on which there is situated an in-ground swimming pool containing 18 inches or more in depth at any point shall erect and maintain thereon an adequate enclosure, either surrounding the property or pool area, sufficient to make such body of water inaccessible from the outside to small children.

B. Pools shall be protected by a fence, wall, building, enclosure or solid wall of durable material, of which the pool itself may be constructed, or any combination thereof. Artificial barriers shall be constructed so as to afford no external handholds or footholds, of materials that are impenetrable by toddlers, at least four feet in height so that a small child cannot grasp its top by jumping or reaching and equipped with a self-closing and positive self-latching closure mechanism at a height above the reach of small children, and provided with hardware for permanent locking.

**§ 270-218. Soundproofing of filters.**

Pool filters should have the necessary soundproofing around the filter motor itself so as to restrict unreasonable sounds and contain the noise emanating from the motor to a limit within the immediate area of the filter and not to exceed, in any event, an unreasonable noise level beyond the property limits of the pool owner.

**§ 270-219. (Reserved)**

**ARTICLE XXVIII. Critical Impact Uses and Critical Impact Permits**

**[Adopted 11-8-2006 by L.L. No. 16-2006]**

**§ 270-220. Purpose.**

A. Certain land use activities may have an unreasonably detrimental effect on other structures or uses, actual or permitted, within the Town. The land use activities defined in this article as critical impact uses are hereby declared to be land use activities which have the potential of having an unreasonably detrimental effect either against structures or uses adjacent to or in close proximity to the site of such critical impact use or, in a few instances, against structures and uses throughout the Town.

B. A land use activity defined in this article as a critical impact use shall not be considered as a permitted use in a district unless this chapter designates such critical impact use as a permitted use within such district and unless a critical impact permit for such critical impact use is granted by the Town Board pursuant to this article.

C. Any critical impact use which is designated as a permitted use within the district where it is located and for which a critical impact permit shall have been granted shall be deemed a use permitted in the district where located, except that a separate critical impact permit from the Town Board shall be required prior to any addition to or enlargement of such critical impact use. No critical impact permit shall be issued for such critical impact use except as provided in this article, and any critical impact permit issued pursuant to this article shall affect only the building or premises for which it shall have been granted.

**§ 270-221. Determination of critical impact use.**

Any new land use activity, or the redevelopment of an existing activity with the proposed changes involving the following, shall be hereby defined as a critical impact use:

- A. The creation or addition of the use of a floor area (cumulative of all floors) in excess of 100,000 square feet contained in all structures associated with the use.
- B. The use of a structure exceeding 60 feet in height, except cell towers.
- C. The creation or addition of employment of more than 50 persons at maximum shift.
- D. The creation or addition of over 75 dwelling units.
- E. The creation or addition of any use providing a maximum seating capacity in excess of 200 persons.
- F. The creation or addition of any use requiring more than 500 off-street parking spaces.
- G. Any use which would cause estimated sewer flows in excess of 15,000 gallons per day.

**§ 270-222. Applicability.**

A. General. The provisions of this article shall apply to all land use activities defined as critical impact uses pursuant to the provisions of this article, except that they shall not apply to applications on file with the Town prior to the enactment of this article.

B. Conditional uses. Notwithstanding any other provision of this chapter, a conditional use which is also a critical impact use as defined in this article shall not be deemed to be a use permitted in a district until both a special use permit is granted by the Planning Commission pursuant to Article XIX of this chapter and a critical impact permit is issued by the Town Board pursuant to this article with respect to such conditional use.

C. Existing uses.

(1) In general. Except as otherwise provided herein, existing uses may continue to be used and improved without restriction.

(2) Existing uses subject to this article. Notwithstanding any other provisions of this article, the lawful use of any building, structure or land existing at the date of adoption of this chapter may be continued even though such use would constitute a critical impact use as defined in this article.

**§ 270-223. Critical impact permits.**

A. General. All critical impact uses permitted pursuant to the provisions of this chapter in a district upon the issuance of a critical impact permit shall be subject to the jurisdiction of the Town Board.

B. Application. An application for a critical impact permit to permit the erection, alteration or use of a building, structure or premises for a critical impact use permitted upon the issuance of a critical impact permit in the district in which said building, structure or premises is currently located or is proposed to be located shall be submitted to the Town Board.

C. Information required to accompany application. No application for a critical impact permit shall be deemed complete unless it shall contain all the information required by Article XVII of this chapter, together with any other information which the Town Board shall deem pertinent or useful in determining whether the proposed critical impact use meets the requirements of this chapter. Other information that may be required includes, but is not limited to, the following:

(1) Economic impact analysis.

(a) Such a report may be reviewed by consultants as deemed appropriate and necessary by the Town Board, the cost of which shall be borne by the applicant.

