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CHAPTER 1. GENERAL PROVISIONS

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CHAPTER 1. GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 7-27-1990 as L.L. No. 4-1990. Amendments noted where applicable.]

ARTICLE I. Adoption of Code

[Adopted 7-27-1990 as L.L. No. 4-1990]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Moreau shall be known collectively as the "Code of the Town of Moreau," 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 Moreau" 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, below, 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 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 Moreau, 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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.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 Moreau 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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.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 Moreau prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Moreau, 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 Moreau.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Moreau.
- E. Any local law or ordinance of the Town of Moreau 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 Moreau or any portion thereof.

F. Any local law or ordinance of the Town of Moreau 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 Moreau 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 or obligation.

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

I. The dedication of property.

J. Any legislation relating to salaries.

K. Any legislation pertaining to the establishment of an Industrial Development Agency in the town.

L. Any legislation adopted subsequent to July 11, 1989.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article 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 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 Moreau and shall remain there for use and examination by the public until final action is taken on this local law, and, if this local law shall be adopted, such copy shall be certified to by the Town Clerk of the Town of Moreau by impressing thereon the Seal of the Town of Moreau, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while the said Code is in effect. 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 Moreau," or any new local laws 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 therein, 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 Moreau 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 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 or resolutions until

such changes, local laws 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 may be purchased from the Town Clerk of the Town of Moreau upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk changes or amends, by additions or deletions, any part or portion of the Code of the Town of Moreau, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Moreau 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.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Moreau, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsections B, C and D 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. Wherever the term "Building Inspector" or the term "Code Enforcement Officer" has been used, the term is changed to "Building Inspector and/or Code Enforcement Officer."

C. Penalty provisions in the following sections are amended to provide, in substance, that any person violating any of the provisions of the chapter or Article involved shall be guilty of an offense punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both: §§ 52-3 (original Section 13-3), 65-5 (original § 15-5), 87-10 (original § 21-10), 117-14 (original § 26-14), 121-3 (original § 25-3), 145-36 (original § 35-37), 145-76 (original § 36-40).

D. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.) Editor's Note: Pursuant to § 1-11D, the following sections have been added or amended: §§ 8-6, 45-1, 52-7A, 59-2, 59-3, 59-6, 59-7, 87-6, 87-7, 87-8A and C, 91-1C and D, 91-2, 91-3A, 91-6B, C and E(6), 91-7B, 91-11A, 91-14A(3) and B(1), 91-15B(1), 96-3, 96-5C and D, 96-7, 96-11, 96-16, 96-188, 105-2, 105-5E, 105-6, 105-7, 105-14, 117-4A(1) and C(6), 117-7, 117-8, 121-7, 121-8, 121-9, 127-3A, 127-6, 127-7, 127-12, 139-5, 145-20, 145-21, 145-26A, 145-57, 145-58, 145-63A and 145-75G. The following chapters and Articles were adopted or amended: Ch. 65, Art. II, and Chs. 70, 74, 102, 109, 113, 134 and 136. The following provisions of the 1973 Code were deleted: Ch. 15, Art. III and § 28-11.

§ 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 Moreau, 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.

ARTICLE II. Legislation Enacted During Codification

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

The listing below sets forth each chapter and, where applicable, each section affected by any such legislation adopted during codification. The complete text of such legislation is on file in the office of the Town Clerk, where it may be inspected during regular office hours.]

Chapter/Section	Local Law Number	Adoption Date
Ch. <u>A155</u> , Personnel Policies, Art. <u>II</u> , Leave Policy	2-1990	7-27-1990
Ch. <u>A156</u> , Recreation Commission Bylaws	3-1990	7-27-1990

CHAPTER 4. APPEARANCE TICKETS

ARTICLE I. Building Inspector and/or Code Enforcement Officer

§ 4-1. Purpose.

§ 4-2. Authorization to issue tickets.

§ 4-3. Manner of service.

ARTICLE II. Special Policemen

§ 4-4. Purpose.

§ 4-5. Authorization to issue tickets.

§ 4-6. Manner of service.

CHAPTER 4. APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 6-30-1981 as L.L. No. 1-1981; Art. II, 2-23-1988 as L.L. No. 3-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning — See Ch. 52.

Public entertainment — See Ch. 65.

Fences — See Ch. 70.

Fire prevention and building construction — See Ch. 74.

Flood damage prevention — See Ch. 78.

Junkyards — See Ch. 87.

Landfills — See Ch. 91.

Mobile homes and mobile home parks — See Ch. 96.

Peddling and soliciting — See Ch. 106.

Sand, gravel and mining — See Ch. 113.

Signs — See Ch. 117.

Subdivision of land — See Ch. 124.

Swimming pools — See Ch. 127.

Abandoned vehicles — See Ch. 134.

Off-road recreational vehicles — See Ch. 139.

Zoning — See Ch. 149.

ARTICLE I. Building Inspector and/or Code Enforcement Officer

[Adopted 6-30-1981 as L.L. No. 1-1981]

§ 4-1. Purpose.

The purpose of this Article is to authorize the Building Inspector and/or Code Enforcement Officer of the Town of Moreau to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances or rules and regulations of the town which the Building Inspector and/or Code Enforcement Officer is authorized or required to enforce.

§ 4-2. Authorization to issue tickets.

The Building Inspector and/or Code Enforcement Officer of the Town of Moreau is hereby authorized to issue and serve an appearance ticket with respect to any violation of a state statute, a local law, ordinance, rule or regulation of the Town of Moreau that the Building Inspector and/or Code Enforcement Officer is required or authorized to enforce, specifically in the following areas of his enforcement responsibility:

- A. Building, zoning and planning.
- B. Fire prevention and safety, including outdoor burning.
- C. Licensing of occupations, businesses and entertainments.
- D. Dumps, dumping and waste disposal.
- E. Junkyards.
- F. Signs.

§ 4-3. Manner of service.

An appearance ticket shall be served personally.

ARTICLE II. Special Policemen

[Adopted 2-23-1988 as L.L. No. 3-1988]

§ 4-4. Purpose.

The purpose of this Article is to authorize special policemen of the Town of Moreau to issue and serve appearance tickets in connection with state statutes, local laws, ordinances or rules and regulations of the Town of Moreau.

§ 4-5. Authorization to issue tickets.

Special policemen of the Town of Moreau are authorized to issue and serve appearance tickets with respect to any violation of a state statute, local law, ordinance, rule or regulation affecting the public health, safety and welfare.

§ 4-6. Manner of service.

An appearance ticket shall be served personally.

CHAPTER 6. CLERK, DEPUTY TOWN

§ 6-1. Duties and responsibilities.

CHAPTER 6. CLERK, DEPUTY TOWN

[HISTORY: Adopted by the Town Board of the Town of Moreau 2-12-1989 as LL No. 6-1989. Amendments noted where applicable.]

§ 6-1. Duties and responsibilities.

The Deputy Town Clerks shall have all of the duties and responsibilities for and in place of the Town Clerk as prescribed by New York State and local laws.

CHAPTER 8. CONSERVATION ADVISORY COUNCIL

§ 8-1. Intent.

§ 8-2. Establishment.

§ 8-3. Membership; terms; qualifications; vacancies; ex officio members.

§ 8-4. Officers; rules and procedures; records and reports.

§ 8-5. Powers and duties.

§ 8-6. Reports.

§ 8-7. Compensation; expenses.

§ 8-8. Construal of provisions.

CHAPTER 8. CONSERVATION ADVISORY COUNCIL

[HISTORY: Adopted by the Town Board of the Town of Moreau 6-11-1974 as L.L. No. 1-1974. Section 8-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Freshwater wetlands — See Ch. 82.

§ 8-1. Intent.

The preservation and improvement of the quality of the natural and man-made environment within the Town of Moreau, 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 body of the Town of Moreau. 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 Moreau working in partnership with local and state officials and with various public and private institutions, agencies and organizations. Establishment of a Council for Conservation of the Environment is a necessary step in fostering unified action on environmental problems.

§ 8-2. Establishment.

The Town Board of the Town of Moreau hereby creates a Council, which shall be known as the "Town of Moreau Conservation Advisory Council."

§ 8-3. Membership; terms; qualifications; vacancies; ex officio members.

A. The Council shall consist of nine members, all of whom shall be appointed by the Town Board and who shall serve at the pleasure of the Town Board for terms not exceeding two years.

B. Persons residing within the Town of Moreau who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Council.

C. Vacancies on the Council shall be filled in the same manner as the original appointments, except that a vacancy occurring other than by the expiration of a term of office shall be filled only for the remainder of the unexpired term.

D. The Town Supervisor, Town Board members, the Chairman of the Planning Board, Town Superintendent of Highways, Town Attorney and others that may be hereafter designated by the Town Board shall be ex officio members of the Council.

§ 8-4. Officers; rules and procedures; records and reports.

The Town Board shall designate a member of the Council to act as Chairman thereof. At the first meeting of the Council, its members shall elect from among themselves 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 § 8-6 of this chapter.

§ 8-5. Powers and duties.

The powers and duties of the Council shall be to:

- A. Advise the Town Board 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 Moreau and such other studies and surveys as may be necessary to carry out the general purposes of this chapter.
- 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 and physiographic features; streams and their floodplains, swamps, marshlands and other wetlands; unique biotic communities; 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, institutions and individuals within the Town of Moreau in accord with the purposes of this chapter.
- F. Maintain liaison and 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.
- 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 Moreau and, similarly, recommend to the town appropriate and desirable changes in existing local laws and ordinances relating to environmental control or recommend new local laws and ordinances.
- H. Prepare, print and distribute books, maps, charts and pamphlets in accord with the purposes of this chapter.
- 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 of the Town of Moreau, accept, by gift, grant, devise, bequest or otherwise, property, both real and personal, in the name of the Town of Moreau as may be necessary to conserve and otherwise properly utilize open spaces and other land and water resources within the boundaries of the Town of Moreau. Such real property may be accepted in fee for land and water rights or as any lesser interest, development right or easement, including conservation easement, covenant or other contractual right, including conveyance with limitations or reversions.
- K. Carry out such other duties as may be assigned from time to time by the Town Board.

§ 8-6. Reports.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The Council shall submit an annual report to the Town Board not later than the first day of December 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 chapter.

§ 8-7. Compensation; 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 therefor.

§ 8-8. Construal of provisions.

This chapter shall be deemed an exercise of the powers of the Town of Moreau to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

CHAPTER 12. ETHICS, CODE OF

§ 12-1. Definitions.

§ 12-2. Prohibited activities.

§ 12-3. Disclosure of interest.

§ 12-4. Annual Code of Ethics review.

§ 12-5. Statement of disclosure.

§ 12-6. Public access.

§ 12-7. Ethics Advisory Council.

§ 12-8. Ethics Board.

§ 12-9. Penalties for offenses.

CHAPTER 12. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Moreau 10-10-1989 as L.L. No. 5-1989. Editor's Note: This local law supersedes former Ch. 12, Ethics, Code of, adopted 12-11-1973 as Ch. 14 of the 1973 Code, as amended. This local law also provided that it shall become effective November 1, 1989. Amendments noted where applicable.]

§ 12-1. Definitions.

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

INTEREST

A direct or indirect pecuniary or material benefit accruing to an official or employee as the result of a contract, business or professional transaction or other relationship with the Town of Moreau. For the purpose of this chapter, an official or employee will be deemed to have an interest in the affairs of:

- A. His or her spouse and unemancipated children.
- B. A firm, partnership or association of which an official or employee is a member or employee.
- C. A corporation of which such official or employee is an officer, director, employee or in which the official or employee owns 5% or more of any outstanding shares of any class of stock.

OFFICIAL or EMPLOYEE

An official or employee of the Town of Moreau, whether paid or unpaid, who is a member of one or more of the boards, commissions, departments or agencies listed below or who serves in any of the capacities which follow. The Town Board reserves the right to add new classes of officials or employees under this definition as deemed appropriate.

- A. Town Board.
- B. Zoning Board of Appeals.

C. Planning Board.

D. Highway Superintendent.

E. Ethics Board.

F. Ethics Advisory Council.

G. Independent Board of Assessment & Review.

H. Town Clerk.

I. Town Attorney.

J. Town Engineer.

K. Assessors.

L. Building Inspector.

M. Assistant Building Inspector.

N. Deputy Highway Superintendent.

[Added 2-26-1993]

O. Deputy Town Clerk.

[Added 2-26-1993]

P. Assessors Clerk.

[Added 2-26-1993]

Q. Landfill Superintendent.

[Added 2-26-1993]

R. Landfill Fee Both Attendants.

[Added 2-26-1993]

S. Water Superintendent.

[Added 2-26-1993]

T. Town Justices.

[Added 2-26-1993]

U. Court Clerks.

[Added 2-26-1993]

V. Bookkeeper.

[Added 2-26-1993]

W. Recreation Director.

[Added 2-26-1993]

X. Custodian.

[Added 2-26-1993]

SPOUSE

The husband or wife of the employee or official unless living separate and apart from the employee or official with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to a judicial order, decree or judgment or a legally binding separation agreement.

UNEMANCIPATED CHILD

Any son, daughter, stepson or stepdaughter who is under the age of 18, unmarried and living in the household of the official or employee.

§ 12-2. Prohibited activities.

It is the policy of the Town of Moreau that all officials and employees must avoid potential conflicts of interest. A potential conflict exists whenever an official or employee has an interest, direct or indirect, which conflicts with their duty to the town or adversely affects the individual's judgment in the discharge of their responsibilities. Therefore, no official or employee will:

A. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or awarding of any contract or in business or professional dealings with the Town of Moreau or any agency thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or business or professional dealings.

B. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

C. Solicit, directly or indirectly, any gift or receive or accept any gift having a value of \$25 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

D. After the termination of service or employment with the Town of Moreau, appear before any board or agency of the Town of Moreau in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration, unless so requested specifically by the Town Board.

E. Disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest.

F. Accept employment or engage in any business or activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.

G. Take action on a matter before the town or any instrumentality thereof when to his or her knowledge the performance of that action would provide a pecuniary or material benefit to himself or herself.

§ 12-3. Disclosure of interest.

A. Any official or employee who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Town of Moreau or by any other official board, agency, officer or employee of the Town of Moreau and who participates in discussion before or gives opinions or advice to any board, agency or individual considering the same will publicly disclose on the official record the nature and extent of such interest.

B. Any official or employee of the Town of Moreau who has knowledge of any matter being considered by any board, agency, officer or employee of the Town of Moreau in which he or she will have or intends to acquire any direct or indirect interest will be required to disclose, in writing, his or her interest to such board, agency, officer or employee and the nature and extent thereof.

§ 12-4. Annual Code of Ethics review.

A. Every official and employee is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the Town of Moreau and understands and is not in violation of any provision of the code. Such attestation will be made on or before the first day of April each year.

B. Newly appointed or elected officials or employees whose duties commence after the first day of April filing deadline will be required to submit a Code of Ethics review form within 30 days after the commencement of their duties.

C. The penalties for failing to comply with Subsection A and B of this section will be the same as those provided for in § 12-9.

D. The Code of Ethics review form shall be in a form as follows:

CODE OF ETHICS REVIEW FORM

NAME:

ADDRESS:

TITLE:

DATE OF APPOINTMENT:

I, the undersigned, hereby attest that I have reviewed the Code of Ethics provisions in the Town of Moreau Ethics and Disclosure Law.

I also attest that I understand the provisions of the code and, to the best of my knowledge, am not in violation of any of its precepts.

Sworn and subscribed to before me
this _____ day of _____ 19____.

Notary Public

§ 12-5. Statement of disclosure.

A. All officials and employees of the Town of Moreau will file a statement of disclosure containing the information asked for on the annual statement of disclosure form contained hereinbelow. The statement will be filed with the office of the Town Clerk no later than the first day of April of each year and will cover a period of 12 months retroactively to the first day of April of the prior year.

B. Newly appointed or elected officials or employees whose duties commence after the first day of April filing deadline will be required to submit a disclosure statement within 30 days after the commencement of their duties. The disclosure will cover the twelve-month period prior to the date of filing.

C. Within 30 days of any change in the information contained in his or her most recently filed statement, the official or employee will file a signed amendment to the statement reflecting that change.

D. The Town Clerk will verify that each official or employee subject to this law has filed his or her statement and will notify the Ethics Advisory Council of any instances of noncompliance.

E. Financial disclosure statements will be maintained for a minimum period of seven years from the date of filing.

F. The disclosure statement shall be in a form as follows:

[Amended 2-26-1993]

DISCLOSURE STATEMENT

I hereby submit the following disclosure statement under oath, listing the assets, liabilities and sources of income of myself, my spouse and unemancipated children.

Date of Statement

(a) General Information:

Name:

Address:

Occupation

Title: _____ Date of Appointment:

Name of Spouse:

Occupation of Spouse:

(b) Please list any office, trusteeship, directorship or position of any nature, whether compensated or uncompensated, held by you or your spouse with any proprietorship, partnership, corporation or other organization, presently or during the preceding 12 months, which does business with the Town of Moreau or has any matter pending before the Town Board, Planning Board or Zoning Board of Appeals:

(c) Please list any occupation, trade, business or profession presently engaged in by you or your spouse, presently or during the preceding 12 months, which does business or has any matter pending with or is licensed or regulated by a town agency or department (indicate what town agency or department):

- (d) Please list below all sources of income for you, your spouse or unemancipated children from entities doing business with the Town of Moreau or having any matter pending before the Town Board, Planning Board or Zoning Board of Appeals, presently or during the preceding 12 months or anticipated within the next 12 months:

All compensated continuing employment of whatever nature:

All directorships and other fiduciary positions for which compensation has or will be claimed:

All contractual arrangements producing or expected to produce income:

All honorariums, lecture fees and other miscellaneous sources of income:

- (e) Please list below the name and address of any proprietorship, partnership or corporation doing business with the Town of Moreau or any instrumentality thereof in which you, your spouse or unemancipated children presently have or have had in the preceding 12 months an interest of 5% or more:

Company Name

Address

- (f) Please indicate below the location, general nature and acquisition date of any real property in the Town of Moreau in which any direct, indirect, vested or contingent interest is held by you, your spouse or unemancipated children along with the names of all individuals or entities who share a direct or indirect interest therein (exclude your primary residence):

<u>Location</u>	<u>General Nature*</u>	<u>Acquisition Date</u>	<u>Individuals or Entities Sharing Interest</u>
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* Please specify if commercial, industrial, residential, farm or vacant.

- (g) Please list any direct or indirect interest, whether vested or contingent, of you, your spouse or unemancipated children in any contract made or executed by the Town of Moreau or any instrumentality thereof:

<u>Instrumentality</u>	<u>Description of Interest and Nature of Contract</u>
------------------------	---

- (h) Please list below all notes and accounts receivable* in excess of \$1,000 held by you or your spouse due from any entity doing business with or having any matter considered before the Town of Moreau or any instrumentality thereof:

<u>Name of Debtor</u>	<u>Type of Obligation, Date Due and Nature of Security, If Any</u>
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* Deposit or investment accounts at banks, savings and loan associations, credit unions and investment firms do not constitute notes or accounts receivable.

- (i) Please list below all liabilities, including the name of the creditor, of you and your spouse to any entity doing business with or having any matter considered by the Town of Moreau or any instrumentality thereof (do not include credit cards or ordinary and consumer debt such as automobile and mortgage loans or ordinary and customary business loans from banks, savings and loan associations and credit unions):

<u>Name of Creditor</u>	<u>Type of Obligation, Date Due and Nature of Security, If Any</u>
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- (j) ANY ADDITIONAL INFORMATION FOR WHICH SPACE IS INADEQUATE:

ATTESTATION

I hereby certify that I have read the foregoing disclosure statement and the addendum thereto, if applicable, and that, to the best of my knowledge and belief, they are true, correct and complete and that I have not and will not transfer any asset, interest or

property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(Signed)

Sworn and subscribed to before me
this _____ day of _____
19____.

Notary Public

§ 12-6. Public access.

The Town Board recognizes that public access to disclosure statements filed by town officials and employees will enhance public confidence and deter or uncover conflicts of interest or corruption.

A. Any person who desires to review the disclosure statement of any official or employee must submit a written request to the records access officer providing the following:

- (1) Name and address.
- (2) Name and address of any person or organization on whose behalf the statement is being requested.
- (3) A form of identification to verify that an accurate name and address has been given.
- (4) The reason for inspecting the statement.
- (5) Payment of a fee of \$1 per page if a copy of the disclosure statement is desired.

B. Any official or employee whose disclosure statement has been inspected or copied will be notified of the identity and address of the person(s) or organization(s) which requested to view or copy the statement.

C. It will be unlawful for any person or organization to inspect or copy a statement for:

- (1) Any unlawful purpose.
- (2) Any commercial use. (Use by the public media does not constitute a commercial use.)
- (3) For use directly or indirectly in the solicitation of the official or employee for political, charitable or business purposes.

D. A civil action may be brought by the Ethics Board against any person or organization that violates the provisions of Subsection C of this section or the willful withholding of the information requested in Subsection A of this section.

§ 12-7. Ethics Advisory Council.

A. The Ethics Advisory Council will consist of five members, each appointed by majority vote of the Town Board. Each appointee must reside in the Town of Moreau. The Chairman will be selected by the Town Supervisor.

B. None of the members of the Ethics Advisory Council may hold any other public office, elected or appointed, or be an employee of the Town of Moreau.

C. The Ethics Advisory Council will serve a term of four years; however, two of the original appointees will serve initial terms of two years.

D. Three members of the Ethics Advisory Council will constitute a quorum.

E. The members of the Ethics Advisory Council will not be compensated but will be reimbursed for reasonable expenses incurred in the performance of their duties.