(b) The report, at a minimum, shall identify whether:

[1] Efforts to establish a market larger than 100,000 square feet within the township have been unsuccessful or whether the proposed use will have an adverse impact or economic benefit on grocery or retail shopping centers in the township;

[2] The proposed project would result in the physical displacement of any businesses and, if so, the nature of the displaced businesses or would create economic stimulation in the township;

[3] The proposed project would require the demolition of any housing, or any other action or change that results in a decrease of extremely-low-, very-low-, low- or moderate-income housing on site;

[4] The proposed project would result in the destruction or demolition of any park or other green space, playground, child-care facility, or community center;

[5] The proposed project would provide lower in cost and/or higher in quality goods and services to residents than currently available or that are currently unavailable from a cost benefit perspective within the township in which the project is proposed to be located;

[6] The proposed project would displace jobs within the township or provide economic revitalization and/or job creation. For purposes of determining this impact, the applicant must identify the number of jobs displaced or created, the quality of the jobs, whether the jobs are temporary or permanent, and the employment sector in which the lost jobs are located;

[7] The proposed project would have a fiscal impact either positive or negative on Town tax revenue;

[8] Any restrictions exist on the subsequent use of the property on which the proposed project is proposed to be located, including the provisions of a lease if applicable, which, in the event the owner or operator of the proposed project vacates the premises, would require the premises to remain vacant for a significant amount of time;

[9] The proposed project will result in any materially adverse or positive economic impacts or blight in the township; and

[10] Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary.

D. Public hearing. The Town Board shall take no final action upon any application for a critical impact permit until it shall have held a public hearing upon such application. Notice for said public hearing shall be provided not less than 10 days prior to the date of such public hearing; notice shall be placed in a local newspaper stating the time, date and purpose for the hearing. The applicant and all interested parties shall have the opportunity to speak at the public hearing.

E. Basis for determination.

(1) General provisions. Before issuing a critical impact permit, the Town Board shall take into consideration the public health, safety, morals and welfare and shall make the following findings:

(a) The plans for the proposed critical impact use meet the prescribed requirements of this chapter, including all of the regulations contained in this chapter for the district in which located.

(b) The proposed critical impact use will not have an unreasonably adverse impact upon the character or integrity of any land use within the immediate neighborhood having a unique cultural, historical, geographical, architectural, or other special quality of similar magnitude.

(c) The proposed critical impact use is in harmony within the visual and physical context of the immediate neighborhood.

(d) Such critical impact use and site development plan are in harmony with and will not impede the orderly development or redevelopment of the general neighborhood and the location, nature and height of buildings, structures, walls, fences and parking areas will not discourage the appropriate development and use of adjacent lands or adversely affect existing land use in close proximity to the subject site.

(e) The proposed critical impact use is to be developed in such a way as to ensure maximum amenities will be available to the site based upon a consideration of the site plan and functional requirements of the proposed critical impact use, including a specific finding that all structures, equipment and materials are reasonably accessible for police and fire protection and that the water supply, sewage disposal and surface drainage systems are adequate to serve the proposed critical impact use.



(f) Traffic controls for vehicular and pedestrian movement are designed to protect the safety of the general public and the occupants, employees, attendants, and other persons for whose benefit the use is intended.

[1] In making this determination, the Town Board shall review but need not be limited to the following considerations:

[a] Location and adequacy of parking and loading facilities.

[b] Pedestrian rights-of-way.

[c] Traffic regulatory devices.

[d] Location number and design of points of ingress and egress.

[e] Accessibility to emergency vehicles with particular emphasis on proximity to structures, no-parking or no-loading zones or areas and provision for turning and free movement.

[f] Storage facilities for snow.

[g] Age and mobility of all persons for whose benefit the use is intended.

[h] Speed limits upon and general character of public highways in close proximity.

[2] Compliance with the provisions of Article XVII hereof shall not preclude a determination that the foregoing requirements have not been met.

(g) The proposed critical impact use shall comply with the provisions of Chapter 230, Sewers, of the Town Code, as amended and as it may be amended in the future, and all applicable laws, rules and regulations of the Town, United States and New York State governments.

(2) Criteria. In making a determination as to compliance with any one or more of the findings and conditions specified for a critical impact permit as herein provided, consideration shall be given, but need not be limited to, the following elements:

(a) Geometric characteristics of all structures and related improvements.

(b) Aesthetic characteristics, including design, texture, materials, colors and illumination.

(c) Physical attributes of the site, including size, shape, elevation, topography and natural vegetation.

F. Waivers. The Town Board may grant a waiver of the application of any provision, in whole or part, of the restrictions contained in Subsection E of this section where it is shown that:

(1) Compliance cannot be achieved because of circumstances which are peculiar to the subject property.

(2) Noncompliance will not adversely affect the public health, safety and welfare and will not be inconsistent with the provisions of Subsection E of this section.

G. Conditions and conformity to Town specifications.

(1) The Town Board may impose such conditions on the approval of any application for a critical impact permit which, in its opinion, are necessary and reasonable to implement the provisions of this article.

(2) The Town Board shall take all necessary and appropriate steps to ensure that the project and/or construction conforms to all applicable codes, rules and regulations and to approved project plans and specifications. The Town Board may engage the services of a Town-designated engineer, or any other Town-designated professionals, for that purpose and may, in addition, appoint a field representative, who shall be engaged to be on site on behalf of the Town during the construction. The cost of any Town-designated professional shall be borne by the applicant. The Town Board shall obtain an estimate from any designated consultant for an amount sufficient to defray the costs of such services. The applicant shall enter into an escrow agreement with the Town of Rotterdam, and said agreement shall be executed by the Rotterdam Town Supervisor, upon authorization from the Rotterdam Town Board. The Rotterdam Town Attorney shall prescribe the terms and appropriate form of the escrow agreement. Any portion of the estimated charges so collected by escrow agreement which is not expended by the Town shall be returned to the applicant.