F. The responsibilities of the Council shall be as follows:

(1) The Ethics Advisory Council will meet at least quarterly on or about the first Monday in January, April, July and October. At each meeting, the Ethics Advisory Council will hear or receive complaints of unethical practices brought by any citizen. At the quarterly meeting in April, the Ethics Advisory Council will review filed disclosure statements and Code of Ethics review forms which have been submitted by officials and employees.

(2) The Ethics Advisory Council will review all field statements and complaints to determine whether a conflict of interest or impropriety exists between the public duties of the official or employee and his private activities pursuant to this chapter.

(3) Where the Ethics Advisory Council deems a conflict of interest or other impropriety adversely reflecting on the integrity of the town government does exist and if, in the sole opinion of the majority of the Ethics Advisory Council, such conflict may warrant a public disclosure, the Council will cause and direct only relevant information pertaining to the conflict or impropriety of the particular official or employee to be filed with the Ethics Board. The Ethics Board will accept such statements and maintain separate files for the same.

(4) Prior to the disclosure to the Ethics Board, the Ethics Advisory Council will specify, by written opinion stating its findings of fact and conclusion, their reasons justifying their decision to notify the Ethics Board. Prior to the filing of the opinion with the Ethics Board, a copy will be mailed to the official or employee by certified mail, return receipt requested. The official or employee may respond, rebut or otherwise refute the opinion of the Ethics Advisory Council, either in writing or personally, or both, before the Council at a time and place specified by the Council. The failure of the official or employee to respond personally within 21 days from the date the opinion is received will constitute a waiver by that official or employee. The Ethics Advisory Council may, in its discretion, amend, revise or rewrite its opinion or rescind by a majority vote of the entire membership its initial decision to disclose the official's or employee's purported conflict or appearance of impropriety.

(5) In addition to all other powers conferred by this section, the Ethics Advisory Council may recommend to the official or employee a manner in which the conflict of interest, or appearance of impropriety may be rectified. An affidavit by the official or employee detailing his compliance with the recommendations may be sufficient reason to rescind the Ethics Advisory Council's decision to make a disclosure to the Ethics Board. The affidavit must be delivered to the Council in the time and place set forth in the Council's certified, return receipt requested letter to the official or employee. If the official or employee fails to follow the recommendations of the Ethics Advisory Council in curing the conflict of interest or appearance of impropriety, that fact will also be disclosed to the Ethics Board. Nothing herein will be construed or interpreted to mean that the Ethics Advisory Council is under a duty to make recommendations to the official or employee.

(6) Pending the response of the official or employee and final resolution of an issue pursuant to either Subsection F(3) and (4) herein, the Ethics Advisory Council will not disclose any information to the Ethics Board.

(7) The Ethics Advisory Council will recognize exceptions with respect to extensions of time within which to file disclosure statements due to justifiable cause or undue hardship. The Council, by a majority vote, may grant additional periods of time for complying with the disclosure statement filing requirement and will impose time limitations upon such extensions.

(8) The Ethics Advisory Council may permit an official or employee to delete from the disclosure statement one or more items of information upon a finding by a majority of the entire Council that the information which

would otherwise be required to be disclosed will have no material bearing on the discharge of the duties of the official or employee.

§ 12-8. Ethics Board.

A. The Ethics Board will consist of five members, each appointed by the majority vote of the Town Board. Each appointee must reside in the Town of Moreau.

B. None of the members of the Ethics Board may hold any other public office, elected or appointed.

C. The Ethics Board members will serve terms of four years; however, two of the original appointees will serve initial terms of two years.

D. Three members of the Ethics Board will constitute a quorum.

E. The members of the Ethics Board will not be compensated but will be reimbursed for reasonable expenses incurred in the performance of their duties.

F. The responsibilities of the Board shall be as follows:

(1) The Ethics Board will meet as necessary and when called upon to convene by the Ethics Advisory Council. At its meetings, the Ethics Board will receive and consider complaints of unethical practices or instances of impropriety brought by the Ethics Advisory Council.

(2) Where the Ethics Board deems a conflict of interest or other impropriety adversely reflecting on the integrity of the town government does exist and if, in the sole opinion of the majority of the entire membership of the Ethics Board, such conflict warrants a public disclosure, the Ethics Board will cause and direct only relevant information pertaining to the conflict or impropriety of the particular official or employee to be filed with the Town Board. The filing will constitute a public record to be made available to anyone who makes application to examine such record. The Town Board will accept such statements and maintain separate files for the same.

(3) Prior to the filing of the opinion with the Town Board, a copy will be mailed to the official or employee by certified mail, return receipt requested. The official or employee may respond, rebut or otherwise refute the opinion of the Ethics Board, either in writing or personally, or both, before the Board at a time and place specified by the Board. The failure of the official or employee to respond personally within 21 days from the date the opinion is received will constitute a waiver by that official or employee. The Ethics Board may, in its discretion, amend, revise or rewrite its opinion or rescind by a majority vote of the entire membership its initial decision to make a public disclosure.

(4) In addition to all other powers conferred by this section, the Ethics Board may recommend to the official or employee a manner in which the conflict of interest, or appearance of impropriety, may be rectified. An affidavit by the official or employee detailing his compliance with the recommendations may be sufficient reason to rescind the Ethics Board's decision to disclose the statement or portion of the statement to the Town Board. The affidavit must be delivered to the Board in the time and place set forth in the Board's certified, return receipt requested letter to the official or employee. If the official or employee fails to follow the recommendations of the Ethics Board in curing the conflict of interest or appearance of impropriety that fact will also be disclosed to the Town Board.

(5) Pending the response of the official or employee and final resolution of an issue pursuant to either Subsection F(3) or (4) herein, the Ethics Board will not disclose any information to the Town Board or public.

(6) In addition to any other powers and duties specified by this chapter, the Ethics Board will have the power and duty to conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

(7) Notwithstanding the provisions of Article VI of the Public Officers Law, the only records of the Ethics Board which will be available for public inspection are:

(a) The information set forth in an annual disclosure statement pursuant to this chapter.

(b) Notices of reasonable cause pursuant to § 12-9A of this chapter.

(c) Notices of civil assessments imposed pursuant to this chapter.

§ 12-9. Penalties for offenses.

A. If any official or employee refuses or fails, either unknowingly or intentionally, to file a statement as required by this chapter, the Ethics Board will notify the Town Board that said individual has not filed a statement. Upon such notification, the Town Board may suspend the official or employee without pay (if compensated). In addition, the official or employee will also be notified by certified mail that no statement has been filed.

B. Once a statement has been filed, the Ethics Board will promptly notify the Town Board that the official or employee has complied with the filing requirement of this chapter, reinstate the official or employee and release all moneys withheld.

C. Notwithstanding any other penalties imposed by this section, if any official or employee does not file a statement within 45 days after being notified by the Ethics Board that said official or employee has failed to file a statement or if the official or employee files a statement which the Ethics Board determines was filed with the intent to deceive, intentionally misrepresent or otherwise fraudulently answer any question set forth in the statement or to intentionally withhold any information asked for or demanded in the statement, such action will be deemed a misconduct of office and will be ground for suspension or dismissal. The Ethics Board will send a notice of reasonable cause to the Town Board of such instances or misconduct. The Town Board may take whatever action it deems appropriate to enforce a suspension or dismissal of the offending individual.

D. If any official or employee files a statement with the intent to deceive, intentionally misrepresent or to otherwise fraudulently answer any question set forth in the statement or to intentionally withhold any information asked for or demanded in the statement and if such deception or misrepresentation is found to be both intentional and material, then such official or employee may be assessed a civil penalty of not more than \$10,000 by the Ethics Board.

E. Assessment of a civil penalty will be final unless suspended or vacated within 30 days of imposition by the Ethics Board.

F. It will be a violation of the law for any individual, except the individual who filed such statement, to disclose any information contained on a disclosure statement except as authorized by this chapter. A civil action may be brought by the Ethics Board against any person or organization that violates this section.

G. Nothing in this section will be construed as precluding the prosecution of officials or employees for violations of any offense, criminal or civil, pursuant to the laws, ordinances or statutes of the State of New York.

H. Any appointed official or employee who is dismissed from his or her position by virtue of a violation of this chapter will be prohibited for a period of three years after the date of such dismissal from service as an official or employee, as defined in § 12-1 of this chapter.

CHAPTER 19. LOCAL DEVELOPMENT CORPORATION BYLAWS

§ 19-1. Name; purposes; powers; offices.

§ 19-2. Membership; voting.

§ 19-3. Meetings of members.

§ 19-4. Directors; voting.

§ 19-5. Meetings of Directors.

§ 19-6. Committees.

§ 19-7. Officers.

§ 19-8. Fees, dues and assessments.

§ 19-9. Indemnification.

§ 19-10. Corporate seal.

§ 19-11. Amendment.

CHAPTER 19. LOCAL DEVELOPMENT CORPORATION BYLAWS

[HISTORY: Adopted by the Town Board of the Town of Moreau 6-12-1990. Amendments noted where applicable.]

§ 19-1. Name; purposes; powers; offices.

- A. The name of the corporation is: Town of Moreau Local Development Corporation.
- B. The corporation is a corporation as defined in Subparagraph (a)(5) of § 102 of the Not-For-Profit Corporation Law of the State of New York.
- C. The corporation is a Type C corporation, as defined in § 201 of said Not-For-Profit Corporation Law and in § 1411(b) of said Not-For-Profit Corporation Law.
- D. The corporation is formed for the following purposes: relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the community or geographical area by attracting new industry to the community or area or by encouraging the development of or retention of an industry in the community or area and lessening the burdens of government and acting in the public interest.
- E. The purposes set forth in Subsection D herein are the lawful public or quasi-public objectives of the corporation, and, in exercising its powers, the corporation will be performing an essential governmental function.
- F. The principal office of the corporation will be located in the County of Saratoga and State of New York.
- G. The Secretary of State of the State of New York is designated as agent of the corporation for purposes of receiving process served against the corporation. The Secretary of State shall mail such process to the corporation at the following address: C/O THE CORPORATION, Moreau Town Hall, 59-61 Hudson Street, South Glens Falls, New York 12803.
- H. All income and earnings of the corporation shall be used exclusively for its corporate purposes or accrue and be paid to the New York Job Development Authority.
- I. No part of the income or earnings of the corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to any member or private person, corporate or individual or any other private interest, except that the repayment of loans is authorized and the repayment of contributions (other than dues) to the local development corporation is authorized but only if and to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1954.
- J. If the corporation accepts a mortgage loan or loans from the New York Job Development Authority, the corporation shall be dissolved in accordance with the provisions of § 1411(g) of said Not-For-Profit Corporation Law upon the repayment or other discharge in full by the corporation of all such loans.
- K. In furtherance of its corporate powers, the corporation shall have in general all powers granted to it pursuant to said Not-For-Profit Corporation Law as amended, including but not limited to the power to construct, acquire, rehabilitate and improve for use by others industrial, manufacturing, research, warehousing, commercial or retail plants or facilities in the territory in which its operations are principally to be conducted; to assist financially in such construction, acquisition, rehabilitation and improvement; to maintain such plants for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto; to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; to borrow money and to issue negotiable bonds, notes and other obligations therefor and, notwithstanding § 510 of said Not-For-Profit Corporation Law, disposition of all or substantially all assets, without leave of the court, to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine and, in connection with loans from the New York job development authority, to enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof and otherwise to carry out

its corporate purposes and to foster and encourage the location or expansion of industrial, manufacturing, research, warehousing, commercial or retail plants or facilities in the territory in which the operations of the corporation are principally to be conducted; to enter into and carry out contracts; to solicit contributions, charitable and noncharitable, to be used for the corporate purposes; and to do all acts necessary or convenient for the attainment of the corporate purposes; provided, however, that the corporation shall not attempt to influence legislation by propaganda or otherwise or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

L. The Board of Directors of the corporation is authorized to accept subventions from members or nonmembers on terms and conditions not inconsistent with said Not-For-Profit Corporation Law and to issue certificates therefor, said authorization to be made by resolution of the Board.

§ 19-2. Membership; voting.

A. Membership.

(1) The members of the corporation shall be the Town Board of the Town of Moreau ("member").

(2) The persons entitled to vote on behalf of the member shall be the Town of Moreau Supervisor and each of the Councilmen of the Town Board of the Town of Moreau as duly elected and qualified from time to time and shall be known as the "voting members."

(3) If any voting member vacates his position on the Town Board of the Town of Moreau for any reason, his voting membership shall automatically cease concurrently with said vacating, without the need for any official action by this corporation or any other party.

(4) New representatives on the Town Board of the Town of Moreau as may from time to time be duly appointed and qualified shall automatically become voting members of this corporation concurrently with said qualification, without the need for any official action by this corporation or any other party.

(5) The Secretary shall keep a list of all present and past voting members, their addresses and their terms as voting members, which record shall be the official record of voting members of the corporation, and shall be evidence of such voting membership.

B. At any meeting of members, every voting member having the right to vote shall be entitled to vote in person or by proxy. Each voting member shall be entitled to one vote.

C. Voting violations.

(1) No voting member shall violate these bylaws or act in such a way as to intentionally prejudice the interests of the corporation or conflict with its powers or purposes. The corporation shall be not for profit, and all income and earnings of the corporation shall be used exclusively for the corporate purposes. No part of the income or earnings of the corporation shall inure to the benefit or profit of nor shall any distribution of the corporate property or assets be made to any member or private person, partnership, corporation or other business entity or any other private interest, except in accord with the Not-For-Profit Corporation Law of the State of New York, as amended, hereinafter referred to as the "Not-For-Profit Corporation Law," the certificate of incorporation and these bylaws.

(2) A voting member may be expelled for cause or for violation of the provisions of Subsection C(1) hereof, at any regular or special meeting, upon the vote of a majority of the total voting membership of the corporation.

D. The voting members shall have such duties and powers as are set forth in the Not-For-Profit Corporation Law, the certificate of incorporation and these bylaws.

E. The voting members shall receive no compensation for their services, but shall be entitled to the necessary expenses, including but not limited to travel expenses incurred in the discharge of their duties.

§ 19-3. Meetings of members.

A. Annual meeting.

(1) The members shall have an annual meeting which shall take place during the month of January in each year. The date, time and location of the annual meeting shall be determined by the Town Board and stated in the notice of the annual meeting sent to all voting members.

(2) The notice for the annual meeting shall be the same as for special meetings of the members.

B. Majority; notice.

(1) A majority of the members may determine to set regular meetings of the members, at such date(s), time(s) and location(s) as the members shall determine.

(2) The notice for any such regular meeting shall be the same as for special meetings of the members.

C. Special meetings.

(1) The Town Board of the Town of Moreau or 60% of the voting members of the corporation, may determine to call a special meeting(s) at such date(s), time(s) and location(s) as they shall determine. If the voting members call a special meeting, the call must be written and signed by 60% or more of the voting members.

(2) Notice for each special meeting shall be given in accord with §§ 603 and 605 of the Not-For-Profit Corporation Law.

D. At an annual or regular meeting, the members may consider any matter brought before them. At a special meeting, the members may consider only those matters specified in the notice, unless all of the voting members present at that meeting determine to consider a matter not set forth in the notice.

E. Any voting member may authorize another person(s) to act for him by execution of a written proxy statement. Each proxy statement must be signed by the voting member or his attorney-in-fact. No proxy shall be valid after the expiration of three months from the date thereof unless otherwise provided in the proxy. Each proxy shall be revocable at the pleasure of the voting member executing it, except as otherwise provided by law.

F. Notice of meeting need not be given to any voting member who submits a signed waiver of notice, in person or by proxy, either before or after the meeting. The attendance of any voting member at a meeting, in person or by proxy, without protesting the lack of due notice of such meeting prior to the conclusion of the meeting, shall constitute a waiver of notice by such voting member.

G. A majority of the voting members shall constitute a quorum.

§ 19-4. Directors; voting.

A. There shall be five Directors of the corporation. The Directors shall be the Town of Moreau Town Supervisor and the Town of Moreau Councilmen as duly elected and qualified from time to time.

B. Vacancies.

(1) If any Director vacates his position on the Town Board of the Town of Moreau for any reason, his directorship shall automatically cease concurrently with said vacating, without the need for any official action by this corporation or any other party.

(2) New representatives on the Town Board of the Town of Moreau as may from time to time be duly appointed and qualified shall automatically become Directors of this corporation concurrently with such qualification, without the need for any official action by this corporation or any other party.

C. Each Director shall be entitled to one vote.

D. Each Director shall be an individual of 18 years of age or older and a voting member of the corporation.

E. A Director may resign by presenting a letter of resignation to the Secretary of the corporation or to the President of the corporation if the resigned Director holds the position of Secretary.

F. All the powers and duties of the corporation as set forth in the certificate of incorporation, these bylaws and the Not-For-Profit Corporation Law shall be vested in the Town Board of the Town of Moreau, which shall manage the corporation.

G. Directors shall receive no compensation for their services, but shall be entitled to the necessary expenses, including but not limited to travel expenses incurred in the discharge of their duties.

§ 19-5. Meetings of Directors.

A. Meetings.

(1) The Board of Directors may, by resolution, determine to hold an annual meeting during the month of January.

(2) Notice for the annual meeting shall be the same as for special meetings.

(3) The Board of Directors may establish regular meetings and may set the date(s), time(s) and location(s) therefor.

(4) Notice for the regular meetings shall be the same as for special meetings.

B. Special meetings.

(1) A special meeting may be called by the President or Vice President or by the Town Board of the Town of Moreau. If a special meeting is called by the Town Board of the Town of Moreau, the call must be written and signed by at least a majority of the total Town Board of the Town of Moreau.

(2) Notice of each special meeting shall be written and shall state the date, time and location of the meeting and the purpose(s) for which the meeting is called. The notice shall be personally delivered or mailed to Directors not more than three weeks and not less than five days before the date of the meeting.

C. Notice of meetings need not be given to any Director who submits a signed waiver of notice, in person or by proxy, either before or after the meeting. The attendance of any Director at a meeting, in person or by proxy, without protesting the lack of the due notice of such meeting prior to the conclusion of the meeting, shall constitute a waiver of notice by such member.

D. At an annual or regular meeting, the Board of Directors may consider any matter brought before it. At a special meeting, the Board of Directors may consider only those matters specified in the notice, unless all of the members present determine to consider a matter not set forth in the notice.

E. The Board of Directors shall determine the date, time and location of all annual, regular and special Board of Directors meetings.

F. Telephone meetings; written consent.

(1) Any one or more of the Directors may participate in any Board of Directors meeting or any meeting of any committee thereof by means of a conference telephone or similar communications equipment that allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

(2) Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all Directors or committee members consent, in writing, to the adoption of a resolution authorizing the action.

G. A majority of the Directors shall constitute a quorum of the Board of Directors.

§ 19-6. Committees.

A. The Board of Directors may create an Executive Committee to consist of at least three Directors and may grant it such powers as it deems warranted; provided, however, that any such action must be in compliance with the terms of the Not-For-Profit Corporation Law.

B. The Board of Directors may create a Loan Committee to review and recommend to the Board of Directors loans to companies located or to be located within the corporation's jurisdiction and such other special committees as it deems desirable and may grant them such powers as it deems warranted.

C. A majority of the total membership of a committee shall constitute a quorum.

§ 19-7. Officers.

A. Designation.

(1) The corporation shall have the following officers: President, Vice President, Secretary and Treasurer and such other officers as the Board of Directors may from time to time appoint.

(2) The corporation may have more than one Vice President, an Assistant Secretary and/or an Assistant Treasurer.

B. Appointment.

(1) At the first Board of Directors meeting following the annual meeting of the members, a majority of the Board of Directors shall adopt a resolution appointing the officers set forth in Subsection A(1) of this section for the upcoming year and, at any time, may similarly adopt a resolution appointing one or more of the officers set forth in Subsection A(2) of this section.

(2) Officers shall be appointed for one-year terms and shall hold office until their successors have been elected and qualified.

C. All officers shall be members of the Town Board of the Town of Moreau.

D. If a vacancy occurs in the position of any officer, the Board of Directors shall similarly appoint a successor at the next Board of Directors meeting, which successor shall serve until the expiration of the term of that office.

E. Withdrawal; removal.

(1) An officer may withdraw from that position by submission of a written resignation to the Secretary or, in the case of the Secretary, to the President of the corporation.

(2) At any time, the Board of Directors may remove an officer, with or without cause, by resolution of a majority of the members of the Board of Directors.

F. President. The President shall be the chief executive officer of the corporation and shall preside at all meetings of the Members and the Board of Directors. He shall oversee the general management of the affairs of the corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall have the power to make and execute contracts in the ordinary business of the corporation for and in the name of the corporation; to execute with the Secretary all deeds, mortgages, bonds, certificates of membership and other obligations or instruments which are authorized by the Board of Directors and in accord with the certificate of incorporation, the bylaws and the Not-For-Profit Corporation Law. He shall perform such other duties as the Board of Directors may prescribe or designate.

G. Vice President. The Vice President shall act for the President and shall have all of the powers and perform all of the duties of the President during the absence or disability of the President. The Vice President shall also perform such duties as the Board of Directors may prescribe or designate.

H. Secretary. The Secretary shall keep the minutes and resolutions of the Board of Directors and the members. He shall be responsible for the giving and serving of all notices of meetings of the members and the Board of Directors. He shall have the custody of the seal of the corporation and shall affix and attest the same to documents when duly authorized to do so by the Board of Directors. He shall have charge of the corporate records and such other books and papers as the Board of Directors may direct. He shall maintain a written record containing the names, addresses and terms of office of all present and past members, Directors and officers of the corporation. He shall perform all duties usually incident to the office of Secretary and such other duties as may from time to time be prescribed or designated to him by the Board of Directors.

I. Assistant Secretary. During the absence or disability of the Secretary, the Assistant Secretary shall have all of the powers and functions of the Secretary and shall perform such other duties as may be prescribed or designated by the Board of Directors.

J. Treasurer. The Treasurer shall have the care and custody of all the funds and securities of the corporation and shall deposit said funds in the name of the corporation in such bank or trust company as the Board of Directors may determine. He shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the corporation and shall render or cause to be rendered financial statements of the corporation upon request of the Board of Directors. He shall prepare and execute with the President or Vice President and file any annual report(s) or statement(s) which may be required by law. He shall execute such contracts on behalf of the corporation as he is authorized to execute on behalf of the Board of Directors. He shall at all reasonable times exhibit his books and accounts to any member of the corporation upon application at the office of the corporation during ordinary business hours. He shall prepare or cause to be prepared an annual audit of the accounts of the corporation and present or cause to be presented such audit, in writing, at the annual meeting of the members, at which time he shall also present or cause to be presented an annual report setting forth in full the financial condition of the corporation. He shall perform such other duties as the Board of Directors may prescribe or designate.

K. Assistant Treasurer. The Assistant Treasurer shall have the powers and functions of the Treasurer during the absence or disability of the Treasurer. He shall perform such other duties as the Board of Directors may prescribe or designate.

L. Officers shall receive no compensation for their services, but shall be entitled to the necessary expenses, including but not limited to travel expenses, incurred in the discharge of their duties.

§ 19-8. Fees, dues and assessments.

A. The Board of Directors shall have the power to impose by resolution initiation fees, dues and/or assessments on any voting or nonvoting members of the corporation and to impose fines or other penalties for violation of the corporate rules and regulations.

B. The Board of Directors shall have the power to set by resolution provisions necessary to enforce the collection of fees, dues, assessments, fines and/or other penalties, including provisions for the termination of membership upon nonpayment and provisions for reinstatement of membership upon payment.

§ 19-9. Indemnification.

The Board of Directors may, by resolution, from time to time provide for indemnification of any Director(s) and/or officer(s), in accord with the provisions of Article VII of the Not-For-Profit Corporation Law.

§ 19-10. Corporate seal.

The seal of the corporation shall be circular in form bearing the words and date as follows:

TOWN OF MOREAU LOCAL DEVELOPMENT CORPORATION 1990

Corporate Seal

§ 19-11. Amendment.

A. These bylaws may be amended, modified or repealed by a vote of a majority of the voting members or a majority of the Board of Directors, provided that written notice of the proposed amendment, modification or repeal and the proposed text thereof is mailed or personally delivered to the voting members or Board of Directors, as the case may be, not less than 10 nor more than 30 calendar days prior to the date of such meeting.

B. In the case of such an amendment, modification or repeal, a written notice to the voting members and the Board of Directors stating the full text thereof shall be personally delivered or mailed within 30 calendar days after the date of the meeting effecting the change.

CHAPTER 24. RECEIVER OF TAXES AND ASSESSMENTS

§ 24-1. Appointment.

CHAPTER 24. RECEIVER OF TAXES AND ASSESSMENTS

[HISTORY: Adopted by the Town Board of the Town of Moreau 7-14-1971 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 130.

§ 24-1. Appointment.

Effective January 1, 1972, and thereafter, the office of Receiver of Taxes and Assessments in the Town of Moreau shall be an appointive office.

CHAPTER 28. RECREATION COMMISSION

§ 28-1. Establishment; powers.

§ 28-2. Jurisdiction.

§ 28-3. Membership; terms; compensation; vacancies.

§ 28-4. Powers and duties.

§ 28-5. Reservation of powers by Town Board.

§ 28-6. Rules and regulations.

§ 28-7. Budget and reports.

CHAPTER 28. RECREATION COMMISSION

[HISTORY: Adopted by the Town Board of the Town of Moreau 4-11-1972 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation — See Ch. 102.

Recreation Commission Bylaws — See Ch. A156.

§ 28-1. Establishment; powers.

There is hereby established a Recreation Commission for the Town of Moreau, Saratoga County, New York, which shall have the power to plan, equip, operate and maintain playgrounds, recreation centers, open spaces and areas, youth and adult recreation programs and facilities and which shall possess, in addition, all the powers and be subject to all the responsibilities of the local authority of said Town of Moreau as set forth in Article 13 of the General Municipal Law of the State of New York.

§ 28-2. Jurisdiction.

The Recreation Commission shall have jurisdiction over the entire Town of Moreau, including the Village of South Glens Falls.

§ 28-3. Membership; terms; compensation; vacancies.

This Commission shall consist of seven persons who shall be residents of the area under the jurisdiction of said Recreation Commission and who shall be appointed by the Town Board for terms of seven years or until their successors are appointed, except that the members of such Commission first appointed shall be appointed for such terms that the term of one Commissioner shall expire annually thereafter. Members of such Commission shall serve without pay. Vacancies in such Commission which may occur other than by the expiration of a term shall be filled by the Town Board and shall be for the unexpired term only.

§ 28-4. Powers and duties.

The following powers (subject to the reservation of powers set forth hereinafter) are hereby delegated to the Recreation Commission:

A. The complete and exclusive control, improvement and maintenance of all parks, playgrounds, recreational centers and recreational facilities now owned or leased by the Town of Moreau or properties to be acquired or leased by it in the future, together with the power to improve or make additions to same.

B. The power to use:

(1) Such town property as the Town Board may from time to time set apart therefor.

(2) Such property of the Village of South Glens Falls as the Board of Trustees may from time to time set apart therefor.

(3) With the consent of Central School District No. 1. Towns of Moreau, Northumberland and Wilton, such school building, premises and property as may be suitable and desirable therefor.

(4) With the consent of the owners and of the Town Board, such private property as may be suitable and desirable therefor.

C. The power to adopt and continue rules of procedure for all business conducted within its jurisdiction and such rules and regulations for the operation and conduct of recreation facilities and carrying out of recreation programs as it may deem necessary and which shall be fit and proper for the recreation and welfare of the residents within the area of the jurisdiction of the Commission.

D. The power to equip, maintain and operate such playgrounds, community recreational centers, public playfields, open spaces and areas and swimming pools and other recreational facilities as may be authorized by law.

E. Except as may be reserved hereinafter, the power to make such purchases of materials, supplies and equipment as may be necessary to fulfill its purposes and programs, provided that all such expenditures are within the limits of its annual budget as hereinafter provided for and within the limitations of the annual appropriations made for such purchases and subject to the authorization and audit of the Town Board.

§ 28-5. Reservation of powers by Town Board.

The Town Board expressly reserves the following powers:

A. The power to take any steps deemed necessary in connection with the finances of the Commission.

B. The power to lease, purchase or otherwise acquire additional real property for use as parks.

C. The power to assign employees to the Commission from various departments and agencies of the town and to assign employees of the Commission to other departments and agencies of the town.

D. The power of such general regulation as the Town Board may from time to time deem expedient and necessary.

§ 28-6. Rules and regulations.

The Commission shall be authorized and empowered to arrange, conduct and supervise sports, play, crafts, dramatics and any other type of recreational and cultural programs, events and projects and shall adopt rules and regulations for the safe and proper conduct of such events and for the regulation of the qualifications and conduct of those participating therein.

§ 28-7. Budget and reports.

The Commission shall annually, prior to the time of the preparation of the town budget, prepare and submit to the Town Board an appropriately drawn and detailed budget of its estimated expenses for the next ensuing year. In addition, it shall submit a monthly detailed report of its expenditures and operations as well as such other reports at such other times as the Town Board may require.

CHAPTER 32. SALARIES AND COMPENSATION

ARTICLE I. Town Attorney and Deputy Town Attorney

§ 32-1. Purpose.

§ 32-2. Compensation for special services.

§ 32-3. Annual salary.

ARTICLE II. Town Officers and Employees

CHAPTER 32. SALARIES AND COMPENSATION

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 12-30-1981 as L.L. No. 2-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. A155.

ARTICLE I. Town Attorney and Deputy Town Attorney

§ 32-1. Purpose.

The purpose of this Article is to set forth the method of the payment of compensation to the Town Attorney and Deputy Town Attorney for services rendered to the Town of Moreau, superseding the provisions of §§ 20(2)(a) and 27 of the Town Law.

§ 32-2. Compensation for special services.

The Town Attorney and Deputy Town Attorney, in addition to the annual salary provided for in § 32-3, are entitled to be compensated for services rendered in litigation, bond issues and/or specialized legal services for the town or any special district therein, pursuant to resolution of the Town Board at its annual organization meeting.

§ 32-3. Annual salary.

The Town Attorney and Deputy Town Attorney are to be paid salaries at the rate for each annual period as determined by resolution of the Board at the annual organizational meeting. The annual salary is intended to compensate the Town Attorney and Deputy Town Attorney for all general counsel services, defined as all legal services performed for the town, exclusive of the services described in § 32-2.

ARTICLE II. Town Officers and Employees

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

CHAPTER 45. BINGO

§ 45-1. Permit required; restrictions.

§ 45-2. Conduct of games on Sunday.

§ 45-3. Penalties for offenses.

CHAPTER 45. BINGO

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-11-1973 as Ch. 5 of the 1973 Code. Section 45-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 45-1. Permit required; restrictions.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Town of Moreau, subject to the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the following restrictions:

- A. 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.
- B. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
- C. No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law Editor's Note: See § 430 et seq. of the Executive Law. or from another authorized organization.
- D. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
- E. No prize shall exceed the sum or value of \$250 in any single game of bingo.
- F. No series of prizes on any one bingo occasion shall aggregate more than \$1,000.
- G. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
- H. No person shall receive any remuneration for participating in the management or operation of any game of bingo.
- I. Limited-period bingo shall be conducted in accordance with the provisions of Article 14-H of the General Municipal Law and the rules and regulations of the Commission.

§ 45-2. Conduct of games on Sunday.

It shall be lawful for any authorized organization, as described herein, to conduct any game of bingo under any license issued under this chapter on the first day of the week, commonly known and designated as "Sunday."

§ 45-3. 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.

CHAPTER 46. GAMES OF CHANCE

§ 46-1. Title.

§ 46-2. Definitions.

§ 46-3. Authorization to conduct games.

§ 46-4. Restrictions on conduct of games.

§ 46-5. Sunday games; holidays.

§ 46-6. Supervision and enforcement.

§ 46-7. Penalties for offenses.

§ 46-8. Repealer.

§ 46-9. Severability.

§ 46-10. Effective date.

CHAPTER 46. GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Moreau 8-10-2004 by L.L. No. 3-2004. Editor's Note: This legislation passed at referendum at a special election held 7-27-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 45.

§ 46-1. Title.

This chapter shall be known as the "Games of Chance Law of the Town of Moreau."

§ 46-2. Definitions.

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

AUTHORIZED ORGANIZATION

As defined in Subdivision 4 of § 186 of the General Municipal Law.

GAMES OF CHANCE

As defined in Subdivision 3 of § 186 of the General Municipal Law.

TOWN

The Town of Moreau.

§ 46-3. Authorization to conduct games.

It shall be lawful for any authorized organization, upon obtaining a license from the Town Clerk, to conduct games of chance within the Town as provided in Article 9-A of the General Municipal Law, as the same may be amended from time to time, and as provided further in this chapter. Such games of chance shall be conducted in accordance with the general state law and with the rules and regulations of the New York State Racing and Wagering Board and this chapter, as the same may be amended from time to time.

§ 46-4. Restrictions on conduct of games.

The conduct of games of chance shall be subject to those restrictions contained in § 189 of the General Municipal Law and in other applicable statutory and case law and the rules and regulations of the New York State Racing and Wagering Board.

§ 46-5. Sunday games; holidays.

Games of chance may be conducted on Sunday pursuant to this chapter. No games of chance, however, shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

§ 46-6. Supervision and enforcement.

The Saratoga County Sheriff shall exercise control over and supervision of all games of chance conducted under duly authorized licenses. The Saratoga County Sheriff shall have, in addition to all the powers already vested therein, all those powers and duties set forth in and for the enforcement of Article 9-A of the General Municipal Law.

§ 46-7. Penalties for offenses.

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

§ 46-8. Repealer.

All prior ordinances, local laws or resolutions or parts of ordinances, local laws or resolutions of the Town inconsistent with the provisions of this chapter are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and in all respects this chapter shall be in addition to other legislation regulating and governing the subject matter covered by this chapter.

§ 46-9. Severability.

If any portion, subsection, sentence, clause, phrase or portion thereof of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

§ 46-10. Effective date.

This chapter shall take effect immediately upon filing with the Secretary of State, following its approval by majority of the qualified voters of the Town voting on a proposition therefor, and a special election held pursuant to the provisions of § 24 of the Municipal Home Rule Law.

CHAPTER 52. BURNING, OUTDOOR

ARTICLE I. General Provisions

§ 52-1. Restrictions on burning.

§ 52-2. Permitted burning; permits.

§ 52-3. Penalties for offenses.

ARTICLE II. Rules and Regulations

§ 52-4. Applicability.

§ 52-5. Administration and enforcement.

§ 52-6. Areas for permitted burning.

§ 52-7. Permit fees.

CHAPTER 52. BURNING, OUTDOOR

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 6-30-1981 as Ch. 13 of the 1973 Code; Art. II, 6-30-1981. Sections 52-3 and 52-7A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Fire prevention and building construction — See Ch. 74.

Parks and recreation — See Ch. 102.

ARTICLE I. General Provisions

[Adopted 6-30-1981 as Ch. 13 of the 1973 Code]

§ 52-1. Restrictions on burning.

It shall be unlawful for any person, firm or corporation within the limits of the Town of Moreau to kindle or maintain any bonfire or rubbish fire for the purpose of burning any refuse, garbage or waste of any kind, including but not limited to leaves, brush, pine needles or other organic matter, for any purpose whatsoever, in the open air or in any receptacle out of doors within the town.

§ 52-2. Permitted burning; permits.

The provisions of § 52-1 shall not apply to any person, firm or corporation who conducts activities specified in § 52-1 after issuance of a valid permit pursuant to rules and regulations promulgated pursuant to this Article. Editor's Note: See Art. II of this chapter. Permits shall be issued by the Building Inspector and/or Code Enforcement Officer of the Town of Moreau and/or the Department of Environmental Conservation pursuant to said rules and regulations and the rules and regulations of the Department of Environmental Conservation in areas determined by said rules and regulations.

§ 52-3. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person, firm or corporation violating any provision of this Article and/or rules and regulations hereunder shall be guilty of a violation and, upon conviction thereof, such person, firm or corporation shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.

ARTICLE II. Rules and Regulations

[Adopted 6-30-1981]

§ 52-4. Applicability.

These rules and regulations shall supplement Chapter 52, Article I, of the Town Code of the Town of Moreau and are designed to meet the requirements of § 52-2 of Chapter 52, Article I, of the Town Code of the Town of Moreau.

§ 52-5. Administration and enforcement.

The Building Inspector and/or Code Enforcement Officer of the Town of Moreau shall administer and enforce these rules and regulations for the Town of Moreau.

§ 52-6. Areas for permitted burning.

Permitted burning shall be allowed in any area of the town where the New York State Department of Environmental Conservation issues permits for said burning. In addition, the following areas will be allowed permits for burning pursuant to § 52-7 hereof:

- A. Agricultural districts in the Town of Moreau.
- B. The area south of the Bluebird Road in the Town of Moreau.

§ 52-7. Permit fees.

- A. Each person, firm or corporation requiring a permit pursuant to Chapter 52, Article I, of the Town Code of the Town of Moreau shall be issued the same upon the payment of a fee, as set forth by resolution of the Town Board, to the Building Inspector and/or Code Enforcement Officer for transmittal to the Town Supervisor of the Town of Moreau. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The schedule of fees is on file in the town offices.

B. Fees shall not be charged where the person, firm or corporation has secured a valid permit from the New York State Department of Environmental Conservation.

CHAPTER 59. DOGS

§ 59-1. General restrictions.

§ 59-2. Seizure of dogs at large.

§ 59-3. Duties of Dog Control Officer.

§ 59-4. Filing of complaints.

§ 59-5. Summons.

§ 59-6. Penalties for offenses.

§ 59-7. Period for impoundment.

§ 59-8. License; fees; exemptions.

CHAPTER 59. DOGS

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-11-1973 as Ch. 11 of the 1973 Code. Amendments noted where applicable.]

§ 59-1. General restrictions.

It shall be unlawful for any owner of or any person harboring any dog in the Town of Moreau to permit or allow such dog to:

A. Run at large unless said dog is restrained by an adequate collar and leash. A dog or dogs hunting in company with a hunter or hunters does not constitute running at large.

[Amended 12-14-2004 by L.L. No. 6-2004]

B. Engage in habitual loud howling or barking or to conduct itself in such a manner so as to habitually annoy any person other than the owner or person harboring such dog.

C. Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.

D. Chase or otherwise harass any person in such manner as reasonable to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

E. Habitually chase or bark at motor vehicles.

§ 59-2. Seizure of dogs at large.

[Amended 7-27-1990 by L.L. No. 4-1990]

Any unlicensed or untagged dog found to be running at large in violation of § 118 of the Agriculture and Markets Law shall be seized, and such dog shall be properly fed and cared for until disposed of as provided by said § 118.

§ 59-3. Duties of Dog Control Officer.

[Amended 7-27-1990 by L.L. No. 4-1990]

A Dog Control Officer to be designated by the Town Board, as provided by § 115 of the Agriculture and Markets Law, may enforce the provisions of this chapter and may also investigate and report to a Town Justice of the Town of Moreau any dangerous dog, as described in § 121 of the Agriculture and Markets Law, and see that the order or orders of the Town Justice in such case are carried out.

§ 59-4. Filing of complaints.

Any person who observes a dog causing damage or destruction to property of a person other than its owner or committing a nuisance upon the premises of a person other than its owner may file a signed complaint, under oath, with a Town Justice of the Town of Moreau specifying the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog and name and residence, if known, of the owner or other person harboring said dog.

§ 59-5. Summons.

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

§ 59-6. Penalties for offenses.

[Amended 7-27-1990 by L.L. No. 4-1990]

A violation of this chapter shall be deemed an offense against this chapter, and any person convicted of such violation after investigation and hearing shall be liable to the penalty set forth in § 119 of the Agriculture and Markets Law.

§ 59-7. Period for impoundment.

[Amended 7-27-1990 by L.L. No. 4-1990]

Dogs impounded under the provisions of this chapter or under the provisions of Article 7 of the Agriculture and Markets Law shall be held for redemption no less than three days, except that this time period may be extended to five days at the discretion of the Dog Control Officer.

§ 59-8. License; fees; exemptions.

[Added 3-9-1999 by L.L. No. 1-1999]

- A. Authority. The authority shall be Article 7 of the New York State Agriculture and Markets Law.
- B. Licensing of dogs. Application for a dog license shall be made to the Town Clerk on a form prescribed by the town.
- C. Fees. The annual local license fee for dogs licensed in the Town of Moreau is \$2.50.
- D. Exemption. The license fee established herein shall not apply to any guide dog, hearing dog, service dog, war dog or police work dog.
- E. Effective date. This section shall become effective upon filing with the office of the Secretary of State.

CHAPTER 65. ENTERTAINMENT, ADULT

§ 65-1. Purpose and intent.

§ 65-2. Definitions.

§ 65-3. Specified sexual activities.

§ 65-4. Specified anatomical areas.

§ 65-5. Businesses prohibited in certain areas and other requirements.

§ 65-6. Special use permit required.

§ 65-7. Special use permit nontransferable.

§ 65-8. Revocation; violations.

§ 65-9. Fees.

§ 65-10. Inspection.

§ 65-11. Penalties for offenses.

§ 65-12. Exemption.
§ 65-13. Severability.
§ 65-14. When effective.

CHAPTER 65. ENTERTAINMENT, ADULT

[HISTORY: Adopted by the Town Board of the Town of Moreau 2-12-2002 by L.L. No. 2-2002. Editor's Note: This local law also superseded former Ch. 65, Public Entertainment, which consisted of Art. I, Shows and Exhibitions, adopted 12-11-1973 as Ch. 15, Art. I, of the 1973 Code, as amended; and Art. II, Attire, adopted 12-11-1973 as Ch. 15, Art. II, of the 1973 Code, as amended. Former Art. III, Outdoor or Drive-in Motion-Picture Theaters, adopted 6-4-1974 as Ch. 15, Art. III, of the 1973 Code, was repealed 7-27-1990 by L.L. No. 4-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Signs — See Ch. 117.
Zoning — See Ch. 149.

§ 65-1. Purpose and intent.

A. The Town of Moreau has undertaken a review of its local Code and regulations as they pertain to adult entertainment of a sexually oriented nature, and has determined such current Code and regulations to be insufficient.

B. It is the purpose and intent of the Town of Moreau to protect and preserve the health, safety, morals and welfare of the residents of the Town of Moreau and establish reasonable and suitable regulations for the location and use of sexually oriented businesses in the Town.

C. It is further the purpose of this chapter to prevent, to the extent possible, the secondary effects that such businesses may cause such as noise, crime, litter and the reduction in property values in areas or neighborhoods near sexually oriented businesses.

D. It is further the purpose of this chapter to fulfill the Town's constitutional, statutory and legal obligations to protect and preserve the public health, welfare and safety of the citizens of the Town of Moreau, and in particular to protect the value, use and enjoyment of the property in the Town.

§ 65-2. Definitions.

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

NUDITY or A STATE OF NUDITY

The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

SEMI-NUDE or IN A SEMI-NUDE CONDITION

The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER

A business or commercial establishment that as one of its principal purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities. The definition of sexual encounter establishment or any sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SEXUALLY ORIENTED BUSINESS

Any business, including, any club, nightclub, tavern, bar, restaurant, cabaret, motel, hotel, theater, gathering hall, arcade, store or any similar commercial establishment, that offers any live performances, films, motion pictures, videocassettes, slides or other photographic reproduction in which a person of any

age appears or performs in a state of partial and/or full nudity or conducts any activity which is pornographic in nature and content, meaning the conduct depicts, describes or represents sexual conduct or otherwise appeals to the prurient interest. Sexually oriented businesses shall include, but are not limited to, the following establishments:

(1) **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally and excludes any minor by reason of age.