H. Scope of critical impact permit. A critical impact permit required in this article shall be in addition to, and not in lieu of, any other approvals or permits that may be required by any provision of this chapter or any other ordinance, local law, code, rule or regulation of the Town.

#### **§ 270-224. Conflicts with other provisions.**

The provisions of this article shall take priority over any conflicting provision of this chapter.

#### **ARTICLE XXIX. Illicit Discharges, Activities and Connections to Separate Storm Sewer System**

[Added 1-1-2008 by L.L. No. 1-2008]

#### **§ 270-225. Purpose; intent.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Rotterdam through the regulation of nonstormwater discharges to the Town of Rotterdam 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, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

#### **§ 270-226. 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.

##### **ILLICIT CONNECTIONS**

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 § 270-225 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 Law or where such facility is regulated by the New York State Department of Health.

##### **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.

##### **MUNICIPALITY**

The Town of Rotterdam.

##### **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 Town of Rotterdam;
- 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.

##### **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 recognized by law and 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 the Town of Rotterdam 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 Town of Rotterdam 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 Town of Rotterdam'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 Town of Rotterdam'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 Town of Rotterdam 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 Town of Rotterdam's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body 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 Town of Rotterdam to enforce this article.

**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.

**TMDL**

Total maximum daily load.

**TOTAL MAXIMUM DAILY LOAD**

The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water allocated among the sources of that pollutant.

**WASTEWATER**

Water that is not stormwater, is contaminated with pollutants, and is or will be discarded.

**§ 270-227. 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.

**§ 270-228. 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 Town of Rotterdam.

**§ 270-229. 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.

**§ 270-230. 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). 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 of Rotterdam 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, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, de-chlorinated swimming pool discharges, residential street wash water, water from fire-fighting 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 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 an 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 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 Town of Rotterdam's MS4 or allows such a connection to continue.

**§ 270-231. Failing individual sewage treatment systems prohibited.**

No persons shall operate a failing individual sewage treatment system in areas tributary to the Town of Rotterdam'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. 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. Structural failure shall be determined by an inspection of the facility performed according to § 270-236B(2).

E. Contamination of off-site groundwater.

**§ 270-232. 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 § 270-226, Definitions, of this article.

B. 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.

**§ 270-233. Prevention, control and reduction of stormwater pollutants.**

A. Best management practices. Where the SMO has identified illicit discharges as defined in § 270-226, or activities contaminating stormwater as defined in § 270-232, the Town of Rotterdam 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 premises, which is, or may be, the source of an illicit discharge as defined in § 270-226 or an activity contaminating stormwater as defined in § 270-232, 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. Repair or replace individual sewage treatment systems as follows:

(1) In accordance with 10 NYCRR, Appendix 75-A to the maximum extent practicable.

(2) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

(a) Relocating or extending an absorption area to a location not previously approved for such.

(b) Installation of a new subsurface treatment system at the same location.

(c) Use of alternate system or innovative system design or technology.

(3) 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.

#### **§ 270-234. 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 Town of Rotterdam'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 thereof. 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.

#### **§ 270-235. 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.

#### **§ 270-236. Applicability; access to facilities; 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 his or her 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 are 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.

#### **§ 270-237. 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 phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the phone 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.

#### **§ 270-238. 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 are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further 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 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 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.

#### **§ 270-239. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the SMO to the Town of Rotterdam 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, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

#### **§ 270-240. 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.

#### **§ 270-241. 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.

#### **§ 270-242. 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 Town of Rotterdam Attorney and concurrence of the Town of Rotterdam Code Enforcement Officer, 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.

#### **§ 270-243. 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.

#### **§ 270-244. 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 it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Attachments:

270a Table 1

#### CHAPTER A275. CABLE TELEVISION FRANCHISE

- § A275-1. Title.
- § A275-2. Grant of easement.
- § A275-3. Term.
- § A275-4. Franchise fee.
- § A275-5. Rates and charges.
- § A275-6. Construction and maintenance.
- § A275-7. Programming.
- § A275-8. Public access.
- § A275-9. Discrimination prohibited.
- § A275-10. Street occupancy.
- § A275-11. Assignment of right, title and interest.
- § A275-12. Safety.
- § A275-13. Office hours.
- § A275-14. Repair of television and radio receivers.
- § A275-15. Interference.
- § A275-16. Municipal service.
- § A275-17. Indemnification of town; workers' compensation; insurance; sufficiency of qualifications.
- § A275-18. Subscriber complaints.
- § A275-19. Revocation.
- § A275-20. Severability; Federal Communications Commission rules.
- § A275-21. Notification of action by town.
- § A275-22. Effective date of franchise agreement.
- § A275-23. Schedule 1: Regulated Rates.
- § A275-24. When effective.
- § A275-25. Subscriber charges for extensions of service.

#### CHAPTER A275. CABLE TELEVISION FRANCHISE

**[HISTORY: Adopted by the Town Board of the Town of Rotterdam 10-16-1985 by L.L. No. 15-1985. Amendments noted where applicable.]**

##### § A275-1. Title.

This local law shall be known and cited as the "Cable Television System and Audio Communications Services Franchise."