(2) **ADULT VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade video films, videocassettes or other films for sale or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified sexual anatomical areas as defined in §§ 65-3 and 65-4 herein.

(3) **ADULT DRIVE-IN THEATER** — A drive-in theater that customarily presents motion pictures that are not open to the public generally and excludes any minor by reason of age.

(4) **ADULT THEATER** — A theater that customarily presents motion pictures, live shows, films, videotapes or slide shows that are not open to the public generally, including theaters which offer viewing of matters depicting, describing or relating to sexual activities or sexual anatomical areas from an individual enclosure for which a fee is charged and which is not open to the public generally and excludes any minor by reason of age.

(5) **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, exotic or other similar entertainment or films, motion pictures, videos, slides or other photographic material or which utilizes employees that, as part of their employment, regularly expose patrons to specified sexual activities or specified anatomical areas as defined in §§ 65-3 and 65-4 herein.

(6) **ADULT MODEL STUDIO** — Any establishment where a person who appears in a state of nudity or 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) **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 and steam baths. This definition shall not be construed to include hospitals, physical therapists, occupational therapists, nursing homes or medical clinics or the office of a physician, surgeon, chiropractor, licensed massage therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquetball courts or exercise rooms and which do not receive their primary source of revenue through the administration of massages.

B. Nothing in these definitions or chapter shall require a permit for the display or sale of magazines, written or photographic materials which depict person(s) in a state of partial or full nudity or are otherwise pornographic in nature in any convenience store such as a food store or gas station or other similar establishment, provided that the materials are covered or are out of direct public view and the display or sale of such materials is secondary to the primary business purpose.

§ 65-3. Specified sexual activities.

Specified sexual activities are:

- A. Human genitals in a state of sexual stimulation or arousal; or
- B. Acts of human masturbation, sexual intercourse or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or breasts.

§ 65-4. Specified anatomical areas.

Specified anatomical areas are:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

§ 65-5. Businesses prohibited in certain areas and other requirements.

A. It shall be unlawful for any person or entity to operate, establish or maintain any sexually oriented business other than in the M1A District. Editor's Note: See the Schedule of Regulations for the M1A District at the end of Ch. 149, Zoning.

B. Such sexually oriented business shall also be in accordance with the following requirements:

- (1) Sexually oriented businesses shall be prohibited from locating within 500 feet of a residential use.
- (2) Sexually oriented businesses shall be prohibited from locating within 2,500 feet of the property line of a school, child-care facility, house of worship, public park, public or private recreation facility, community center or other public facility, motel or hotel, designated historic district, historic landmark or site, or designated urban renewal area.
- (3) Sexually oriented businesses shall not be permitted to locate less than 1,000 feet from another such use, and not more than one sexually oriented business shall be permitted to locate within a single building or single lot.
- (4) Sexually oriented businesses shall not exceed, in total, 2,500 square feet of floor area, and cellar space shall not be used for enclosed storage or mechanical equipment.
- (5) Sexually oriented businesses shall be required to meet all other development standards and requirements of the laws of the Town of Moreau, including, but not limited to, licensing requirements, district lot and building regulations, parking requirements, signage, facade and screening regulations.
- (6) Sexually oriented businesses shall not be permitted in any building where a portion of the floor area of the building is in residential use, including nonconforming residential uses, a school, house of worship, public or private recreation facility, community center or other public facility, motel or hotel, historic landmark or site or designated urban renewal area.
- (7) Sexually oriented businesses shall not be permitted to provide live entertainment on the premises which involves nude dancing that is lewd, indecent or gross in nature. This shall not be construed to include conduct of being nude that constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to, and necessary for, the conveyance or communication of a genuine message or public expression and is not a guise or pretense utilized to exploit nudity, nor shall it include conduct that is protected by the United States or New York State Constitution.
- (8) The exterior appearance of any building containing an adult-oriented business shall be consistent with the character of surrounding structures and shall not detract from the appearance of the neighborhood.
- (9) Sexually oriented businesses shall conform with all existing applicable sign laws in addition to the following specific requirements:
 - (a) Signs which are illuminated in neon or which contain flashing lights shall be prohibited.
 - (b) Exterior signs, displays or other advertisements which depict human nudity, seminudity, in a state of nudity or are otherwise provocative shall be prohibited.

(c) Interior signs, displays, posters or other advertisements which contain nude, seminude or provocative pictures shall be located a minimum of four feet from any window or door, and shall not be visible from the exterior of the establishment.

(d) Permanent and/or temporary window and door signs shall not occupy more than 20% of each window or door.

§ 65-6. Special use permit required.

A. No person shall establish or maintain a sexually oriented business in the Town without a special use permit as required by this chapter and as set forth in Article V of the Zoning Code. A special use permit may be issued by the Zoning Board of Appeals after public hearing. The Zoning Board of Appeals may place conditions on any special use permit, which conditions may include but are not necessarily limited to hours of operation, signs, window displays, outdoor advertising, landscaping, screening and lighting. In no event shall a sexually oriented business operate beyond the hour of 11:00 p.m. A sexually oriented business must comply with all zoning regulations applicable to the zone where the business is to be located.

B. An application for a special use permit must be made on a form prescribed by the Town. At a minimum the application must include the following:

- (1) The name of the applicant, coapplicant and any individual or entity that has or will have an ownership or interest in the sexually oriented business (hereinafter referred to as "applicant").
- (2) The mailing and residential address of the applicant.
- (3) A copy of the applicant's driver's license, if existing.
- (4) The applicant's social security number and/or federal tax identification number.
- (5) A recent photograph of the applicant and proof that the applicant is 18 years of age or older.
- (6) A statement under oath whether the applicant has been convicted of any crime within the previous five years and, if so, the specifics of the crime, including the date and jurisdiction of the conviction.
- (7) A statement under oath whether the applicant has ever had a sexually oriented business license issued pursuant to this chapter or pursuant to a local law of another municipality denied, suspended or revoked and providing the circumstances, including the date of the denial, suspension or revocation.
- (8) A description of the exact location of the proposed sexually oriented business, including street address.
- (9) A sketch or diagram depicting the layout of the premises where the sexually oriented business is to be operated.
- (10) A description of the type and nature of activities which are proposed to be conducted at the sexually oriented business.
- (11) A list of any and all licenses or permits which the applicant of the proposed sexually oriented business maintains or holds in the Town or in any other municipality, including the names and locations of such other licensed sexually oriented businesses.
- (12) Proposed parking for patrons.
- (13) Details of all outdoor lighting and all outdoor advertising, signs and window displays.
- (14) Such other information as may be required by the Town.

C. Property owners within 2,000 feet of the location of a proposed sexually oriented business shall be notified in writing of the date, time and location of the public hearing.

§ 65-7. Special use permit nontransferable.

A special use permit issued pursuant to this chapter may not be transferred to any other individual or entity. The permittee shall not be allowed to operate the permitted business at any other location other than the address designated in the application.

§ 65-8. Revocation; violations.

A special use permit shall be revoked, after a hearing on notice to the permit holder, upon a finding by the Zoning Board of Appeals that any of the following has occurred, which conduct shall also constitute a violation of this chapter:

- A. The permittee has knowingly allowed possession, use or sale of controlled substances at the premises.
- B. The permittee has knowingly allowed prostitution on the premises.
- C. The permittee provided false or misleading information during the application process.
- D. The permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex acts to occur in or on the premises.
- E. The permittee has knowingly allowed any person under the age of 18 years to enter, occupy or work at the sexually oriented business.
- F. The permittee has violated any conditions placed on the sexually oriented business by the Zoning Board of Appeals.

§ 65-9. Fees.

The application fee for a sexually oriented special use permit shall be set by the Town Board at an amount determined to be sufficient to pay the cost of administering this program, but in no event shall exceed \$1,000.

§ 65-10. Inspection.

An applicant or permittee shall permit authorized representatives of the Town, including the Building Inspector/Code Enforcement Officer, to inspect the premises for the purpose of insuring compliance with this chapter at any time during operating hours of the business.

§ 65-11. Penalties for offenses.

Any person convicted of violating this chapter shall be subject to a fine not exceeding \$2,500 for each such offense, plus costs, or imprisonment for a period not exceeding six months, or both. Each day on which the violation(s) continue shall be a separate offense.

§ 65-12. Exemption.

Any sexually oriented business lawfully existing and operating as of the effective date of this chapter shall be exempt from this chapter.

§ 65-13. Severability.

Should any section or provision of this chapter be deemed to be unconstitutional or invalid by a court of law, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 65-14. When effective.

This chapter shall become effective upon filing with the Secretary of State.

CHAPTER 68. FARMING

ARTICLE I. Right To Farm

§ 68-1. Legislative intent; purpose.

§ 68-2. Definitions.

§ 68-3. Farming rights established.

§ 68-4. Notice to prospective neighbors.

CHAPTER 68. FARMING

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 7-14-1992 as L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 124.

Zoning — See Ch. 149.

ARTICLE I. Right To Farm

[Adopted 7-14-1992 as L.L. No. 2-1992]

§ 68-1. Legislative intent; purpose.

The Town of Moreau finds that farming is an essential activity within the Town of Moreau. Farming, as defined herein, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of open space and generates economic benefits and social well-being within the community. Therefore, the Town of Moreau emphasizes to newcomers that this town encourages its agriculture and requests newcomers to be understanding of the necessary day-to-day operations. It is the general purpose and intent of this Article to maintain and preserve the rural tradition and character of the Town of Moreau, to permit the continuation of agricultural practices, to protect the existence and operation of farms and to encourage the initiation and expansion of farms and agricultural businesses.

§ 68-2. Definitions.

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

AGRICULTURAL PRACTICES

Includes all activities conducted on a farm, necessary to the operation of a farm.

FARM

Includes livestock, dairy, poultry, fur-bearing animal, aquaculture, fruit, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses or other similar operations used primarily for the raising of agricultural or horticultural commodities.

§ 68-3. Farming rights established.

Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Moreau at any and all such times and all such locations as are reasonably necessary to conduct the business of farming, subject to the provisions of the Code of the Town of Moreau. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

§ 68-4. Notice to prospective neighbors.

The following notice shall be included on all building permits issued in the Town of Moreau:

"This property may border a farm, as defined in Local Law No. 2 of the year 1992.
Residents should be aware that farmers have the right to undertake acceptable agricultural

practices."

CHAPTER 70. FENCES

§ 70-1. Definitions.

§ 70-2. Approval required.

§ 70-3. Application for permit; issuance.

§ 70-4. Height limitations.

§ 70-5. Location restrictions.

§ 70-6. Materials and composition.

§ 70-7. Authority of town officials.

§ 70-8. Applicability.

§ 70-9. Penalties for offenses.

CHAPTER 70. FENCES

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

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Outdoor or drive-in motion-picture theaters — See Ch. 65, Art. III.

Fire prevention and building construction — See Ch. 74.

Junkyards — See Ch. 87.

Swimming pools — See Ch. 127.

Zoning — See Ch. 149.

§ 70-1. Definitions.

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

FENCE

Any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into distinct portions.

FRONT YARD

Applies to that portion of the yard in front of the rear building line of any building. All corner properties adjacent to a public street, alley or highway shall also be considered as a "front yard" for purposes of this chapter. However, this definition shall specifically not apply for purposes of swimming pool protection.

HEIGHT

The distance measured from the existing grade to the top of the fence.

§ 70-2. Approval required.

No fence, wall or other type of construction shall be erected without the approval of the Building Inspector and/or Code Enforcement Officer. The Building Inspector and/or Code Enforcement Officer shall secure approval of the Superintendent of Highways and the Bureau of Fire Prevention, where applicable.

§ 70-3. Application for permit; issuance.

Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Building Inspector and/or Code Enforcement Officer on a form provided by the Building Inspector and/or Code Enforcement Officer. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence, the materials proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the town, and be accompanied by an appropriate fee. Upon approval by the Building Inspector and/or Code Enforcement Officer, a permit shall be issued which will be in effect for a period of one year from the date thereon. Said permit shall be available on the job during the progress of the work so that it may be inspected by proper town officials.

§ 70-4. Height limitations.

No fence shall be more than eight feet in height at the rear of homes or buildings situated in a residentially zoned district, which fence shall not extend forward of the rear building line of any existing or proposed building. No other fence or portions of a fence shall be higher than 48 inches. This restriction shall not apply to construction in all zoning districts.

§ 70-5. Location restrictions.

Any fence erected under this chapter shall be placed at least six inches from any property line. Any fence erected in a front yard shall be placed at least one foot back from the sidewalk, but in no event may it be less than one foot back from the front line and/or property line.

§ 70-6. Materials and composition.

A. Any fence, wall or similar structure as well as shrubbery which unduly cuts off light or air which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction to combating fires which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than 50% solid.

B. The following fences and fencing materials are specifically prohibited:

- (1) Barbed wire.
- (2) Short, pointed fences.
- (3) Canvas fences.
- (4) Cloth fences.
- (5) Electrically charged fences.
- (6) Poultry fences.
- (7) Turkey wire.
- (8) Temporary fences such as snow fences.
- (9) Expandable fences and collapsible fences, except during construction of a building.

C. All chain link fences erected shall be erected with the closed loop at the top of the fence. All other fences shall be erected with the finished side facing the nearest adjacent property line, where applicable.

D. All entrances or gates shall open into the property.

E. Notwithstanding the provisions of this section, the Building Inspector and/or Code Enforcement Officer may issue a permit for the construction of a security fence for commercial and industrial properties, upon due application to and approval by the Building Inspector and/or Code Enforcement Officer of the Town of Moreau. The Building Inspector and/or Code Enforcement Officer may deny such application if it is found that the application for such fence is not appropriate and is unnecessary. Upon such denial, the applicant may appeal the decision of the Building Inspector and/or Code Enforcement Officer to the Planning Board of the Town of Moreau by notice to the same within 30 days of such denial. In the event that the Planning Board substantiates the denial of the Building Inspector and/or Code Enforcement Officer, the applicant may resort to proper legal proceedings according to the statutes of the State of New York.

F. All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.

§ 70-7. Authority of town officials.

The Building Inspector and/or Code Enforcement Officer, Superintendent of Highways or Bureau of Fire Prevention shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees, flowers or other vegetation, fence, wall hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs. Any person who shall refuse or neglect to comply with the written direction of the Building Inspector and/or Code Enforcement Officer or Superintendent of Highways or Bureau of Fire Prevention shall be guilty of a violation of this chapter and shall be subject to its penalties.

§ 70-8. Applicability.

The provisions of this chapter shall not apply to any fences erected pursuant to any other legislation of the town.

§ 70-9. Penalties for offenses.

Any person, firm or corporation or his or her or its agent, servant, workman or employee violating any of the provisions of this chapter shall be punishable by a fine not exceeding \$250 or by imprisonment for not more than 15 days, or both. Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

CHAPTER 74. ADMINISTRATION AND ENFORCEMENT OF NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

§ 74-1. Purpose and intent.

§ 74-2. Definitions.

§ 74-3. Code Enforcement Officer and inspectors.

§ 74-4. Building permits.

§ 74-5. Construction inspections.

§ 74-6. Stop-work orders.

§ 74-7. Certificates of occupancy/certificates of compliance.

§ 74-8. Notification regarding fire or explosion.

§ 74-9. Unsafe buildings and structures.

§ 74-10. Operating permits.

§ 74-11. Firesafety and property maintenance inspections.

§ 74-12. Complaints.

§ 74-13. Recordkeeping.

§ 74-14. Program review and reporting.

§ 74-15. Violations.

§ 74-16. Fees.

§ 74-17. Intermunicipal agreements.

§ 74-18. Partial invalidity.

§ 74-19. Effective date.

CHAPTER 74. ADMINISTRATION AND ENFORCEMENT OF NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-26-2006 by L.L. No. 4-2006. Editor's Note: This local law also repealed former Chapter 74, Fire Prevention and Building Construction, adopted 7-27-1990 by L.L. No. 4-1990, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Outdoor burning — See Ch. 52.

Flood damage prevention — See Ch. 78.

Subdivision of land — See Ch. 124.

Swimming pools — See Ch. 127.

Zoning — See Ch. 149.

§ 74-1. Purpose and intent.

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This local law is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

§ 74-2. Definitions.

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

BUILDING PERMIT

A permit issued pursuant to § 74-4 of this local law. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this local law.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE

A certificate issued pursuant to Subdivision B of § 74-7 of this local law.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer appointed pursuant to Subdivision B of § 74-3 of this local law.

CODE ENFORCEMENT PERSONNEL

Includes the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER

An order issued by the Code Enforcement Officer pursuant to Subdivision A of § 74-15 of this local law.

ENERGY CODE

The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR

An inspector appointed pursuant to Subdivision D of § 74-3 of this local law.

OPERATING PERMIT

A permit issued pursuant to § 74-10 of this local law. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this local law.

PERMIT HOLDER

The person to whom a building permit has been issued.

PERSON

Includes an individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER

An order issued pursuant to § 74-6 of this local law.

TEMPORARY CERTIFICATE

A certificate issued pursuant to Subdivision D of § 74-7 of this local law.

TOWN

The Town of Moreau.

UNIFORM CODE

The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

§ 74-3. Code Enforcement Officer and inspectors.

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
- (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

- (4) To issue stop-work orders;
- (5) To review and investigate complaints;
- (6) To issue orders pursuant to Subdivision A of § 74-15 (Violations) of this local law;
- (7) To maintain records;
- (8) To collect fees as set by the Town Board of this Town;
- (9) To pursue administrative enforcement actions and proceedings;
- (10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
- (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

§ 74-4. Building permits.

A. Building permits required. Except as otherwise provided in Subdivision B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.

B. Exemptions. No building permit shall be required for work in any of the following categories:

- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

- (3) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (4) Construction of temporary motion picture, television and theater stage sets and scenery;
- (5) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (6) Installation of partitions or movable cases less than five feet nine inches in height;
- (7) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (9) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (10) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.

C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subdivision B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) A description of the proposed work;
- (2) The Tax Map number and the street address of the premises where the work is to be performed;
- (3) The occupancy classification of any affected building or structure;
- (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

(c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;

(d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

(e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Paragraph (5) of Subdivision D of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this Subdivision may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 74-16, Fees of this local law must be paid at the time of issuance of a building permit, for an amended building permit, or for renewal of a building permit.

§ 74-5. Construction inspections.

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subdivision B of this section is ready for inspection.

B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Fire-resistant construction;
- (7) Fire-resistant penetrations;
- (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) A final inspection after all work authorized by the building permit has been completed.

C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 74-16, Fees, of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 74-6. Stop-work orders.

A. Authority to issue. The Code Enforcement Officer is Authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:

- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and, if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.

E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subdivision A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 74-15, Violations, of this local law or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 74-7. Certificates of occupancy/certificates of compliance.

A. Certificates of occupancy/certificates of compliance required, a certificate of occupancy/certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy/certificate of compliance.

B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

C. Contents of certificates of occupancy/certificates of compliance. A certificate of occupancy/certificate of compliance shall contain the following information:

- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name, address and Tax Map number of the property;
- (4) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The assembly occupant load of the structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the building permit; and

(10) The signature of the Code Enforcement Officer issuing the certificate of occupancy/certificate of compliance and the date of issuance.

D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy/certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

§ 74-8. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this Town shall promptly notify, in writing, the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 74-9. Unsafe buildings and structures.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by Local Law Number 4 of 2006, as now in effect or as hereafter amended from time to time.

§ 74-10. Operating permits.

A. Operating permits required.

(1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:

(a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;

(b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(c) Use of pyrotechnic devices in assembly occupancies;

(d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

(2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subdivision A shall be required to obtain an operating permit prior to commencing such activity or operation.

B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.

D. Multiple activities. In any circumstance in which more than one activity listed in Subdivision A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.

E. Duration of operating permits. Operating permits shall remain in effect until reissued, renewed, revoked, or suspended.

F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 74-16, Fees, of this local law must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 74-11. Firesafety and property maintenance inspections.

A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:

- (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
- (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
- (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Paragraph (1) or (2) of this Subdivision, and all nonresidential buildings, structures, uses and occupancies not included in Paragraph (1) or (2) of this Subdivision, shall be performed at least once every 36 months.

B. Inspections permitted. In addition to the inspections required by Subdivision A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon:

- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this Subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

C. OFPC inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 74-16, Fees, of this local law must be paid prior to or at the time of each inspection performed pursuant to this section. This Subdivision shall not apply to inspections performed by OFPC.

§ 74-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 74-15, Violations, of this local law;

C. If appropriate, issuing a stop-work order;

D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 74-13. Recordkeeping.

A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:

- (1) All applications received, reviewed and approved or denied;
- (2) All plans, specifications and construction documents approved;
- (3) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
- (4) All inspections and tests performed;
- (5) All statements and reports issued;
- (6) All complaints received;
- (7) All investigations conducted;
- (8) All other features and activities specified in or contemplated by §§ 74-4 through 74-12, inclusive, of this local law; and
- (9) All fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 74-14. Program review and reporting.

A. The Code Enforcement Officer shall annually submit to Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 74-13, Recordkeeping, of this local law and a report and summary of all appeals or litigation pending or concluded.

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

§ 74-15. Violations.

A. Compliance orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Civil penalties. In addition to those penalties prescribed by state law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this Subdivision shall be recoverable in an action instituted in the name of this Town.

D. Injunctive relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this

section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 74-6, Stop-work orders, of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 74-6, Stop-work orders, of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 74-16. Fees.

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, fire safety and property maintenance inspections, and other actions of the code Enforcement Officer described in or contemplated by this local law.

§ 74-17. Intermunicipal agreements.

The Town Board of this Town may, by resolution, authorize the Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

§ 74-18. Partial invalidity.

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

§ 74-19. Effective date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

CHAPTER 78. FLOOD DAMAGE PREVENTION

§ 78-1. Findings.

§ 78-2. Purpose.

§ 78-3. Objectives.

§ 78-4. Word usage; definitions.

§ 78-5. Applicability.

§ 78-6. Establishment of areas of special flood hazard.

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§ 78-8. Penalties for offenses.

§ 78-9. Liability.

§ 78-10. Local administrator.

§ 78-11. Floodplain development permit.

§ 78-12. Permit application.

§ 78-13. Duties and responsibilities of local administrator.

§ 78-14. General construction standards.

§ 78-15. Standards for all structures.

§ 78-16. Residential structures.

§ 78-17. Nonresidential structures.

§ 78-18. Manufactured homes and recreational vehicles.

§ 78-19. Appeals board.

§ 78-20. Conditions for variances.

§ 78-21. Severability.

Attachments:

78a Floodplain Develop. Permit App

CHAPTER 78. FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Moreau 8-27-1993 as L.L. No. 3-1993. Editor's Note: This local law also supersedes former Ch. 78, Flood Damage Prevention, adopted 1-29-1988 as L.L. No. 2-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 74.

Freshwater wetlands — See Ch. 82.

Mobile homes and mobile home parks — See Ch. 96.

Subdivision of land — See Ch. 124.

Zoning — See Ch. 149.

§ 78-1. Findings.

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

§ 78-2. 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.

§ 78-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood-control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.

E. 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. 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. Provide that developers are notified that property is in an area of special flood hazard.

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

§ 78-4. Word usage; 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, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM), with a 1% or greater annual chance of flooding to an average annual depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD

The flood having a 1% 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.

BUILDING

See "structure."

CELLAR

The same meaning as "basement."

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 or storage of equipment or materials.

ELEVATED BUILDING

A nonbasement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.
FLOOD or FLOODING

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

(a) The overflow of inland or tidal waters.

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

(2) Also, the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) above.

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 ELEVATION STUDY

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are 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

See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source. (See the definition of "flooding.")

FLOODPROOFING

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

FLOODWAY

The same meaning as "regulatory floodway."

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 facilities. The term does not include long-term storage, manufacturing, 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.

HISTORIC STRUCTURE

Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer or Building Inspector or an employee of an engineering department.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area 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 does not include a "recreational vehicle."

MANUFACTURED HOME PARK or SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL

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

MOBILE HOME

The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

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

NEW CONSTRUCTION

Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK or SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD or ONE-HUNDRED-YEAR FLOOD

The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND

That at least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE

A vehicle which is:

(1) Built on a single chassis.

(2) Four hundred square feet or less when measured at the largest horizontal projections.

(3) Designed to be self-propelled or permanently towable by a light duty truck.

(4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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 § 78-12A(2) of this chapter.

START OF CONSTRUCTION

Includes substantial improvement and means 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; the 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, sheds), storage trailers and building materials. For manufactured homes the "actual start" means the affixing of the manufactured home to its permanent site.

STRUCTURE

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

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE

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

§ 78-5. Applicability.

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

§ 78-6. Establishment of areas of special flood hazard.

A. The areas of special flood hazard for the Town of Moreau, Community No. 360723, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

[Amended 8-8-1995 by L.L. No. 2-1995]

- (1) A scientific and engineering report entitled "Flood Insurance Study, Saratoga County, New York" (all jurisdictions) dated August 16, 1995.
- (2) The Flood Insurance Rate Map for Saratoga County (all jurisdictions), as shown on Index No. 36091C000 and panels 0190, 0195, 0215, 0307, 0309, 0333, 0334, 0335 and 0355, whose effective date is August 16, 1995.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town Hall, 61 Hudson Street, South Glens Falls, New York.

§ 78-7. Inconsistent provisions.

- A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of

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

§ 78-8. Penalties for offenses.

No structure in an area of special flood hazard 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 Moreau 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 §§ 78-19 and 78-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 78-9. 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 hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Moreau, 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.

§ 78-10. Local administrator.

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

§ 78-11. Floodplain development permit.

A. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 78-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

B. All applications for a floodplain development permit shall be accompanied by an application fee of \$25. In addition, the applicant shall be responsible for reimbursing the Town of Moreau for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

§ 78-12. Permit application.

A. The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 78-15C, Utilities.
- (4) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 78-17, Nonresidential structures.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 78-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 78-13. Duties and responsibilities of local administrator.

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

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of § 78-12, Permit application, and for compliance with the provisions and standards of this chapter.
- (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 78-14 through 78-18 and, in particular, § 78-14A, Subdivision proposals.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.
- (4) If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 78-14 through 78-18, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
- (5) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, 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 § 78-12B, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses.

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

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction stage.

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) 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.

E. 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, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 78-8 of this chapter.

(2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 78-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 78-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 78-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance.

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 78-13D, and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to § 78-13D(1), and whether or not the structures contain a basement.

(4) Variances issued pursuant to §§ 78-19 and 78-20.

(5) Notices required under § 78-13C, Alteration of watercourses.

§ 78-14. General construction standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 78-6:

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage.

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location.

(b) The Town of Moreau agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Moreau for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Moreau for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 78-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood.

(b) The Town of Moreau agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Moreau for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Moreau for all costs related to the final map revisions.

§ 78-15. Standards for all structures.

The following standards shall apply to all structures:

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement, and which 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.

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

(4) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

(1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

(2) 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. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

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

§ 78-16. Residential structures.

The following standards, in addition to the standards in § 78-14A, Subdivision proposals, § 78-14B, Encroachments, and § 78-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 78-6 [at least two feet if no depth number is specified].
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 78-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial industrial and other nonresidential structures, in addition to the requirements in § 78-14A, Subdivision proposals, and § 78-14B, Encroachments, and § 78-15, Standards for all structures:

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (2) 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.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM [at least two feet if no depth number is specified].
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 78-18. Manufactured homes and recreational vehicles.

The following standards (in addition to the standards in § 78-14, General construction standards, and § 78-15, Standards for all structures) apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

A. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (1) Be on site fewer than 180 consecutive days.
- (2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (3) Meet the requirements for manufactured homes in Subsections B, D and E.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined; in a new manufactured home park or subdivision as herein defined; in an expansion to an existing manufactured home park or subdivision as herein defined; or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (1) Elevated in a manner such as required in Subsection B.
- (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 78-6 [at least two feet if no depth number is specified]. Elevation on piers consisting of dry stacked blocks is prohibited.

§ 78-19. Appeals board.

A. The Zoning Board of Appeals as established by the Town of Moreau shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. 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.

C. 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.

D. 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:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
- (11) 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.
- (12) 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.

E. Upon consideration of the factors of Subsection D 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.

F. 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.

§ 78-20. Conditions for variances.

A. 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 § 78-19D has been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure.
- (2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C. 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:

(1) The criteria of Subsections A, D, E and F of this section are met.

(2) 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.

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

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

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

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

G. 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 over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

§ 78-21. Severability.

[Added 8-8-1995 by L.L. No. 2-1995]

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
Attachments:

78a Floodplain Develop. Permit App

78b Certificate of Compliance

CHAPTER 82. FRESHWATER WETLANDS

§ 82-1. Title.

§ 82-2. Declaration of policy.

§ 82-3. Findings.

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CHAPTER 82. FRESHWATER WETLANDS

[HISTORY: Adopted by the Town Board of the Town of Moreau 8-31-1976 as L.L. No. 1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Advisory Council — See Ch. 8.

Flood damage prevention — See Ch. 78.

Subdivision of land — See Ch. 124.

Zoning — See Ch. 149.

§ 82-1. Title.

This chapter shall be known as the "Freshwater Wetlands Protection Law of the Town of Moreau."

§ 82-2. Declaration of policy.

It is declared to be the public policy of the Town of Moreau to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands consistent with the general welfare and beneficial economic, social and agricultural development of the town. It is further declared to be the policy of the Town of Moreau to exercise its authority pursuant to Article 24 of the State Environmental Conservation Law.

§ 82-3. Findings.

A. The freshwater wetlands located in the Town of Moreau are invaluable resources for flood protection, wildlife habitat, open space and water resources.

B. Considerable acreage of freshwater wetlands in the Town of Moreau has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unregulated acts.

C. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosystems.

D. Freshwater wetlands conservation is a matter of town concern.

E. Any loss of freshwater wetlands deprives the people of the Town of Moreau of some or all of the many and multiple benefits to be derived from wetlands, as follows:

(1) Flood and storm control by the hydrologic absorption and storage capacity of freshwater wetlands.

(2) Wildlife habitat by providing breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species.

(3) Protection of subsurface water resources and provision for valuable watersheds and recharging groundwater supplies.

(4) Recreation by providing areas for hunting, fishing, boating, hiking, bird-watching, photography, camping and other uses.

(5) Pollution treatment by serving as biological and chemical oxidation basins.

(6) Erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors.

(7) Education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and training and education resources.

(8) Open space and aesthetic appreciation.

(9) Sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.

F. Regulation of freshwater wetlands, in accordance with the agricultural exemption established in § 82-5 hereof, is consistent with the legitimate interest of farmers and other landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of the wetlands, selectively cut timber and otherwise engage in the use of land for agricultural production.

§ 82-4. Definitions.

The following terms, phrases, words and their derivatives shall have the meanings given herein:

ADJACENT AREA

Any land in the Town of Moreau immediately adjacent to a freshwater wetland lying within 100 feet, measured horizontally, of the boundary of a freshwater wetland.

AGENCY

The Town Board of the Town of Moreau.

APPLICANT

Any person who files an application for any permit issued by the agency pursuant to this chapter, and includes the agent of the owner or a contract vendee.

BOARD

The Freshwater Wetlands Appeals Board established by Article 24 of the State Environmental Conservation Law.

BOUNDARIES OF A FRESHWATER WETLAND

The outer limit of the vegetation specified in Subsections A and B of the definition of "freshwater wetlands" below and of the waters specified in Subsection C of the definition of "freshwater wetlands" below.

FRESHWATER WETLANDS

Lands and waters lying within the boundaries of the Town of Moreau, as shown on a freshwater wetlands map, which contain any or all of the following:

A. Lands and submerged lands, commonly called "marshes," "swamps," "sloughs," "bogs" and "flats," supporting aquatic or semiaquatic vegetation of the following vegetative types:

(1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others, red maple (*Acer rubrum*), willows (*Salix* species), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*) and larch (*Larix laricina*).

(2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder (*Alnus* species), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*) and leatherleaf (*Chamaedaphne calyculata*).

(3) Emergent vegetation, including, among others, cattails (*Typha* species), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* species), arrow arum (*Peltandra virginica*), arrow-heads (*Sagittaria* species), reed (*Phragmites communis*), wild rice (*Zizania aquatica*), bur reeds (*Sparganium* species), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*) and water plantain (*Alisma plantago-aquatica*).

(4) Rooted, floating-leaved vegetation, including, among others, water lily (*Nymphaea odorata*), water shield (*Brasenia Schreberi*) and spatterdock (*Nuphar* species).

(5) Free-floating vegetation, including, among others, duckweed (*Lemna* species), big duckweed (*Spirodela polyrhiza*) and watermeal (*Wolffia* species).

(6) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* species), rushes (*Juncus* species), cattails (*Typha* species), rice cut-grass (*Leersia oryzoides*), red canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*) and spike rush (*Eleocharis* species).

(7) Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* species), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*) and cranberries (*Vaccinium macrocarpon* and *Vaccinium oxycoccos*).

(8) Submergent vegetation, including, among others, pondweeds (*Potamogeton* species), naiads (*Najas* species), bladderworts (*Utricularia* species), wild celery (*Vallisneria spiralis*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* species), muskgrass (*Chara* species), stonewort (*Nitella* species), waterweeds (*Elodea* species) and water smartweed (*Polygonum amphibium*).

B. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided further that such conditions can be expected to persist indefinitely, barring human intervention.

C. Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth herein in Subsection A and dead vegetation as set forth in Subsection B, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.

D. The waters overlying the areas as set forth in Subsections A and B and the lands underlying the areas set forth in Subsection C.

FRESHWATER WETLANDS MAP

A map on which are indicated the boundaries of any freshwater wetland and which has been filed with the Clerk of the Town of Moreau by the State Department of Environmental Conservation pursuant to § 24-0301 of the State Environmental Conservation Law.

LOCAL GOVERNMENT

A city, county, town or village.

PARTY IN INTEREST

The applicant, the agency, the State Department of Environmental Conservation, each local government in which the regulated activity or any part thereof is located and any person who appears and wishes to be a party in interest at the public hearing held pursuant to § 82-7 of this chapter.

PERSON

Any corporation, firm, partnership, association, trust, estate, one or more individuals and any unit of government or agency or subdivision thereof.

POLLUTION

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to humans, plants, animals or property.

PROJECT

Any action which may result in direct or indirect physical impact on a freshwater wetland, including but not limited to any regulated activity.

REGULATED ACTIVITY

A. Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly.

B. Any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly.

C. Erecting any structures or roads, the driving of pilings or placing of any other obstructions, whether or not changing the ebb and flow of the water.

D. Any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes directly into or so as to drain into a freshwater wetland.

E. That portion of any subdivision of land that involves any land in any freshwater wetland or adjacent area.

F. Any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 82-3 of this chapter.

SELECTIVE CUTTING

The annual or periodic removal of trees, individually or in small groups, in order to realize the yield and establish a new crop and to improve the forest, which removal does not involve the total elimination of one or more particular species of trees.

STATE

The State of New York.

STATE AGENCY

Any state department, bureau, commission, board or other agency, public authority or public benefit corporation.

SUBDIVISION OF LAND

Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. "Subdivision of land" shall include any map, plat or other plan of division of land, whether or not previously filed. "Subdivision of land" shall not include the lease of land for hunting and fishing and other open space recreation uses and shall not include the division of land by bona fide gift, devise or inheritance.

TOWN

The Town of Moreau.

§ 82-5. Permit required; exceptions.

A. Except as provided in Subsection B of this section, no person shall conduct a regulated activity on any freshwater wetland or adjacent area unless such person has first obtained a permit pursuant to this chapter.

B. No permit under this chapter shall be required for:

(1) The deposition or removal of the natural products of freshwater wetlands and adjacent areas by recreational or commercial fishing, shellfishing, aquiculture, hunting or trapping, where otherwise legally permitted and regulated.

(2) The activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of wetlands or adjacent areas, selective cutting of timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products, except that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded hereunder. Each farmer or other landowner who intends to conduct an otherwise regulated activity shall notify the agency in writing, prior to conducting the activity, of his or her intention to engage in such activity, stating the approximate acreage of freshwater wetland or adjacent area affected, the location thereof, the methods to be employed and the uses to be made of such land. A soil and water conservation plan prepared by a Soil and Water Conservation District and filed with the agency shall be deemed sufficient notification for the purposes of this subsection.

(3) Public health activities, orders and regulations of the Consolidated Board of Health of the Town of Moreau undertaken in compliance with § 24-0701, Subdivision 5, of the State Environmental Conservation Law.

(4) Activities subject to the review jurisdiction of the State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under Article VII or Article VIII of the State Public Service Law, respectively. The standards and restrictions of this chapter will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such Articles.

(5) Any actual and ongoing emergency activity which is immediately necessary for the protection and preservation of life or property or the protection or preservation of natural resource values. Such emergency activities include, for example, search and rescue operations; preventive or remedial activities related to large-scale contamination of streams or other bodies of water; floods, hurricanes and other storms; and public health concerns. Within five days of the end of such an emergency involving the undertaking of any activity which otherwise would be treated as a regulated activity under this chapter, the person chiefly responsible for undertaking such emergency activity shall send a written statement to the agency setting forth the pertinent facts regarding such emergency, including an explanation of the life, property or resource values such activity was designed to protect or preserve.

(6) Any activity located in a freshwater wetland where such wetland is located in more than one town.

§ 82-6. Application for permit; processing.

A. Any person proposing to conduct or cause to be conducted a regulated activity requiring a permit under this chapter upon any freshwater wetland or adjacent area shall file an application for a permit with the Clerk of the Town of Moreau. The Clerk shall immediately forward such application to the Town of Moreau Conservation Advisory Council, which Council shall deliver said application to the agency with its comments within 15 days after receipt.

B. Contents of application.

(1) An application for a permit shall be filed by the applicant on a form prescribed by the agency. Such application shall set forth the purpose, character and extent of the proposed regulated activity. The application shall include a detailed description of the regulated activity, a map showing the area of freshwater wetland or adjacent area directly affected, with the location of the proposed regulated activity thereon, a deed or other legal description describing the subject property and such additional information as the agency deems sufficient to enable it to make the findings and determinations required under this chapter.

(2) The application shall be accompanied by a list of the names of the owners of record of lands adjacent to the freshwater wetland or adjacent area upon which the project is to be undertaken and the names of known claimants of water rights, of whom the applicant has notice, which relate to any land within, or within 100 feet of the boundary of, the property on which the proposed regulated activity will be located.

(3) An application shall not be deemed to be completed or received until the agency determines that all such information, including any additional information requested, has been supplied in a complete and satisfactory form.

C. The Clerk of the Town of Moreau shall cause a copy of such completed application to be mailed to all local governments where the proposed activity or any part thereof is located.

D. Within five days of its receipt of a completed application for a permit regarding a proposed regulated activity, the agency shall provide the applicant with a notice of application which the applicant shall publish at his or her own expense at least once in each of at least two newspapers having a general circulation in the Town of Moreau.

(1) Said notice of application shall be in a form prescribed by the agency and shall:

(a) Specify that persons wishing to object to the application should file with the agency a notice of objection by a specified date, together with a statement of the precise grounds of objection to the application.

(b) Specify that if no notices of objection are timely filed or if the agency determines that the proposed activity is of such minor nature as to not affect or endanger the balance of systems within any freshwater wetland, then the agency, in its discretion, may determine that a hearing is not necessary and dispense with the public hearing.

(c) Specify that the application, including all documents and maps therewith, is available for public inspection at the office of the Clerk of the Town of Moreau.

(2) Notwithstanding any other provision of this section, the agency may, in its discretion, dispense with the requirement for a notice of application and require a notice of hearing pursuant to Subsection F of this section.

E. Public hearing; exceptions.

(1) No sooner than 30 days and not later than 60 days after its receipt of a completed application for a permit regarding a proposed regulated activity and after the publication of a notice of application pursuant to Subsection D of this section, the agency shall hold a public hearing on such application at a suitable location in the Town of Moreau, which hearing shall be held pursuant to the provisions of § 82-7 of this chapter.

(2) Notwithstanding the provisions of Subsection E(1) of this section, where no notice of objection to the notice of application published pursuant to Subsection D of this section shall have been filed within the time specified by that notice or where the agency determines that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within any freshwater wetland, the agency may, in its discretion, dispense with such hearing. Where the agency finds that a public hearing is not necessary, it shall publish a decision setting forth its reasons therefor, which decision shall be a matter of public record and shall be mailed to each local government where the proposed regulated activity or any part thereof will be located. Public notice of such decision that a public hearing is not necessary shall be provided in the same manner as notice of application set forth in Subsection D of this section.

F. Notice of hearing.

(1) The agency shall, within 21 days of receipt of a completed application, provide the applicant with a notice of hearing which the applicant shall publish at his or her own expense at least 15 days prior to the date set for the hearing, at least once in each of at least two newspapers of general circulation in the Town of Moreau.

(2) At least 15 days prior to the date set for the hearing, the agency shall, by certified mail, provide a notice of hearing to each local government within whose boundaries the proposed regulated activity or any portion thereof will be located.

(3) At least 15 days prior to the date set for the hearing, the agency shall, by certified mail, provide notice of hearing to all owners of record of land adjacent to the affected freshwater wetland or adjacent area and to all known claimants of water rights, of whom the applicant has notice, which relate to any land within, or within 100 feet of the boundary of the property on which the proposed regulated activity will be located.

(4) The notice of hearing shall:

(a) State the name of the applicant.

(b) Specify the location and outline the scope of the proposed regulated activity.

(c) Specify the date, time and place of the public hearing on the application.

(d) Specify that persons wishing to be parties in interest and eligible to be heard at such public hearing, if any, should file a notice of appearance by a specified date, together with a statement of the precise grounds of support of, opposition to or interest in the application, with the agency.

(e) Specify that any person who wishes to be a party in interest without filing a notice of appearance may do so by appearing at the public hearing and indicating his or her desire to be a party in interest, if a public hearing is held.

(f) Specify that if no notices of appearance are timely filed by any party in interest and if the applicant waives any public hearing, then the public hearing may be canceled by the agency.

(g) Specify that the application, including all documents and maps therewith, is available for public inspection at the office of the Clerk of the Town of Moreau.

G. The agency shall make the application, including all documents and maps associated with it, available for public inspection at the office of the Clerk of the Town of Moreau.

H. If no timely notice of appearance has been filed as provided in the notice of hearing published pursuant to Subsection F of this section and the applicant waives in writing any public hearing on his or her application, the agency may dispense with a public hearing and, in such instance, shall provide public notice of the cancellation of the hearing.

I. For any notice canceling a hearing which has been scheduled, notice shall be given on the same basis as the notice of public hearing provided in Subsection F of this section.

J. The agency may establish permit fees to assist in its implementation of this chapter.

§ 82-7. Public hearing.

A. Any public hearing held on a permit application received under this chapter shall be conducted by a hearing officer designated by the agency. The hearing officer shall have full authority to control the conduct and procedure of the hearing and shall be responsible that a complete record of the hearing be kept. The public hearing shall be held within the Town of Moreau.

B. Any person may appear as a party in interest, notwithstanding the failure of such person to file a timely notice of appearance, by appearing at the hearing and making known his or her desire to be a party in interest. Persons who are not parties in interest may be allowed to participate in the hearing where the hearing officer finds that such participation would be in the public interest.