##### § A275-2. Grant of easement.

A. In consideration of the faithful performance and observance of the conditions and reservations hereinafter set forth, there is hereby granted to Schenectady Cablevision, Inc., its successors, assigns or designees the right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above, across and from the streets, avenues, highways, sidewalks, bridges and other public ways, easements, rights-of-way and lands, as now existing and all extensions thereof and additions thereto, in the Town of Rotterdam, all equipment, facilities, appurtenances and apparatus of any nature, for the purpose of receiving, amplifying, transmitting and distributing by studios, cameras, projectors, recorders, antennas, transmitters, microwaves, wires, cables, coaxial cables, wave guides and cables of television, radio, electrical and electronic energy, pictures, sounds, signals, impulses and communications, unidirectional and multidirectional of every nature and description, audio and video, embracing any and all of the frequencies of the electromagnetic spectrum, and to otherwise engage in the business, services and activities generally known as and practiced now and in the future by cable television system and audio communications services, in accordance with the laws of the United States of America, the State of New York and the Town of Rotterdam.

B. The Town of Rotterdam expressly reserves the right to adopt, in addition to the provisions contained in this franchise and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this franchise.

C. The Supervisor or a duly appointed designee shall be responsible for the continuing administration of the franchise.

D. The terms of this franchise are subject to the approval of the New York State Commission on Cable Television.

##### § A275-3. Term.

**[Amended 6-24-1992 by L.L. No. 11-1992]**

This franchise shall be effective on the effective date of this franchise agreement renewal and shall continue in full force and effect until June 25, 2003, the last five years of which are conditioned upon the commencing and completion of an upgrading of the system and facilities using fiberoptics technology. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the Town reserves the right to grant a similar use of said streets, alleys, public ways and places to any person, firm or corporation at any time during the period of this franchise. The continued electronic upgrade to at least 35 channels is a further condition of the extension of the last five years of this term.

##### § A275-4. Franchise fee.

A. In consideration of the terms of the franchise, Schenectady Cablevision, Inc., shall pay to the Town of Rotterdam an annual sum of money computed upon the gross monthly service charges received by Schenectady Cablevision, Inc., from subscribers for all services of every nature

whatsoever, either for CATV or for so-called "extra services" within the limits of the Town of Rotterdam; the franchise fee shall be the maximum designated in guidelines established as part of the requirements for certification by the Federal Communications Commission and in no event shall exceed 5%.

B. Such payment shall be deemed compensation for services rendered, supervision and inspection of equipment and facilities and for other expenses relating to the installation and operation of the system on the part of the Town as provided in the franchise agreement, Schenectady Cablevision, Inc., having given assurances to the Town that this rate will not interfere in the effectuation of federal regulatory goals in the field of cable television.

C. Such annual sum shall be payable thereof at the end of the annual period. The annual anniversary shall be the 31st day of December of each year, and each annual payment shall be paid within 60 days thereafter. The franchise shall keep complete records of accounts showing dates and payments received. The duly authorized agent of this municipality shall have the right, power and authority to inspect the gross monthly service charge records of the franchisee, upon reasonable notice during normal business hours.

D. In addition thereto, the franchisee shall file with the Town Clerk and shall keep in its local office, to be available for inspection by the town, a copy of the rules, regulations, terms and conditions adopted by the franchisee and in effect with its subscribers. The franchisee shall also keep available at its local office, to be available for inspection by the town, and shall file with the Town Clerk an annual summary report showing the gross monthly service charge revenues received by the franchisee from its operations within the Town during the preceeding annual period as above described.

E. The franchisee shall submit to the Town the form of its subscriber agreement and shall submit to the Town any subsequent changes in that agreement.

#### **§ A275-5. Rates and charges.**

A. The franchising authority may not regulate the rates for the provision of cable service and other service, including, but not limited to, ancillary charges relating thereto, except to the extent expressly provided herein. The franchising authority may not regulate any other charges, fees or compensation of whatever nature received or charged by the franchisee. The franchising authority shall have such regulatory authority to set rates as allowed by federal law.

B. The initial rates and charges for the first outlet of basic service shall be those listed on Schedule 1 which is attached hereto and incorporated herein by this reference. Editor's Note: See § A275-23, Schedule 1: Regulated Rates. For the purpose of this section, the parties agree that the rates and charges for the provision of basic service are not considered to be fixed. Notwithstanding anything to the contrary set forth herein, rates and charges for second outlets for basic service shall be deregulated as presently authorized by the Federal Communications Commission.

C. In addition to any basic service rate increase which may be subject to approval of the franchising authority, the franchisee may, at its discretion and without consent of the franchising authority, increase rates relating to the provision of basic service by an amount not to exceed 5% per year, plus cost-related increases as defined in the Cable Communication Policy Act and by the Federal Communications Commission.

D. Notice of rate changes shall be given at least 30 days in advance in newspapers of general circulation and by electronic message on a company television channel and at least 10 days in advance in writing to each individual subscriber.

E. Notwithstanding any provisions to the contrary herein, the parties agree that the franchisor shall have the right to regulate such fees, charges and any other payments during the term of this franchise which may be granted to municipalities and the franchisor by federal law.