C. All parties in interest shall be afforded an opportunity to present oral and written arguments on issues of law and policy and an opportunity to call witnesses in their behalf and to present oral and written evidence on issues of fact. The hearing officer shall permit the parties in interest to cross-examine witnesses but may limit such cross-examination to avoid the introduction of irrelevant or repetitious material in the record of the hearing.

§ 82-8. Decision on permit application.

A. Where a public hearing has been held regarding a permit application, the agency shall either issue the permit requested, with or without conditions, or deny the application. The decision by the agency to issue or deny a permit after public hearing shall be based on the record of the hearing and shall be made in writing within 30 days of the agency's receipt of the hearing record.

B. Where no public hearing regarding a permit application has been held, either because a hearing was determined not to be necessary pursuant to § 82-6E(2) of this chapter or because no notice of appearance was filed with regard to the public hearing and a hearing was canceled pursuant to § 82-6H of this chapter, the agency shall compile an official file consisting of documents submitted by the applicant and any additional documents relied on by the agency with respect to the application. The agency may also take notice of general, technical or scientific facts within the specialized knowledge of the agency. Any document made part of such official file shall be available for inspection by the applicant and any interested member of the public. On the basis of such file, the agency shall either issue the permit requested, with or without conditions, deny the application or order a public hearing to be held pursuant to the provisions of this chapter. The decision by the agency to issue or deny a permit or to order that a hearing be held shall be based on the official file and shall be made in writing within 30 days of its completion of the official file, and in any event within 60 days of its receipt of a completed application, provided that in the case where there have been no objections filed regarding a proposed project, the issuance of a permit shall be deemed to be a written decision by the agency.

C. A copy of the decision of the agency on each application for a permit under this chapter shall be mailed by the agency as soon as practicable following such decision to the applicant and to each local government within whose boundaries the proposed regulated activity or any portion thereof is located and, if a public hearing has been held regarding the application, to each party in interest.

§ 82-9. Standards for permit decisions.

A. In granting, denying or conditioning any permit, the agency shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers and protection or

enhancement of the several functions of the freshwater wetlands and the benefits derived therefrom which are set forth in § 82-3 of this chapter. Due consideration will also be given to the benefit the applicant and/or the public may derive from the completion of the proposed activity.

B. Criteria; proof.

(1) No permit shall be approved by the agency and issued pursuant to this chapter unless the agency shall find that:

(a) The proposed regulated activity is consistent with the policy of this chapter to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the Town of Moreau.

(b) The proposed regulated activity is consistent with the land use regulations applicable in the Town of Moreau pursuant to § 24-0903 of Article 24 of the State Environmental Conservation Law.

(c) The proposed regulated activity is compatible with the public health and welfare.

(d) The proposed regulated activity is reasonable and necessary.

(e) There is no reasonable alternative for the proposed regulated activity on a site which is not a freshwater wetland or adjacent area.

(2) The applicant shall have the burden of demonstrating that the proposed regulated activity will be in accord with the standards set forth in this subsection.

C. Duly filed written notice, by the state or any agency or subdivision thereof to the agency, that the state or any such agency or subdivision is in the process of acquiring the affected freshwater wetland on which a proposed regulated activity would be located by negotiation or condemnation shall be sufficient basis for denial of a permit for such regulated activity. Such notice may be provided at any time prior to the agency's decision to issue or deny a permit for the regulated activity.

§ 82-10. Conditions for permit.

A. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as are necessary to assure the preservation and protection of affected freshwater wetlands and to assure compliance with the policy and provisions of this chapter and the provisions of the agency's rules and regulations adopted pursuant to this chapter.

B. Every permit issued pursuant to this chapter shall contain the following conditions:

(1) The agency shall have the right to inspect the project from time to time.

(2) The permit shall expire on a date certain.

(3) The permit holder shall notify the agency of the date on which project construction is to begin, at least five days in advance of such date.

(4) The agency's permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.

C. The agency shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for all conditions attached to any permit.

§ 82-11. General powers of agency.

In order to carry out the purposes and provisions of this chapter, the agency shall have the following powers:

- A. To appoint officers, agents and employees and prescribe their duties and qualifications and fix their compensation.
- B. To adopt, amend and repeal after public hearing, except in the case of rules and regulations that relate to the organization or internal management of the agency, such rules and regulations consistent with this chapter as it deems necessary to administer this chapter and to do any and all things necessary or convenient to carry out the purpose and policies of this chapter.
- C. To contract for professional and technical assistance and advice.
- D. To hold hearings and subpoena witnesses in the exercise of its powers, functions and duties provided for by this chapter.

§ 82-12. Other laws and regulations.

- A. To the greatest extent practicable, any public hearing held pursuant to § 82-7 of this chapter shall be incorporated with any public hearing required by or pursuant to the New York State Town Law, Village Law, General City Law, General Municipal Law or Environmental Conservation Law relating to approvals or permits otherwise required for the undertaking of regulated activities on the freshwater wetland or adjacent area in question.
- B. No permit granted pursuant to this chapter shall remove any person's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

§ 82-13. Bonds.

- A. The agency may require that, prior to commencement of work under any permit issued pursuant to this chapter, the permittee shall post a bond with the agency, in an amount determined by the agency, conditioned upon the faithful compliance with the terms of such permit and for the indemnification of the Town of Moreau for restoration costs resulting from failure to so comply. Such bond shall be issued by a corporate surety authorized to do business in the state and shall be in favor of the Town of Moreau. It shall remain in effect until the agency certifies that the work has been completed in compliance with the terms of the permit or the bond is released by the agency or a substitute bond is provided.
- B. The agency shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for imposing a bond pursuant to this section.

§ 82-14. Suspension or revocation of permit.

- A. The agency may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application.
- B. The agency shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for revoking or suspending a permit pursuant to this section.

§ 82-15. Penalties for offenses.

- A. Administrative sanctions. Any person who violates, disobeys or disregards any provision of this chapter, including any provision of any permit issued pursuant to this chapter or any rule or regulation adopted by the agency pursuant to this chapter shall be liable to the people of the state for a civil penalty of not to exceed \$3,000 for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the agency. Such penalty may be recovered in an action brought by the Attorney General at the request and in the name of the agency in any court of competent jurisdiction. Such civil penalty may be released or compromised by the agency before the matter has been referred to the Attorney General, and such penalty may be released or

compromised and any action commenced to recover the same may be settled and discontinued by the Attorney General with the consent of the agency. In addition, the agency shall have power, following a hearing held in conformance with the procedures set forth in § 71-1709 of the State Environmental Conservation Law, to direct the violator to cease his or her violation of this chapter and to restore the affected freshwater wetland to its condition prior to the violation insofar as that is possible within a reasonable time and under the supervision of the agency. Any such order of the agency shall be enforceable in an action brought by the Attorney General at the request and in the name of the agency in any court of competent jurisdiction. Any civil penalty or order issued by the agency pursuant to this subsection shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

B. Criminal sanctions. Any person who violates an order, permit or rule or regulation of the agency regulating freshwater wetlands and adjacent areas pursuant to this chapter shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000; for a second and each subsequent offense, he or she shall be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not less than 15 days nor more than six months, or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the agency. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

§ 82-16. Enforcement.

A. The Attorney General, upon his or her own initiative or upon complaint of the agency, shall prosecute persons alleged to have violated any such order of the agency pursuant to this chapter.

B. The agency shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this chapter.

§ 82-17. Appeals.

A. Any decision or order of the agency, or any officer or employee thereof, made pursuant to or within the scope of this chapter may be reviewed at the instance of any person affected thereby, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Town of Moreau, by the Board in accordance with Title 11 of Article 24 of the State Environmental Conservation Law, provided that such review is commenced by the filing with the Board of a notice of review within 30 days after service of such order or notice of such decision given, as the case may be.

B. Any party to any proceeding before the agency may make an appeal to the Board in accordance with Title 11 of Article 24 of the State Environmental Conservation Law from any order or decision of the agency, or any officer or employee thereof, issued or made pursuant to or within the scope of this chapter, provided that such appeal is commenced by the filing with the Board of a notice of appeal within 30 days after service of such order or after notice of such decision given, as the case may be.

C. Any decision or order of the agency, or any officer or employee thereof, made pursuant to or within the scope of this chapter may be reviewed at the instance of any person, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Town of Moreau, in accordance with Article 78 of the State Civil Practice Law and Rules, provided that such review is commenced within 30 days of the filing of such decision or order and the limitation upon the availability of such remedy as prescribed in § 7801 of the Civil Practice Law and Rules shall not be applicable to the applications for review of determinations and orders made pursuant to this chapter.

D. The institution of a judicial proceeding to review a determination or order of the agency shall preclude the institution of a proceeding before the Board to review such a determination or order. The availability of such review by the Board shall not affect the right of any person to seek review of a determination of the agency as provided in Article 78 of the State Civil Practice Law and Rules.

CHAPTER 84. ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS

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CHAPTER 84. ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS

[HISTORY: Adopted by the Town Board of the Town of Moreau 2-26-2008 by L.L. No. 2-2008. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 78.
Freshwater wetlands — See Ch. 82.
Sewers — See Ch. 115.
Stormwater management and erosion and sediment control — See Ch. 120.
Subdivision of land — See Ch. 124.
Water — See Ch. 145.
Zoning — See Ch. 149.

§ 84-1. Purpose and intent.

A. The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Town of Moreau through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law 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 law are:

- (1) To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit no. GP-02-02, or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- (5) 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.

B. This local law is adopted pursuant to the authority granted to the Town Board under Article 10 of the Municipal Home Rule Law of the State of New York.

§ 84-2. Definitions.

Whenever used in this local law, unless a different meaning is stated in a definition applicable to only a portion of this local law, the following terms will have the meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs)

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY

Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL

New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLCIT 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.

ILLCIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 84-5 of this law.

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.

INDUSTRIAL ACTIVITY

Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4

Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

A. Owned or operated by the Town of Moreau;

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 has been notified that the discharge of stormwater authorized under its 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 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'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'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.

D. The condition, if any, in the Town'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.

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 Moreau to enforce this local law. The SMO may also be designated by the Town to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. Unless otherwise designated by resolution of the Town Board of the Town of Moreau, the SMO for the Town of Moreau shall be the same individual serving as the Code Enforcement Officer of the Town of Moreau.

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.

TOWN

The Town of Moreau.

WASTEWATER

Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 84-3. Applicability.

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 84-4. Responsibility for administration.

The Stormwater Management Officer(s), SMO(s), shall administer, implement, and enforce the provisions of this law.

§ 84-5. Discharge prohibitions.

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 below. 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 local law, unless the Department or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources; landscape irrigation or lawn watering; existing diverted stream flows; rising groundwater; uncontaminated groundwater infiltration to storm drains; uncontaminated pumped groundwater; foundation or footing drains; crawl space or basement sump pumps; air-conditioning condensate; irrigation water; springs; water from individual residential car washing; natural riparian habitat or wetland flows; dechlorinated swimming pool discharges; residential street wash water; water from 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 local law.

(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 local law if the person connects a line conveying sewage to the Town's MS4 or allows such a connection to continue.

§ 84-6. Prohibition against failing individual sewage treatment systems.

No person shall operate a failing individual sewage treatment system in areas tributary to the Town's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

A. The backup of sewage into a structure.

- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

§ 84-7. Prohibition against activities contaminating stormwater.

- 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 Town's MS4 SPDES permit.
 - (2) Cause or contribute to the Town being subject to the special conditions as defined in § 84-2, Definitions, of this local law.
- B. Such activities include failing individual sewage treatment systems as defined in § 84-7, improper management of pet waste or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town'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 Town's MS4 SPDES permit authorization.

§ 84-8. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

- A. Best management practices. Where the SMO has identified illicit discharges as defined in § 84-2 or activities contaminating stormwater as defined in § 84-7, the Town 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 their 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 § 84-2 or an activity contaminating stormwater as specified in § 84-7, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- B. Individual sewage treatment systems. Where individual sewage treatment systems are contributing to the Town's being subject to the special conditions as defined in § 84-2 of this local law, the owner or operator of such individual sewage treatment systems shall be required to:
 - (1) Maintain and operate individual sewage treatment systems as follows:
 - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet

baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.

(b) Avoid the use of septic tank additives.

(c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and

(d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

(2) Repair or replace individual sewage treatment systems as follows:

(a) In accordance with 10 NYCRR Appendix 75A to the maximum extent practicable.

(b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

[1] Relocating or extending an absorption area to a location not previously approved for such.

[2] Installation of a new subsurface treatment system at the same location.

[3] Use of alternate system or innovative system design or technology.

(c) A written certificate of compliance shall be submitted by the design professional to the Town at the completion of construction of the repair or replacement system.

§ 84-9. Suspension of access to MS4.

A. 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's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the SMO.

§ 84-10. 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 Town prior to the allowing of discharges to the MS4.

§ 84-11. Access and monitoring of discharges.

A. Applicability. This article applies to all facilities that the SMO must inspect to enforce any provision of this law, 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 local law.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this law. 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 law.

(3) The Town shall have the right to set up on any facility subject to this law 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 Town has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the Town access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the Town reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.

(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 law, 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 law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 84-12. 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 Town in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 84-13. Enforcement.

A. Notice of violation. When the Town's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) Payment of a fine; and

(6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall 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 local law 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 local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation.

§ 84-14. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board of the Town of Moreau 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.

§ 84-15. 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.

§ 84-16. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, 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.

§ 84-17. Alternative remedies.

A. Where a person has violated a provision of this law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Code Enforcement Officer, where:

- (1) The violation was unintentional;
- (2) The violator has no history of previous violations of this law;
- (3) Environmental damage was minimal;
- (4) Violator acted quickly to remedy violation; and
- (5) 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.

§ 84-18. Violations deemed 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 law 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.

§ 84-19. Remedies not exclusive.

The remedies listed in this law 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.

§ 84-20. Severability.

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law 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 law.

§ 84-21. Effective date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

CHAPTER 85. INDUSTRIAL SITE DEVELOPMENT

§ 85-1. Legislative findings and policy.

§ 85-2. Definitions.

§ 85-3. Purpose and power with respect to industrial projects.

CHAPTER 85. INDUSTRIAL SITE DEVELOPMENT

[HISTORY: Adopted by the Town Board of the Town of Moreau 5-11-1993 as L.L. No. 2-1993. Amendments noted where applicable.]

§ 85-1. Legislative findings and policy.

A. It is hereby found and determined that the Town of Moreau has experienced a significant downturn in its manufacturing employment over the last 10 years and that there exists generally an unacceptably high level of unemployment in the town. The increase in unemployment and concurrent decline in the town's tax base present an immediate danger to the economic welfare of the town and its citizens.

B. In order to address and correct this situation, it is hereby declared to be the policy of the town to promote, attract, encourage and develop industry and commerce in the town in order to prevent further employment and provide new employment opportunities for the residents of the town and surrounding areas.

§ 85-2. Definitions.

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

INDUSTRIAL PROJECT

The acquisition, construction, reconstruction, improvement or alteration, in whole or in part, of any site, plant, structure, building or other facility for manufacturing, processing (including recycling), warehousing, commercial, industrial or technological research purposes or for other industrial use.

INDUSTRIAL SITE

Any land within the town zoned for industrial use, together with any buildings or structures on such land, suitable as a site for manufacturing, processing (including recycling), warehousing, commercial, industrial or technological research or for other industrial use.

PUBLIC CORPORATION

Any city, town, village, industrial development agency, local development corporation or public benefit corporation under the laws of the State of New York within or operating within the boundaries of the Town of Saratoga County.

TOWN

The Town of Moreau.

TOWN BOARD

The Town Board of the town.

§ 85-3. Purpose and power with respect to industrial projects.

A. It is hereby found and determined to be a governmental and public purpose of the town to acquire, construct, operate and maintain roads, sewage collection and disposal facilities, solid waste collection and disposal facilities, water supply facilities and drainage facilities to serve any industrial project and to provide for the acquisition, maintenance, clearance, improvement, demolition, change of topographical, subsoil or other physical conditions or other necessary site preparation work of any industrial site as part of an industrial project.

B. In furtherance of such purposes, the Town Board shall have the following powers:

- (1) To enter into agreements with the State of New York, the federal government, any public corporation, any private corporation and any individual.
- (2) To expend money and utilize town officers, employees, agents and/or town property.
- (3) To incur indebtedness.
- (4) To acquire title, leasehold, mortgage or such other interests in real property as the Town Board shall determine to be necessary and appropriate to carry out the purpose of this chapter.
- (5) To exercise any of its other governmental powers.

C. In the exercise of such powers, the town shall not give or loan its money, property or credit in aid of any individual or public or private corporation or association in violation of § 1 of Article 8 or any other provision of the Constitution of the State of New York, and provided further that any obligations issued for any purposes of the town authorized pursuant to this chapter shall be issued in compliance with the provisions of the Local Finance Law.

CHAPTER 87. JUNKYARDS

§ 87-1. Intent.

§ 87-2. Definitions.

§ 87-3. License required.

§ 87-4. Application for license; approved location.

§ 87-5. General considerations.

§ 87-6. Specific requirements.

§ 87-7. Administration and enforcement; penalties for offenses.

CHAPTER 87. JUNKYARDS

[HISTORY: Adopted by the Town Board of the Town of Moreau 2-11-2003 by L.L. No. 2-2003. Editor's Note: This local law also repealed former Ch. 87, Junkyards, adopted 12-11-1973 as Ch. 21 of the 1973 Code, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Fences — See Ch. 70.

Abandoned vehicles — See Ch. 134.

Zoning — See Ch. 149.

§ 87-1. Intent.

A. This chapter is adopted pursuant to the authority granted the Town of Moreau in § 10 of the Municipal Home Rule Law and in § 130(6) and 130(15) of Town Law.

B. This chapter shall be known as the "Town of Moreau Junkyard Law."

C. The purpose of this chapter is to regulate only junkyards operated commercially for a profit. The Town Board hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued welfare of its citizens. Regulation of junk and junkyards is necessary to protect the community from potential hazards to property and persons, to protect water resources, and to preserve the aesthetic qualities of the Town. The presence of unregulated junkyards is unsightly and tends to depreciate not only the property on which they are located but also the property of other persons in the neighborhood and the community generally.

§ 87-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meaning ascribed to them in this chapter:

ENFORCEMENT OFFICER

The Building Inspector/Code Enforcement Officer, or any person appointed by the Town Board to enforce the provisions of this chapter.

JUNK APPLIANCE

Any abandoned, discarded or inoperative household appliance, including but not limited to a stove, washing machine, dryer, dishwasher, freezer, refrigerator, air conditioner, or television, which is stored outside of any residence or structure.

JUNK FURNITURE

Abandoned, discarded or irreparably damaged furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, chest of drawers and like items.

JUNK MOBILE HOME

Any enclosed dwelling built upon a chassis or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes which meets two out of three of the following conditions for six months or more:

A. The electrical service is disconnected or terminated.

B. It is abandoned as a dwelling unit.

C. It is no longer habitable for permanent or temporary living and/or sleeping purposes.

JUNK STORAGE AREA

The areas of any real property used or intended to be used for the placement, storage or deposit of one or more of the following; junk appliances, junk furniture, junk mobile homes, and/or junk vehicles.

JUNK VEHICLE

A. Any motor vehicle, motor home or recreational vehicle, including camping trailers, campers, travel trailers, pop-up trailers, tent trailers, overnight trailers and/or used parts or waste materials from a motor vehicle, which is:

(1) Unlicensed or unregistered and not in condition for legal use upon the public highway.

(2) Abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.

B. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle, unless refitted by verifiable and credible proof.

JUNKYARD

The outdoor storage or deposit of any of the following:

- A. Any junk motor vehicles or junk recreational vehicles.
- B. Any junk mobile homes.
- C. Any junk appliances.
- D. Any junk furniture.
- E. Any combination of the above.

OTHER MOTOR VEHICLE

All vehicles propelled or drawn by power other than muscular power, including but not limited to airplane, heavy equipment, motorcycle, and all-terrain vehicle or snowmobile.

OUTDOOR STORAGE

Storage other than a completely enclosed structure, such as a garage or barn.

PERSON

Any individual, firm, partnership, association, corporation, company, or organization of any kind.

§ 87-3. License required.

No person shall establish or maintain a junkyard within the Town of Moreau unless a license has first been issued for such junkyard pursuant to this chapter. No person owning, or having any right to or any interest in, any real property within the Town of Moreau shall license, rent, lease, or otherwise permit the use of such real property or of any part thereof for a junkyard unless a license shall have first been issued for such junkyard pursuant to this chapter. A license shall be issued for a period of one year, after which time a renewal shall be required.

§ 87-4. Application for license; approved location.

A. The applicant for a junkyard license shall obtain application forms from the Town Clerk. The original completed forms along with 15 copies of the proposed junkyard plan, and the appropriate fees, shall be returned to the Town Clerk. The Clerk shall submit the application materials to the Town Board. The Town Board shall accept the application and refer the application forms and plans to the Town of Moreau Planning Board to conduct a site plan review pursuant to Article VI of the Town of Moreau Zoning Law.

B. The junkyard plan shall be prepared by a licensed professional and shall be drawn to scale or indicate all dimensions and shall include, at the minimum, the following information:

- (1) Map of the site where the junkyard is proposed, including address and real property tax number;
- (2) Property lines, including the names of owners of adjacent property;
- (3) Streams, lakes, wetlands, floodplains, and other water bodies, including those available for fire protection purposes;
- (4) The topography of the site and any plans for grading the property;
- (5) Wells and sanitary facilities;
- (6) Drainage patterns on the site;

- (7) Existing and proposed structures, including fences;
- (8) Roads and easements adjacent to, on or through said property;
- (9) Existing and proposed junk storage areas, indicating the type of junk or material which will be stored in each area; and
- (10) Existing and proposed accessways, aisles, parking and loading areas.

C. A full environmental assessment form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act (SEQRA). Upon review of the completed EAF, the lead agency shall determine whether or not the proposed junkyard may have a significant adverse impact on the environment. If the lead agency determines that the proposed junkyard may have a significant adverse impact upon the environment, a draft environmental impact statement (DEIS) shall be prepared in accordance with the SEQRA regulations. Where a positive declaration is issued, the application shall not be deemed complete until the lead agency has accepted the DEIS as complete.

D. An application fee shall be established by a resolution of the Town Board. The fee shall accompany all applications.

E. The Planning Board shall conduct a site plan review pursuant to Chapter 149, Zoning, Article VI, Site Plan Review, of the Code of the Town of Moreau. A resolution, detailing the decision of the Planning Board shall be forwarded to the Town Board. Site Plan approval shall be conditioned upon applicant receiving a junkyard license as herein provided.

F. Within 62 days of the receipt of the Planning Board decision, the Town Board shall render a decision on the application for a junkyard license based upon general considerations and the ability to meet the junkyard regulations. The sixty-two-day period may be extended by the Town Board for good cause. The Town Board shall have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed junkyard license.

G. If the application is approved by the Town Board, a junkyard license shall be issued by the Clerk. If the application is approved with conditions, the Clerk shall issue a junkyard license upon notification by the Building Inspector/Code Enforcement Officer that said conditions have been complied with. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided that all provisions of this chapter are complied with during the licensed period and the junkyard or activity or business does not become a public nuisance.

H. Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements of this chapter are justified, then a waiver may be granted. No waiver shall be granted, however, unless the Board finds, and records in its minutes, that:

- (1) Granting the waiver would be keeping with the intent and spirit of this chapter and is in the best interest of the community;
- (2) There are special circumstances involved in the particular case;
- (3) Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed;
- (4) The waiver is the minimum necessary to accomplish the purpose.

§ 87-5. General considerations.

A. In order to protect the clean, wholesome, safe and attractive environment of the community, the Town Board shall take the following factors into consideration in granting or denying a license:

- (1) Type of road servicing the junkyard or from which the junkyard can be seen;

- (2) Natural or artificial barriers protecting the junkyard from view;
- (3) Proximity of the site to established residential or recreational areas or main access route thereto;
- (4) The nature and development of surrounding property;
- (5) Whether or not the proposed location will affect the public health and safety by reason of offensive or unhealthy noise, odors or smoke, or of other causes;
- (6) The proximity of floodplains, groundwater supplies, and public water supplies;
- (7) Local drainage patterns;
- (8) The availability of fire protection and the adequacy of the water supply for fire protection purposes;
- (9) The Comprehensive Plan for the Town;
- (10) Availability of other suitable sites for the junkyard;
- (11) The type of junk to be stored or deposited in the junkyard.

§ 87-6. Specific requirements.

A. No junk storage area shall be located within:

- (1) One hundred feet of any adjoining property line;
- (2) Five hundred feet of the property line of any public park, church, educational facility, nursing home, public building or other place of public gathering;
- (3) One hundred feet of any stream, lake, pond, wetland or other body of water; or
- (4) One hundred feet from the property line of any public highway.

B. There must be erected and maintained an eight-foot-high fence enclosing the entire junkyard and a locking gate, adequate to prohibit the entrance of children and others into the area of the activity or business, and to contain within such fence all junk appliances, junk furniture, junk mobile homes, junk vehicles and materials originating from such items. Fencing requirements may be waived where topography or other natural conditions effectively prohibit the entrance of children and others to the junkyard, provided screening is not necessary pursuant to Subsection C of this article.

C. Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence provided in Subsection B above shall be of wood or other materials sufficient to totally screen the junkyard from view of such roadways or neighboring properties. Such screening may be permitted by adequate planting of evergreen trees or shrubbery.

D. The Town Board shall specify in the junkyard license which types of junk may be stored or deposited in the junk storage area. No items shall be stored in any junk storage area other than those items specified on a junkyard license approved by the Town Board pursuant to this chapter.

E. No materials shall be burned in a junkyard.

§ 87-7. Administration and enforcement; penalties for offenses.

A. The Enforcement Officer may, and upon request of the Town Board shall, make inspections of any junkyard for which application for a license has been made or a license has been granted, and shall report to the Town

Board on the conditions of such junkyard. The Enforcement Officer shall make periodic inspections of the Town to ensure that all existing junkyards have a license and the requirements of this chapter are met.

B. Revocation of license for noncompliance; hearing; notice.

(1) The Town Board may revoke a junkyard license upon reasonable cause should the applicant fail to comply with any provision of this chapter or any condition of the license. Before a license may be revoked, a public hearing shall be held by the Board. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof. The license holder shall be notified of the hearing by written notice prior to the hearing. Written notice shall be served in one of two ways:

(a) By personal service of a copy of the notice at least 10 days prior to the date of the hearing; or

(b) By certified mail, return receipt requested, addressed to the last known address of the property owner or occupant. If said certified mail is refused or returned, service upon the property owner or occupant shall be made by mailing a copy of the notice by first-class mail to the address of the property owner or occupant in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Notice served according to this paragraph shall be served at least 15 days prior to the date of the hearing. Service shall be deemed complete upon depositing the notice in an official depository of the United States Postal Service within the State of New York.

(2) At the hearing, the Board shall hear the license holder and all other persons wishing to be heard on the revocation of the junkyard license. Should the Board decide to revoke a license, the reason for such revocation shall be stated in the Board minutes. The license holder shall be immediately notified of the revocation by certified mail. Should any junkyard license be revoked, the operator shall cease and desist from operating a junkyard. All junk appliances, junk furniture, junk mobile homes, junk vehicles and materials originating from such items shall be removed from the premises within 60 days by the license holder.

C. If the Enforcement Officer shall find that an alleged junkyard exists without the necessary license, the Enforcement Officer is hereby authorized pursuant to Criminal Procedure Law § 150.20(3) to issue an appearance ticket to any person the Enforcement Officer has reason to believe has violated this chapter, and shall cause such person to appear before the Town Justice.

D. Any person who shall violate any of the provisions of this chapter shall be guilty of a violation and subject to the following: a fine not to exceed \$500 or imprisonment for a period not to exceed 15 days, or both. Every such person shall be deemed guilty of a separate violation for each day such violation, disobedience, omission, neglect or refusal shall continue. 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 restrain by injunction the violation of any provision of this chapter.

CHAPTER 91. LANDFILLS

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CHAPTER 91. LANDFILLS

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 12-29-1980 as Ch. 12 of the 1973 Code; Art. II, 12-29-1980. Section 91-1C and D added and §§ 91-2, 91-3A, 91-6B, C and E(6), 91-7B, 91-11A and 91-14A(3) and B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Outdoor burning — See Ch. 52.
Junkyards — See Ch. 87.
Zoning — See Ch. 149.

ARTICLE I. Sanitary Landfill

[Adopted 12-29-1980 as Ch. 12 of the 1973 Code]

§ 91-1. Legislative intent.

A. The Town Board of the Town of Moreau declares its intent to regulate and control the disposal of waste, as defined by this Article, for the protection of the general public. The Town Board acknowledges the responsibility to maintain a sanitary landfill pursuant to federal and state law and pursuant to federal and state environmental rules and regulations.

B. The Town Board enacts this Article in view of the financial cost to maintain the sanitary landfill, to properly enact a closure plan, to regulate the quantity and nature of waste disposed, taking into account the source of the waste and the complications inherent in the proper disposal of same, and to enforce this Article by civil and/or criminal remedies.

C. The Town Board of the Town of Moreau acknowledges its responsibilities to regulatory agencies, including but not limited to the Environmental Protection Agency and the Department of Environmental Conservation. The Town Board acknowledges its responsibility to report to investigatory and regulatory agencies on an interim basis as to the quantity and quality of the waste disposed at the site. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

D. The Town Board enacts certain amendments to Chapter 91 of the Code of the Town of Moreau and rules and regulations therein to properly comply with investigatory and regulatory authorities and to meet its obligations to the general public by ensuring the health, safety and environment of the residents of the Town of Moreau. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 91-2. Definitions.

For the purpose of this Article, the words and phrases used herein are defined as follows:

COMMERCIAL WASTE

All waste originating from commercial sources and all waste originating from residential sources when disposed of by a commercial waste hauler. "Commercial waste" shall include waste resulting from the occasional destruction or removal of buildings or any part thereof or the cutting down and disposing of trees and brush. "Commercial waste" shall exclude industrial waste.

[Added 2-1-1982]

COMMERCIAL WASTE HAULER

Any person, firm or corporation who disposes of commercial waste.

INDUSTRIAL WASTE

Waste material resulting from industrial processes, including but not limited to papermill sludge, pulpmill sludge and waste generated on site by industry.

INDUSTRIAL WASTE GENERATOR

Any person, firm or corporation who generates industrial waste as a result of industrial processes for disposal at the site. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

INDUSTRIAL WASTE HAULER

Any person, firm or corporation who disposes of industrial waste.

NONINDUSTRIAL AND NONCOMMERCIAL WASTE HAULER

Any individual resident of the Town of Moreau and/or the Village of South Glens Falls who disposes of waste originating from his or her private residence.

PAPERMILL SLUDGE

Residual effects of the papermaking process, including but not limited to pulp fiber, clays and other organic and inorganic materials, including liquid content.

PROHIBITED WASTE

Any waste defined as toxic, hazardous or corrosive by the United States Environmental Protection Agency (EPA) and/or the New York State Department of Environmental Conservation (DEC).

PULPMILL SLUDGE

Residual effects of the pulpmill process, including but not limited to pulp fiber, clays and other organic and inorganic materials, including liquid content.

WASTE

All legally disposable matter as defined and regulated by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation, but excluding, for the purposes of this Article, industrial waste, papermill sludge and pulpmill sludge.

§ 91-3. Site; applicability.

A. The premises owned by the Town of Moreau and shown on a map which was submitted in 1988 to the New York Department of Environmental Conservation, which premises are hereby designated as the sanitary landfill of this town for the disposal of waste, are subject to the provisions of this Article. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

B. The regulations herein contained shall also apply to any other lands hereinafter acquired or leased for the purpose of disposal of waste.

§ 91-4. Deposit of vehicles and other large articles.

[Amended 2-13-1990]

No person, firm or corporation shall carry or leave or cause to be carried or left upon the premises mentioned in § 91-3 of this Article any tree trunk, automobile, vehicle or other large article or any part thereof, unless the same shall have been so cut, dismantled or flattened out so as to permit the same to occupy a minimum of space and, in no event, shall any log that exceeds four feet in length be deposited in the sanitary landfill.

§ 91-5. Use by residents; permit required.

A. No person, firm or corporation not a resident of or conducting an establishment, business or industry in the Town of Moreau or the Village of South Glens Falls shall dispose of waste of any kind on the premises herein designated for that purpose, except as hereinafter set forth in regard to industrial waste haulers and commercial waste haulers.

B. All noncommercial, nonindustrial waste haulers, prior to disposal of waste at the site, shall have a permit on display on their vehicle showing that they are residents of the Town of Moreau or the Village of South Glens Falls.

C. Notwithstanding the provisions of Subsections A and B hereof, the Town Board of the Town of Moreau may by resolution permit the disposal of waste at the site by nonresidents of the Town of Moreau in accordance with the Saratoga County Landfill Consolidation Plan, in which case said nonresidents shall be subject to all other provisions of Chapter 91 of the Town Code.

[Added 8-26-1991 by L.L. No. 2-1991]

§ 91-6. Industrial waste hauler licenses.

A. No industrial waste hauler shall dispose of industrial waste at the site unless and until said person, firm or corporation has been issued a license by the Town Clerk of the Town of Moreau and said license is in full force and effect at the time of the waste disposal.

B. Industrial waste hauler licenses shall not be transferable and shall expire on July 1 in the year of issue.

[Amended 7-27-1990 by L.L. No. 4-1990]

C. Industrial waste hauler licenses shall be issued upon compliance by the industrial waste hauler and by the industrial waste generator with the rules and regulations promulgated by the Town of Moreau pursuant to § 91-13, Supplementary regulations.

[Amended 7-27-1990 by L.L. No. 4-1990]

D. No industrial waste hauler license shall be issued unless and until the industrial waste hauler has posted sufficient security in a form approved by the Town Board of the Town of Moreau.

E. Industrial waste hauler licenses shall be revoked by the Town Board of the Town of Moreau upon the occurrence of any of the following violations:

- (1) Failure to pay industrial waste hauler fees as prescribed by the supplementary regulations Editor's Note: See Art. II of this chapter. within 60 days of disposal at site.
- (2) Cancellation or forfeiture of sufficient security.
- (3) Misrepresentation in the application for an industrial waste hauler license.
- (4) Transfer of an industrial waste hauler license without notice to the Town Board and the Town Clerk of the Town of Moreau.
- (5) Violation of any federal or state environmental rule, order, law or ordinance.
- (6) Violation by the industrial waste hauler and/or the industrial waste generator of any provision of this Article or the rules and regulations promulgated by the Town Board of the Town of Moreau pursuant to § 91-13, Supplementary regulations.

[Amended 7-27-1990 by L.L. No. 4-1990]

F. An industrial waste hauler license shall be revoked upon due notice to the industrial waste hauler and after a full hearing before the Town Board of the Town of Moreau. Violators shall also be subject to penalties pursuant to § 91-11 and pursuant to the rules and regulations promulgated pursuant to § 91-13, Supplementary regulations.

§ 91-7. Commercial waste hauler licenses.

A. No commercial waste hauler shall dispose of commercial waste at the site unless and until said commercial waste hauler has been issued a license by the Town Clerk of the Town of Moreau and said license is in full force and effect at the time of the waste disposal.

B. Commercial waste hauler licenses shall not be transferable and shall expire on July 1 in the year of issue.

[Amended 7-27-1990 by L.L. No. 4-1990]

C. Commercial waste hauler licenses shall be issued upon compliance by the commercial waste hauler with the rules and regulations promulgated by the Town of Moreau pursuant to § 91-13, Supplementary regulations.

D. Commercial waste hauler licenses shall be revoked by the Town Board of the Town of Moreau upon the occurrence of any of the following violations:

- (1) Failure to pay the annual license fee as prescribed by rules and regulations pursuant to § 91-13, Supplementary regulations.

(2) Misrepresentation in the application for a commercial waste hauler license.

(3) Transfer of a commercial waste hauler license without notice to the Town Board and the Town Clerk of the Town of Moreau.

(4) Violation of any federal or state environmental rule, order, law or ordinance.

(5) Violation of any provision of this Article or the rules and regulations promulgated by the Town Board of the Town of Moreau pursuant to § 91-13, Supplementary regulations.

E. A commercial waste hauler license shall be revoked upon due notice to the commercial waste hauler and after a full hearing before the Town Board of the Town of Moreau. Violators shall also be subject to penalties pursuant to § 91-11 and pursuant to the rules and regulations promulgated pursuant to § 91-13, Supplementary regulations.

§ 91-8. Waste originating from outside town.

[Amended 8-26-1991 by L.L. No. 2-1991]

A. No person, firm or corporation shall dispose of waste, whether commercial, industrial or otherwise, at the site where said waste originates from outside the Town of Moreau or the Village of South Glens Falls, except that the Town Board of the Town of Moreau may provide by resolution for the disposal at the site of waste which originates outside of the Town of Moreau or the Village of South Glens Falls in conformity with the provisions of the Saratoga County Landfill Consolidation Plan, in which case all depositors of waste shall be subject to all other provisions of Chapter 91 of the Town Code.

B. Violation of this section shall result in sanctions pursuant to § 91-11, Penalties for offenses, and § 91-12, Revocation of privileges.

§ 91-9. Regulations on use.

No person shall deposit or cause to be deposited any substance of any kind on the landfill site herein designated, except at the place and in the manner directed by the person in charge of the premises under authority of the Town Board, whether such direction is given personally or by another person by his authority or by a sign or signs erected upon the premises by his authority. No person shall fire a firearm on the landfill site, nor shall any person scavenge such landfill site without written permission of the Town Board.

§ 91-10. Deposit of waste outside landfill.

[Amended 4-14-1987]

No person shall throw or deposit, or cause to be thrown or deposited, any abandoned vehicles, or parts thereof, or any of the following as defined in § 91-2 of this Article: waste, industrial waste, papermill sludge, pulpmill sludge, commercial waste or prohibited waste, in or upon any public highway, street or place within said Town of Moreau, except the landfill site aforesaid, pursuant to the regulations thereof.

§ 91-11. Penalties for offenses.

[Amended 7-27-1990 by L.L. No. 4-1990; 5-31-1991 by L.L. No. 1-1991]

A. Any person who, having any of the culpable mental states defined in § 15.05 of the Penal Law of the State of New York, shall violate any of the provisions of § 91-10 of this chapter, shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not less than \$1,000 nor more than \$2,500 per day of violation.

B. Any person, firm or corporation violating any of the other provisions of this Article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not to exceed \$250 or by imprisonment in the county

jail for a term not to exceed 15 days, or by both such fine and imprisonment. Each day that such violation continues shall be deemed to be a separate offense.

C. Any person, firm or corporation violating any of the provisions of this Article shall be subject to the sanctions prescribed by § 91-12, Revocation of privileges.

§ 91-12. Revocation of privileges.

Any person, firm or corporation who shall, or whose servants, agents, employees or officers shall violate this Article may thereafter be denied the use of the site, either temporarily or permanently, by resolution of the Town Board.

§ 91-13. Supplementary regulations.

The Town Board of the Town of Moreau shall have the power to make such other, further rules and regulations as shall be reasonable concerning the disposal of waste at the site.

ARTICLE II. Rules and Regulations

[Adopted 12-29-1980]

§ 91-14. Industrial waste.

A. Industrial waste hauler license requirements.

(1) Each industrial waste hauler shall complete and file with the Town Clerk of the Town of Moreau an application for a license containing the following information:

(a) The name, address and telephone number of the industrial waste hauler. If the industrial waste hauler is a corporation, the application shall be completed by an officer of the corporation, and all directors of said corporation shall be listed on the application with their names and addresses. If the industrial waste hauler is a partnership, the application shall be completed by a general or a full partner, and all remaining partners' names and addresses shall be indicated on the application.

(b) A list of all sources of waste, all accounts and services which shall be amended during the period of the license, as necessitated by additions or deletions to active accounts.

(c) A statement as to compliance as to federal, state and local licensing requirements, if applicable.

(d) Posting of sufficient security in either of the following forms:

[1] A letter of credit from a recognized banking institution or financial institution guaranteeing payment of license fees to the extent of \$5,000;

[2] Posting of a performance bond from a licensed insurance company or bonding company in the State of New York in the amount of \$5,000; or

[3] Deposit of a cash security to the Town Clerk in the amount of \$5,000.

(2) Applications shall be kept on file at the Town Clerk's office.

(3) Applications shall be renewed on or before July 1 for the next licensing year.

[Amended 7-27-1990 by L.L. No. 4-1990]

B. Fees and procedures for collection for industrial waste haulers and procedures for industrial waste generators.

[Amended 11-30-1984; 9-25-1987; 7-10-1990; 7-27-1990 by L.L. No. 4-1990]

(1) Industrial waste haulers shall pay to the Town Clerk of the Town of Moreau such fee or fees as the Town Board of the Town of Moreau may set by resolution to be filed with the Town Clerk. Any change in such fee shall be effective upon filing of said resolution with the Town Clerk. All moneys so collected shall be applied to landfill closure; landfill monitoring, or transfer station operation and maintenance.

[Amended 3-11-1997 by L.L. No. 1-1997]

(2) Payment shall be made within 30 days of billing.

[Amended 3-11-1997 by L.L. No. 1-1997]

(3) Unpaid fees after 30 days shall bear interest at 10% per annum until paid.

(4) Unpaid fees after 60 days shall result in collection expenses, including but not limited to attorneys fees, forfeiture of bond and revocation of license.

(5) Industrial waste haulers shall, within 30 days of disposal, submit certification to the Town Clerk of the Town of Moreau, on a form prescribed by the Town Board of the Town of Moreau, indicating and verifying the total waste disposed during the period of disposal.

(6) The Town Board shall have the authority to inspect the books and records of the industrial waste hauler to verify the information given to the Town Clerk as to quantity of waste disposed.

(7) Industrial waste generators shall verify the total quantity of waste disposed, and the physical, chemical and biological nature of said waste, by report to the Town Clerk of the Town of Moreau, on a form prescribed by the Town Clerk of the Town of Moreau, as required by the Environmental Protection Agency and/or the New York State Department of Environmental Conservation.

§ 91-15. Commercial waste.

[Amended 5-9-1989; 2-13-1990]

A. Commercial waste hauler license requirements.

(1) Each commercial waste hauler shall complete and file with the Town Clerk of the Town of Moreau an application for a license containing the following information:

(a) Name, address and telephone number of commercial waste hauler. If commercial waste hauler is a corporation, the application shall be completed by an officer of the corporation, and all directors of said corporation shall be listed on the application, with their names and addresses. If the commercial waste hauler is a partnership, the application shall be completed by a general or a full partner, and all remaining partners names and addresses shall be indicated on the application.

(b) A list of all sources of waste.

(c) A statement as to compliance with federal, state and local licensing requirements, if applicable.

(2) The application shall be kept on file at the Town Clerk's office.

(3) The application shall be renewed on or before December 1 for the next licensing year.

B. Fees and procedures.

[Amended 7-10-1990; 7-27-1990 by L.L. No. 4-1990]

(1) Commercial waste haulers shall secure a load permit for each vehicle load to be deposited in the sanitary landfill. Load permits shall be obtained from the Town Clerk upon the payment of a fee of \$6 per yard of vehicle capacity, or at such other rate as may be set by the Town Board by resolution and posted in the Town Clerk's office.

(2) All load fees will be charged at full vehicle capacity, there being no reduced fees for partial loads.

§ 91-16. Other waste.