#### **§ A275-6. Construction and maintenance.**

A. There is hereby granted the further right, privilege and authority to the franchisee to lease, rent or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the Town of Rotterdam, including the New York Telephone Company, and to use such towers, poles, lines, cables and other equipment and facilities, subject to all existing and future ordinances and regulations of the Town of Rotterdam. The poles used for the franchisee's distribution system shall be those erected and maintained by the New York Telephone Company and/or Niagara Mohawk Power Corporation, when and where practicable, provided that mutually satisfactory rental agreements can be entered into with said companies. The franchisee shall have the right to erect, install and maintain its own towers, poles, guys, anchors and ducts as may be necessary for the proper construction and maintenance of the antenna site, head-end and distribution system, provided that poles placed on municipal properties shall first have their location approved by the Town Engineer. Such permission shall not be unreasonably withheld.

B. All transmission and distribution structures, lines and equipment erected by the franchisee within the Town shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places.

C. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the franchisee shall promptly, at its own cost and expense and in a manner approved by the Town Engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced. In the event that at any time during the period of this franchise the Town shall lawfully elect to alter or change the grade of any street, alley or public way, the franchisee, upon reasonable notice by the town, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

D. The franchisee shall not place poles or other fixtures when same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curbline, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

E. The franchisee, shall, on the request of any person holding a building moving permit issued by the town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the franchisee shall have the authority to require such payment in advance. The franchisee shall be given not less than 10 days' advance notice to arrange for such temporary wire changes.



F. The franchisee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of the franchisee, all trimming to be done under the supervision and direction of the Town and at the expense of the franchisee.

**§ A275-7. Programming.**

A. The franchisee shall, during the existence of this franchise, furnish reasonable, adequate and efficient community antenna reception service to the residents of the Town (wherever practicable), and the franchisee agrees to maintain its system in reasonable repair and working order and to provide adequate facilities for such maintenance. These requirements may be temporarily suspended by disaster or emergency conditions or other circumstances beyond the reasonable control of the franchisee.

B. The franchisee shall provide to its subscribers all existing VHF and UHF Federal Communications Commission allocated television channels having studio facilities within a radius of 25 miles of the City of Schenectady.

C. Schenectady Cablevision, Inc., shall carry in addition to the local signals, the following:

(1) Services which have contracts to carry sports events from the Boston and New York City markets, including but not limited to the baseball games of the Yankees, Mets and Red Sox, subject to modification if carriage becomes commercially impracticable as defined in the Cable Communications Policy Act of 1984.

(2) News.

(3) Financial reports.

(4) Time.

(5) Weather.

(6) Community activities.

(7) Horse racing results.

**§ A275-8. Public access.**

A. To the extent required by any applicable state and federal laws and regulations and this franchise, Schenectady Cablevision will provide reasonable public access to its cable television system.

B. Pursuant to this requirement, Schenectady Cablevision will:

(1) Continue to provide a separate cable television production and programming studio, at a site which will optimize the use of such studio by members of the public and which will be administered by the company or its designee, subject to the approval of the town.

(2) Provide the separate equipment necessary for such studio and all necessary repairs, replacement and upgrade of such equipment.

(3) Establish ongoing training programs for members of the public to familiarize them with the equipment and procedures.

(4) Make available to the public a minimum of one full-time equal quality channel for public access purposes and to the extent possible provide additional channel space upon an upgrade to 35 channels, and a showing of need. Upon completion of system upgrade, one channel shall also be made available for carriage of the New York State Government Access Channel when such channel becomes available, provided that there is available channel space and is not required to be set aside as a full-time channel unless such is required by New York State Commission on Cable Television Rules and Regulations.

(5) Provide the financial resources necessary to support the operations of the cable television production and programming studio at a level at least commensurate with its current operations.

C. Notwithstanding the provisions of this section, the Town and Schenectady Cablevision, in fulfilling their responsibility to provide public access to the cable television system specifically affirm that they will comply with all present and future rules and requirements of the Cable Commission relating to public, educational and governmental access, and further that the provisions of this franchise are subject to the rules of the Cable Commission relating to public access and that any such rules which are required to be incorporated by amendment or reference in a franchise are specifically incorporated herein.

**§ A275-9. Discrimination prohibited.**

The franchisee shall not as to rates, charges, service facilities, rules, regulations or in any other respect make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage; provided, however, that this shall not be deemed to prohibit the establishment of a graduated scale of charges. The franchisee shall not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

**§ A275-10. Street occupancy.**

No privilege or exemption is granted or to be inferred from this franchise except those specifically prescribed herein. Any privilege claimed under this franchise in any street shall be subordinate to any prior lawful occupancy of the street. Schenectady Cablevision should hold priority of occupancy subordinate only to power and telephone.

**§ A275-11. Assignment of right, title and interest.**

This franchise shall be held in trust by Schenectady Cablevision, Inc., or its successor in interest; provided, however, that it may assign its right, title and interest hereunder to another corporation or lawful business entity through the sale of stocks or assets or otherwise, provided that prior approval of such assignment shall be obtained from the Council of the Town of Rotterdam which said approval shall not be unreasonably withheld, provided that such other corporation or lawful business entity is duly authorized to receive such assignment, and agrees to undertake and assume all the obligations of the original corporation hereunder subject to all of the terms and conditions of this franchise. In the event that such assignment takes place with such consent, then, immediately upon the delivery to the Council of the Town of Rotterdam of the aforesaid assumption agreement duly executed by the assignee, all of the rights, obligations and privileges herein granted to the franchisee shall forthwith devolve upon the assignee who shall in all respects stand in the place and stead of the original corporation hereunder. No such consent shall be required, however, for a transfer to an affiliate or a transfer in trust, by mortgage, by other hypothecation or by assignment of any rights, title or interest of franchisee in the franchise or cable system in order to secure indebtedness.

**§ A275-12. Safety.**

A. The franchisee's plant and equipment, including the antenna site, head-end and distribution system towers, structures, poles, wires and appurtenances, shall be installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons nor to interfere with improvements the municipality may deem proper to make nor to unnecessarily hinder or obstruct pedestrian or vehicular traffic on public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable laws of the State of New York and applicable ordinances of this municipality which may now be in effect or enacted in the future. All installations shall be of a permanent nature, durable and maintained in a safe, suitable and substantial condition, in good order and repair.

B. Any opening or obstruction in the streets or other public ways made by the franchisee in the course of the construction, operation or removal of installations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

**§ A275-13. Office hours.**

During the term of this franchise, and any renewal thereof, the franchisee shall maintain within the City of Schenectady its main business office. This office shall be open to receive inquiries or complaints from subscribers during the normal business hours of 9:00 a.m. to 4:00 p.m. Monday through Friday. Any complaints from subscribers shall be acted upon as soon as practicable but within no more than three business days of their receipt.

**§ A275-14. Repair of television and radio receivers.**

The franchisee shall not engage in the business of repairing television or radio receivers in connection with its operations of cable television system and audio communication services. Nothing herein shall be construed as prohibiting the franchisee from offering converters and from repairing these devices.

**§ A275-15. Interference.**

The cable television system and audio communications system will be so designed, engineered and maintained by the franchisee so as not to interfere with the television reception of residents of the Town who are not subscribed to its services.

**§ A275-16. Municipal service.**

The franchisee will supply one free drop to public and parochial, primary and secondary schools, fire stations, police stations and the John F. Kirvin Government Center located within the Town which are passed by a cable belonging to the franchisee. There shall be no monthly service charge for said service; however, a converter deposit may be charged.

**§ A275-17. Indemnification of town; workers' compensation; insurance; sufficiency of qualifications.**

A. The franchisee shall at all times defend, indemnify, protect and save harmless the Town of Rotterdam from and against any and all liability, losses and physical damage to property and bodily injury or death to persons, including payments made under workers' compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance and operations of the franchisee's cable television system and audio communications service and resulting from or by any negligence, fault or misconduct on the part of the franchisee, its agents, officers, servants and employees.

B. The franchisee shall also carry New York State workers' compensation coverage on its employees who are engaged in any manner in the erection, construction, replacement, repair, maintenance and operation of the franchisee's plant and equipment.

C. The franchisee shall carry a general comprehensive liability insurance policy holding the Town of Rotterdam as an additional insured with the following minimum limits:

(1) Bodily injury or death: \$300,000 for one person or \$1,000,000 for any one incident involving four or more persons.

(2) Property damage: \$1,000,000.

(3) Contractual liability: \$1,000,000.

D. The franchising authority acknowledges that the legal, financial and technical qualifications of the franchisee are sufficient to afford compliance with the term of the franchise and the enforcement thereof.

**§ A275-18. Subscriber complaints.**

The franchisee shall provide notice to each subscriber, at intervals of not more than one year, of the procedure for reporting and resolving subscriber complaints.

**§ A275-19. Revocation.**

If the franchisee shall fail to comply with any of the material provisions of this local law or default in any of its material obligations hereunder, except for causes beyond the reasonable control of the franchisee, and shall fail within 30 days after written notice from the municipality to commence and, within

a reasonable time, complete the correction of such default or noncompliance, the Council of the Town of Rotterdam shall have the right to revoke this franchise and all rights of the franchisee hereunder. In the event that the franchisee shall be adjudged bankrupt or placed in receivership, this municipality may declare the special rights herein granted forfeited and terminated.

**§ A275-20. Severability; Federal Communications Commission rules.**

A. If any section, subsection, sentence, clause, phrase or portion of this local law is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

B. Consistent with the requirements of Rule 1(A)(6) of the Federal Communications Commission, any modification of Rule 76.31 resulting from an amendment thereto by the Federal Communications Commission shall, to the extent applicable, be considered as a part of this franchise as of the effective date of the amendment made by the Federal Communications Commission and will be incorporated in such franchise by specific amendments thereto by the lawful action of the Council of the Town of Rotterdam within one year from the effective date of the Federal Communications Commission's amendment or the time of renewal of this franchise, whichever occurs first.

C. The franchisee shall file requests for all necessary operating authorization with the Commission on Cable Television and the Federal Communications Commission within 60 days from the date this franchise is awarded.

**§ A275-21. Notification of action by town.**

Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the Council of the Town of Rotterdam in regard to the operations of franchisee's cable television shall be taken only after 30 days' public notice of such action or proposed action is published in a local daily or weekly newspaper having general circulation in the town; a copy of such action or proposed action is served directly on franchisee; and, the franchisee has been given an opportunity to respond in writing and/or at hearing as may be specified by the Council of the Town of Rotterdam, and general members of the public have been given an opportunity to respond or comment in writing on the action or proposed action.

**§ A275-22. Effective date of franchise agreement.**

This franchise agreement is for a period of 10 years to commence on January 26, 1986, the date of expiration of the existing franchise period.

**§ A275-23. Schedule 1: Regulated Rates.**

A. The charges for CATV services shall be as follows:

(1) Residential charges and rates.

(a) Residential charges and rates shall be as follows:

(b) The above rates apply to single-family and multifamily residences and to individual families living in apartments. If a landlord purchases bulk service for his tenants, the cost of the service will be the sum of the costs for all individual families in the apartment less a discount of 5% as a consideration for single billing.

(2) Commercial charges and rates.

(3) Common charges.

B. Commercial rates apply to hotels, motels, stores, restaurants, taverns, social clubs, profit-oriented hospitals, nursing homes, etc.

**§ A275-24. 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.

**§ A275-25. Subscriber charges for extensions of service.**

**[Added 5-14-1986 by L.L. No. 6-1986]**

No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a subscriber's request to locate his cable drop underground, existence of more than 150 feet of distance from distribution cable to connection of service to subscribers or density of less than 35 homes per 5,280 cable-bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Schenectady Cablevision and the subscriber in the area in which cable service may be expanded, Schenectady Cablevision will contribute an amount equal to the construction and other costs per mile multiplied by a number whose numerator equals the actual number of potential subscribers per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals 35 homes. Potential subscribers will bear the remainder of the construction and other costs on a pro rata basis. Schenectady Cablevision may require that the payment of the capital contribution in aid of construction borne by such potential subscribers is paid in advance.

**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 Rotterdam adopted since the 2002 republication of the Code, 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).] The last legislation reviewed for the 2002 republication of the Code was L.L. No. 21-2002, adopted 11-27-2002.

**§ DL-1. Disposition of legislation.**



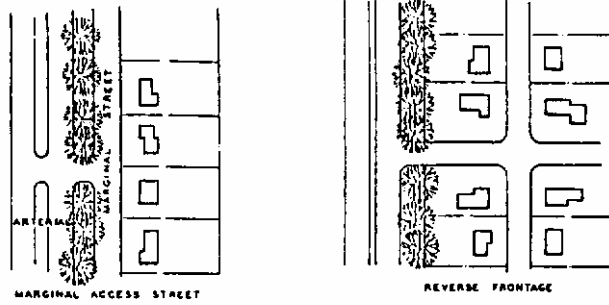
# SUBDIVISION OF LAND

249 Attachment 1

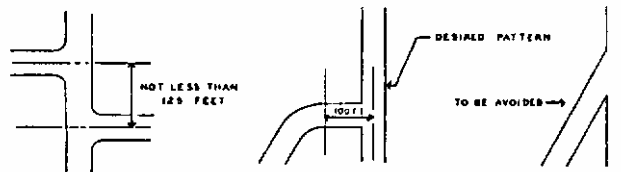
## Town of Rotterdam

### SUBDIVISION DESIGN DETAILS

TOWN OF ROTTERDAM, NEW YORK

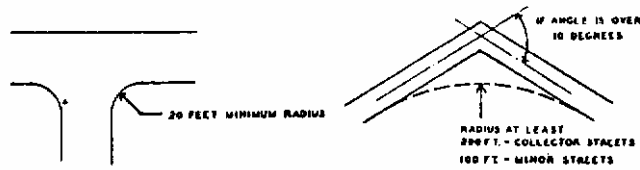


SKETCH A



SKETCH B

SKETCH C



SKETCH D

SKETCH E

## ZONING

**TABLE 1 Off-Street Parking Requirements**

<b>Uses</b>	<b>Minimum Number of Parking Spaces Required</b>
Animal hospitals, veterinary clinics and commercial kennels	5 per 1,000 square feet of gross floor area
Antique stores	6 per 1,000 square feet of gross floor area
Apparel, haberdasher or clothing stores	6 per 1,000 square feet of gross floor area
Art, school supply or picture framing stores	6 per 1,000 square feet of gross floor area
Art studios	5 per 1,000 square feet of gross floor area
Auction rooms or sheds	8 per 1,000 square feet of gross floor area
Automobile repair shops	8 per 1,000 square feet of gross floor area
Auto parts stores	6 per 1,000 square feet of gross floor area
Bakeries, retail	6 per 1,000 square feet of gross floor area
Banks, savings and loan associations	5 per 1,000 square feet of gross floor area
Battery, tire, muffler, shock absorber or transmission shops	6 per 1,000 square feet of gross floor area
Beauty shops, barbershops	6 per 1,000 square feet of gross floor area
Book and stationery stores	6 per 1,000 square feet of gross floor area
Business machine sales and services	5 per 1,000 square feet of gross floor area
Camera and photographic supply stores-	6 per 1,000 square feet of gross floor area
Care homes	As determined by the Planning Board during site plan review

## ROTTERDAM CODE

### TABLE 1 Off-Street Parking Requirements

Uses	Minimum Number of Parking Spaces Required
Cemeteries	As determined by the Planning Board during site plan review
Clubs or lodges, private, operated for the benefit of- members, not for gain	5 per 1,000 square feet of gross floor area
Dairy products stores	6 per 1,000 square feet of gross floor area
Dance halls	8 per 1,000 square feet of gross floor area
Delicatessens	6 per 1,000 square feet of gross floor area
Department stores	5.5 per 1,000 square feet of gross floor area
Drive-in restaurants where food is consumed on the premises or food is served directly to customers in parked motor vehicles	25 per 1,000 square feet of gross floor area
Drugstores	6 per 1,000 square feet of gross floor area
Financial institutions and uses	5 per 1,000 square feet of gross floor area
Fire stations, Town maintenance and service facilities	As determined by the Planning Board during site plan review
Florists	6 per 1,000 square feet of gross floor area
Funeral homes	6 per 1,000 square feet of gross floor area
Garden supply, tool and seed stores	6 per 1,000 square feet of gross floor area
Gift shops	6 per 1,000 square feet of gross floor area
Government administration facilities without garages or shops	5 per 1,000 square feet of gross floor area

## ZONING

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<b>Uses</b>	<b>Minimum Number of Parking Spaces Required</b>
Grocery or food stores	6 per 1,000 square feet of gross floor area
Hardware stores	6 per 1,000 square feet of gross floor area
Historic sites	2 per 1,000 square feet of gross floor area
Hobby or toy stores	6 per 1,000 square feet of gross floor area
Home furnishing, carpet or appliance stores	6 per 1,000 square feet of gross floor area
Hospitals	2 per 1,000 square feet of gross floor area
Hotels or motels	1 for each sleeping room, plus 1 for each 600 square feet of floor area used for public assembly
Ice cream stores	6 per 1,000 square feet of gross floor area
Industrial and manufacturing uses	2 for every 3 employees, plus 4 for each 1,000 square feet of office space associated with such use
Jewelry stores	6 per 1,000 square feet of
Laboratories, medical, dental, optical research and testing	5 per 1,000 square feet of gross floor area
Landfills	As determined by the Planning Board during site plan review
Laundromats, laundry- and dry-cleaning stores	6 per 1,000 square feet of gross floor area
Libraries, museums or art galleries	2 per 1,000 square feet of gross floor area
Liquor stores	6 per 1,000 square feet of gross floor area



## ROTTERDAM CODE

### TABLE 1 Off-Street Parking Requirements

Uses	Minimum Number of Parking Spaces Required
Meat markets	6 per 1,000 square feet of gross floor area
Medical or dental offices	6 per 1,000 square feet of gross floor area
Mobile homes	1.5 per dwelling unit or rooming unit
Mobile homes, boat and travel trailer sales	6 per 1,000 square feet of gross floor area
Motor vehicle fuel-filling stations	8 per 1,000 square feet of gross floor area
Motor vehicle sales	6 per 1,000 square feet of gross floor area
Multiple-family dwellings	1.5 per dwelling unit
Nursery schools or child-care facilities	2 per 1,000 square feet of gross floor area
Offices, business and professional	6 per 1,000 square feet of gross floor area
Pet shops	6 per 1,000 square feet of gross floor area
Philanthropic and charitable institutions-	2 per 1,000 square feet of gross floor area
Phonograph, record and music stores	6 per 1,000 square feet of gross floor area
Printing, publishing, copying or photostating facilities	5 per 1,000 square feet of gross floor area
Private and public schools	As determined by the Planning Board during site plan review
Public utility installations	As determined by the Planning Board during site plan review
Recreational and community centers	5 per 1,000 square feet of gross floor area

## ZONING

**TABLE 1 Off-Street Parking Requirements**

<b>Uses</b>	<b>Minimum Number of Parking Spaces Required</b>
Recreation facilities run for gain, including health, tennis, swimming and similar clubs	6 per 1,000 square feet of gross floor area
Religious institutions	As determined by the Planning Board during site plan review
Restaurants, fast-food	1 per 50 square feet of gross floor area
Restaurants, family-dining-type, where all food is consumed on the premises and either served by waitresses or waiters or buffet style	1 per 3 seating capacity
Retail building materials, plumbing and similar product sales	5 per 1,000 square feet of gross floor area
Riding academies	As determined by the Planning Board during site plan review
Roadside produce stands	As determined by the Planning Board during site plan review
Shoe stores	6 per 1,000 square feet
Shopping centers	5.5 per 1,000 square feet of gross floor area
Single-family dwellings	2 per dwelling unit
Skating rinks	As determined by the Planning Board during site plan review
Sporting goods stores	6 per 1,000 square feet of gross floor area
Tailors or shoe repair shops	5 per 1,000 square feet of gross floor area
Taverns, bars, nightclubs	1 per 2 seating capacity
Tobacco, variety or card shops	6 per 1,000 square feet of gross floor area
Tourist homes, boarding houses or rooming houses	6 per 1,000 square feet of gross floor area
Travel agencies	5 per 1,000 square feet of gross floor area

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<b>Uses</b>	<b>Minimum Number of Parking Spaces Required</b>
Two-family dwellings	2 per dwelling unit
Uses, retail, service or institutional, not otherwise listed herein	5 per 1,000 square feet of gross floor area