Editor's Note: Former § 91-16, General regulations affecting all landfill users, as amended, was repealed 2-13-1990.

[Added 2-13-1990; 7-10-1990]

A. Nonindustrial noncommercial waste haulers shall be subject to all of the provisions of Chapter 91, Article I, Sanitary Landfill, of the Code of the Town of Moreau, and the operators of vehicles disposing of waste at the sanitary landfill shall be subject to the following fees:

(1) Passenger vehicles: \$2.

(2) Pickup trucks: \$2 to water level.

(3) Trucks (other than pickup): \$2 per cubic yard.

B. Landfill users disposing of waste from their own residences or their own commercial establishments shall be considered noncommercial waste haulers under this Article.

C. The Town Board reserves the right to revise the fee schedule set forth in Subsection A by resolution of the Board posted in the Town Clerk's office.

[Added 8-26-1991 by L.L. No. 2-1991]

CHAPTER 92. DISPOSAL OR PROCESSING OF CERTAIN WASTE PROHIBITED IN THE TOWN OF MOREAU

§ 92-1. Purpose and intent.

§ 92-2. Definitions.

§ 92-3. Disposal or processing of prohibited waste and disposal of other waste.

§ 92-4. Exception.

§ 92-5. Penalties for offenses.

§ 92-6. Severability.

§ 92-7. Effective date.

CHAPTER 92. DISPOSAL OR PROCESSING OF CERTAIN WASTE PROHIBITED IN THE TOWN OF MOREAU

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-14-2004 by L.L. No. 5-2004. Editor's Note: This local law was adopted as Ch. 91A. Amendments noted where applicable.]

GENERAL REFERENCES

Landfills — See Ch. 91.

Sewers — See Ch. 115.

Water — See Ch. 145.

§ 92-1. Purpose and intent.

It is the purpose and intent of the Town of Moreau to protect and preserve the health, safety and welfare of the residents of the Town of Moreau and to protect and preserve the abundant natural resources of the Town and the

value, use and enjoyment of real property in the Town of Moreau by prohibiting the disposal of or processing of prohibited waste in the Town of Moreau as that term is defined herein.

§ 92-2. Definitions.

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

PROHIBITED WASTE

Any waste or waste material not originating within the boundaries of the Town of Moreau and generated by or from sources or locations outside the boundaries of the Town of Moreau, irrespective of whether the waste material is located or deposited in the Town of Moreau, and defined as toxic, ignitable, reactive, hazardous or corrosive by the United States Environmental Protection Agency and/or the New York State Department of Environmental Conservation, including any commercial or industrial waste as those terms are defined in § 91-2 of Article I of Chapter 91 of the Town of Moreau Code (hereinafter "commercial or industrial waste"). The definition of prohibited waste includes polychlorinated biphenyls and trichloroethylene, and includes materials which may contain petroleum or oil, as well as any dredge or excavated material removed from the Hudson River. The definition of prohibited waste also includes any medical waste and regulated medical waste as that term is defined in Title 6, Part 360 of the Official Compilation of Codes, Rules and Regulations.

§ 92-3. Disposal or processing of prohibited waste and disposal of other waste.

A. It shall be unlawful for any person, firm, corporation or entity, including any governmental entity or agency, to dispose of, cause to be disposed of, or process for disposal, including by means of a dewatering facility, within the boundaries of the Town of Moreau, any prohibited waste.

B. It shall be unlawful for any person, firm, corporation, or entity, including any governmental entity or agency, to dispose of or cause to be disposed of within the boundaries of the Town of Moreau any commercial or industrial waste.

§ 92-4. Exception.

It shall not be unlawful for any person, firm, corporation, or entity, including any governmental entity or agency, to dispose of, cause to be disposed of or process prohibited waste or commercial or industrial waste in the Town of Moreau in the following limited circumstances: when the person, firm, corporation or entity, including governmental entity or agency, has, lawfully in existence and in operation as of the date of the enactment of this chapter, operating procedures for a specific site or location within the Town of Moreau which provide for the disposal or processing of prohibited waste or commercial or industrial waste; provided, however, that such person, firm, corporation, entity, including governmental entity or agency, has been lawfully disposing of or processing prohibited waste or commercial or industrial waste for the specific site or location prior to the date of the enactment of this local law. This exception does not apply to any sites or locations within the M-1 Zone in the Town of Moreau where prohibited waste or commercial or industrial waste has been or may have been disposed of, deposited or stored, and irrespective of whether the disposal, depositing or storage of prohibited waste or commercial or industrial waste has been previously approved or permitted by any government agency.

§ 92-5. Penalties for offenses.

A violation of this article shall constitute a misdemeanor and be subject to a fine not exceeding \$10,000 for each such offense, plus costs, or imprisonment for a period not exceeding 60 days, or both. Each day in which the violation(s) continues shall be considered a separate offense.

§ 92-6. Severability.

Any section, paragraph, subdivision or provision of this article that shall be determined by a court of law as invalid or unconstitutional shall not impair the validity of other sections, paragraphs, subdivisions or provisions of this local law as a whole to the extent that the same shall be considered applicable and effective, and only such part so decided to be invalid or unconstitutional shall be considered ineffective.

§ 92-7. Effective date.

This local law is intended to be immediately effective or as permitted by law.

CHAPTER 96. MOBILE HOMES AND MOBILE HOME PARKS

ARTICLE I. General Provisions

§ 96-1. Title.

§ 96-2. Purpose.

§ 96-3. Definitions.

§ 96-4. Mobile home park permit required.

§ 96-5. Application for permit; issuance; fees.

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§ 96-10. Revocation of permit.

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§ 96-13. Mobile homes not located in parks restricted.

§ 96-14. Permit application for individual mobile home.

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§ 96-16. Building permits for individual mobile homes.

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§ 96-21. Applicability of permit issuance.

ARTICLE II. Parks Unfit for Human Habitation

§ 96-22. Intent.

§ 96-23. Definitions.

§ 96-24. Procedure for determination of unfitness.

§ 96-25. Nonpayment of rent.

CHAPTER 96. MOBILE HOMES AND MOBILE HOME PARKS

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 12-11-1973 as Ch. 30 of the 1973 Code; Art. II, 1-29-1988 as L.L. No. 1-1988. Sections 96-3, 96-5C and D, 96-6B, 96-11 and 96-18B amended and §§ 96-7 and 96-16 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Fire prevention and building construction — See Ch. 74.

Flood damage prevention — See Ch. 78.

Subdivision of land — See Ch. 124.

Zoning — See Ch. 149.

ARTICLE I. General Provisions

[Adopted 12-11-1973 as Ch. 30 of the 1973 Code]

§ 96-1. Title.

This Article shall be known and may be cited as the "Mobile Home and Mobile Home Park Ordinance of the Town of Moreau."

§ 96-2. Purpose.

It is the purpose of this Article to promote the health, safety, morals and general welfare of the inhabitants of the Town of Moreau by the proper regulation of mobile homes and mobile home parks.

§ 96-3. Definitions.

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

MOBILE HOME

Any vehicle, or combination thereof, used, designed for use or capable of being used as sleeping or living quarters, either propelled by its own power or the power of another vehicle to which it may be attached; or any such vehicle after the wheels are removed; or a dwelling unit manufactured in one or more sections on an integral metal frame, designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems and designed to be transported after fabrication on wheels or on flatbed or other trailers, arriving at the site where it is to be occupied as a dwelling. Any addition to such "mobile home" shall, for the purpose of this Article, be deemed to be a part of such "mobile home." Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

MOBILE HOME PARK

Any lot, piece or parcel of ground whereon 10 or more mobile homes are located or parked. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

PARK UNIT

The lot or space in any mobile home park which shall be assigned to or used and occupied by any one mobile home.

§ 96-4. Mobile home park permit required.

No person, firm or corporation being the owner or occupant of any land or premises within the Town of Moreau shall use or permit the use of said land or premises as a mobile home park without obtaining a permit therefor as hereinafter provided.

§ 96-5. Application for permit; issuance; fees.

A. Contents of permit application.

(1) The application for each mobile home park permit shall be in writing and signed by the applicant. It shall state:

- (a) The name and address of the applicant.
- (b) The name and address of each partner if the applicant is a partnership.
- (c) The name and address of each officer and director if the applicant is a corporation.
- (d) A complete description of the premises upon which the proposed park is to be located.
- (e) The name and address of the owner or owners of such premises.
- (f) The number of park units to be provided in the proposed park.

(2) The application shall be accompanied by two sets of plans and specifications, drawn to scale, showing the layout of the park, the location, size and arrangement of each park unit, location of streets, location and number of toilets, lavatories and showers for each sex, location of water services and location of slop sinks and garbage receptacles. One set of plans shall be retained by the Town Building Inspector and/or Code Enforcement Officer and the second set retained with the application. Where the applicant is not the owner of the premises, the application shall also be accompanied by a certified or photostatic copy of the lease of the premises.

B. Filing of application and submission of same to the Building Inspector and/or Code Enforcement Officer, Town Planning Board and Town Board.

(1) Each application shall be filed with the Town Clerk, who shall thereupon transmit the same to the Town Planning Board. Such application shall indicate compliance by the applicant with the minimum park requirements as established by rules and regulations of the State Department of Health and by the Sanitary Code of the State of New York.

(2) The Town Planning Board shall, after investigation, transmit the application to the Building Inspector and/or Code Enforcement Officer, together with its written approval or recommendations pertaining thereto.

(3) The Building Inspector and/or Code Enforcement Officer shall, in turn, investigate the application, and he shall transmit the same to the Town Board, indicating his approval or rejection in writing.

(4) All such applications shall, after investigation, be approved or rejected by the Town Board, after which the applications shall be filed with the Town Clerk and the applicants notified in writing by the Town Clerk of the action taken thereon, with the reason for rejection if the application is rejected. If said application is rejected, the applicant shall have the right to appear before the Town Board for a hearing.

C. Issuance of permit. The Town Clerk of the Town of Moreau, upon the written application and upon the approval of the same by the Building Inspector and/or Code Enforcement Officer and the Town Board, and upon the receipt of the fee hereinafter provided, shall issue a permit to become effective from the date thereof and to continue in force through the first day of July next succeeding for the use of the premises therein specified as a mobile home park, which permit shall specify the number of park units which may be used in said park. Each permit shall not be transferable or assignable. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

D. Fees. The applicant for a mobile home park permit shall, at the time of issuance of such permit, pay to the Town Clerk a fee set by resolution of the Town Board and on file in the Town offices. The fee for renewal of a permit for a mobile home park shall be set by resolution of the Town Board and on file in the town offices based upon the number of park units in use at the time of application for renewal, as verified by the Building Inspector and/or Code Enforcement Officer. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 96-6. Regulations for park operation.

A. Drainage and grading. All lands used as a mobile home park shall be well drained, of ample size and free from heavy or dense growth of brush or woods, except as provided in Subsection C below. The land shall be properly graded to ensure proper drainage during and following rainfall and shall, at all times, be so drained as to be free from stagnant water.

B. Each mobile home park shall be subdivided and marked off into park units, each of which park unit shall contain at least 9,000 square feet, proportioned appropriately to accommodate the mobile home on said unit. No more than one mobile home shall be permitted to occupy any one park unit. Each mobile home park shall be so marked off that there will be no more than four park units to the acre. The maximum occupied area per park unit shall not exceed 1,000 square feet. Mobile homes shall be so placed on each park unit that there shall be a distance of 25 feet from the front unit line, 15 feet from the rear unit line and 12 feet from the side unit lines. No mobile home shall be so placed that the same will be within 15 feet of any public highway or street nor within 15 feet of any adjacent property line. Each mobile home park and all parts thereof shall be kept in a clean and sanitary condition at all times. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

C. The margins along the side and rear property lines of a mobile home park shall be densely planted to trees for a minimum depth of five feet, and the trees shall have a minimum height of five feet.

D. Water connection. Each such mobile home park shall be provided with proper water connections on each such park unit.

E. Water supply. A sufficient supply of pure drinking water shall be provided in convenient locations in the mobile home park.

F. All roadways within a mobile home park shall be at least 25 feet in width and shall be maintained free from parked cars, snow or obstructions of any nature so that fire and other emergency vehicles may have free and open access to any part of the mobile home park. Each roadway shall be so designed and constructed as to withstand use of fire trucks and fuel delivery trucks, etc., with a minimum of nine inches of compacted gravel covering an eighteen-foot-wide carriageway. On each road the gravel shall be compacted, graded and leveled so as to permit safe passage of vehicles at speeds not exceeding 15 miles per hour.

G. Any mobile home park in which is parked or located any mobile home not containing a water closet, lavatory and a shower or bathtub, and hereinafter called a "dependent mobile home," shall be provided with toilets, showers, slop sinks and other sanitary facilities which shall conform to the following requirements:

(1) The toilet and other sanitary facilities for males and females shall be either in separate buildings or shall be separated, if in the same building, by soundproof walls.

(2) Toilet facilities for males shall consist of not less than one flush toilet for every 15 dependent mobile homes, one urinal for every 15 dependent mobile homes, one shower with individual dressing accommodations for every 10 dependent mobile homes and one lavatory for every 10 dependent mobile homes.

(3) Toilet facilities for females shall consist of not less than one flush toilet for every 10 dependent mobile homes, one shower with individual dressing accommodations for every 10 dependent mobile homes and one lavatory for every 10 dependent mobile homes.

(4) There shall be provided in a separate compartment not less than one slop sink or other like facility with an adequate supply of hot running water.

(5) Service buildings housing the toilet and sanitary facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems, and shall be located not closer than 10 feet nor farther than 200 feet from any park unit.

(6) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moistureproof material, including painted woodwork, as shall permit repeated cleaning and washing, and of at least 68° F. during the period from October 1 to May 1. The floors of the service buildings shall be of water-impervious material.

(7) All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

H. Disposal of sewage and other water-carried wastes.

(1) All sewage and other water-carried wastes shall be disposed of into a municipal sewage system whenever available. In mobile home parks in which such connections are not available, disposal shall be into a private system which includes a sanitary means of disposal, the operation of which creates neither a nuisance nor a menace to health.

(2) Whenever a water-carriage system of sewage is used, each park unit shall be provided with a sewer connection for the combined liquid-waste outlet or outlets of each mobile home. It shall be the duty of the owner or operator of said mobile home park not to permit the use of these outlets until the connection from the mobile home to the outlet has been made odortight as well as watertight. Sewer connections in occupied park units shall be so closed that they will not emit any odors nor cause a breeding place for flies. No water or waste shall be allowed to fall on the ground from a mobile home.

I. Garbage receptacles. Each such mobile home park shall provide equipment sufficient to prevent littering of the grounds and premises with rubbish, garbage and refuse and provide flytight metal depositories with tight-fitting covers as conspicuous locations upon such premises. Such depositories shall be emptied weekly and kept at all times in a sanitary condition. The depositories shall be so located that no park unit shall be more than 350 feet from a depository.

J. Electrical service and connections. Each mobile home park shall provide weatherproof electrical service connections and outlets for each park unit, all such connections and outlets to be of a type approved by the New York State Board of Fire Underwriters, and each park unit shall be properly grounded.

K. No mobile home park shall be occupied until the Building Inspector and/or Code Enforcement Officer has issued an occupancy permit therefor.

§ 96-7. Activities in mobile home parks requiring building permits.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Individual building permits shall be required for all mobile homes entering a mobile home park. Building permits shall also be required for any additions, porches or any structural changes to a mobile home in a mobile home park.

§ 96-8. Record of occupants.

The owner or operator of each mobile home park shall keep a permanent record, in writing, of all persons occupying or using the facilities of such mobile home park, which record shall include the following:

- A. The names and addresses of each occupant of each mobile home.
- B. The name and address of the owner of each mobile home.
- C. The make and the color of each mobile home.
- D. The registration numbers of any motor vehicle regularly maintained by any resident of the mobile home park.

§ 96-9. Inspections.

Any peace officer and the Building Inspector and/or Code Enforcement Officer of the town shall have the right, at any reasonable time, to enter any mobile home park and shall have the right to inspect all parts of said premises and to inspect the records required to be kept in any mobile home park.

§ 96-10. Revocation of permit.

If a police officer, Building Inspector and/or Code Enforcement Officer, Health Officer or any authorized representative of the Town of Moreau finds that any mobile home park is not being maintained in a clean and sanitary condition or is not being conducted in accordance with the provisions of this Article, such facts shall thereupon be reported to the Town Board, and said Town Board may direct the Town Clerk to serve an order, in writing, upon the holder of the permit or the person in charge of said park, directing that the conditions therein specified be remedied within 10 days after the date of service of such order. If such conditions are not corrected after the expiration of said ten-day period, the Town Board may cause a notice, in writing, to be served upon the holder of said permit or the person in charge of such mobile home park, requiring the holder of the permit to appear before the Town Board of the Town of Moreau at a time to be specified in such notice and to show cause why such mobile home park permit should not be revoked. The Town Board may, after a hearing at which testimony of witnesses may be taken and the holder of the permit shall be heard, revoke such permit if said Town Board shall find that said park is not being maintained in a clean and sanitary condition or if it finds that any provisions of this Article have been violated. Upon the revocation of such permit, the premises shall forthwith cease to be used for the purpose of a mobile home park, and all mobile homes shall forthwith be removed therefrom.

§ 96-11. Renewal of permit.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Application for the renewal of any mobile home park permit, if issued pursuant to this Article, must be filed with the Town Clerk on or before the first day of June next preceding the expiration of the permit. The application for the renewal shall be in writing and signed by the applicant and shall contain the same information as required by § 96-5A of this Article in the case of the original application for a permit, except that such renewal application need not be accompanied by a plan of the mobile home park, nor is it necessary that said renewal application be accompanied by the lease of the premises unless a new lease of the premises has been entered into subsequent to the time of filing the previous application, in which event a certified or photostatic copy of the lease shall be attached to the application for renewal. Upon the approval of said application for a renewal of the permit by the Building Inspector and/or Code Enforcement Officer and the Town Board, the Town Clerk shall issue a renewal permit which shall become effective upon the expiration of the prior permit and continue in force for a period of one year. Such renewal permit shall not be transferred or assigned. The applicant shall, at the time of issuance of said renewal permit, pay to the Town Clerk the fee provided for in § 96-5D.

§ 96-12. Effect on existing operations.

This Article shall apply to all existing mobile home parks located in the Town of Moreau on the effective date of this Article, and such existing mobile home parks shall henceforth be maintained and operated in compliance with all the provisions of this Article and any amendment thereto, except that the provisions of § 96-6B, C and F shall not apply to mobile home parks in existence on the effective date of this Article. Any mobile home park in existence prior to the adoption of this Article, whereon there are between three and 10 mobile homes, shall continue to be deemed a mobile home park and eligible for renewal of permit hereunder, provided that all other provisions of this Article are complied with.

§ 96-13. Mobile homes not located in parks restricted.

A. No mobile home shall be parked or allowed to remain upon any street, alley, highway or other public place for a period longer than 72 hours, except that emergency stopping or parking, occasioned by mechanical failure, is permitted upon the shoulder of any street or highway for a period of not longer than 96 hours, subject, however, to any other and further prohibitions, regulations or limitations imposed by law, parking regulation or ordinance.

B. No mobile home shall be parked or placed within the town and outside of a duly licensed mobile home park, except as follows:

(1) An owner or occupant of a mobile home may, after compliance with the provisions of this Article, be granted a permit to park or place such mobile home on premises outside a mobile home park. Said permit shall be valid for a term of three months, and no additional permit shall be granted within a period of 12 months from the date of the original permit, except that the Town Board, after an examination of the facts and after according the applicant an opportunity to be heard on such application, may, upon a finding of hardship or sufficient extenuating circumstances, grant an extension of said permit for a period not to exceed an additional three months.

(2) An owner of land located within the town who intends to construct a dwelling house thereon for his own occupancy, after compliance with the provisions of this Article, may be granted a permit to park or place a mobile home on said land during the construction of said dwelling house, not to exceed a period of one year. The Town Board, after an examination of the facts and after according the applicant an opportunity to be heard, may, upon a finding of hardship or extenuating circumstances, grant a further extension of said permit for a period not to exceed one year. However, if material progress with house construction is not made within 45 days from the issuance of a permit, or if construction work ceases for a consecutive period of 45 days, such permit shall become void.

§ 96-14. Permit application for individual mobile home.

A. The application for each mobile home permit shall be in writing, signed by the applicant, and shall state the following:

- (1) The name and address of the applicant.
- (2) The name and address of each partner if the applicant is a partnership.
- (3) The name and address of each officer and director if the applicant is a corporation.
- (4) A complete description of the premises upon which the mobile home is to be located.
- (5) The name and address of the owner or owners of such premises.

B. The application shall be accompanied by a plan, in duplicate, drawn to scale and showing the boundaries of the premises, the proposed location of the mobile home on the premises and the location and plan of the proposed water supply and sewage disposal system. If the applicant is not the owner in fee of the premises, then the application must be accompanied by a certified or photostatic copy of the written lease or, if there is no written lease, by the written, acknowledged consent of the owner of the premises.

§ 96-15. Regulations for individual mobile homes.

A. Water supply and sewage disposal system. Any mobile home parked outside a duly licensed mobile home park shall have an adequate supply of pure drinking water and a sewage disposal system of a type approved by the Building Inspector and/or Code Enforcement Officer of the Town of Moreau. No mobile home so parked or placed shall be occupied until a certificate or other evidence of the approval of the water supply and sewage disposal system by said Town Building Inspector and/or Code Enforcement Officer shall have been filed with the Town Clerk.

B. Location and setback. No occupied mobile home outside a duly licensed mobile home park shall be parked or placed within 25 feet of any public street or highway nor within 10 feet of the side or rear lot lines of the premises upon which it is so parked or placed.

§ 96-16. Building permits for individual mobile homes.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Building permits shall be required for all additions, porches or other structural changes to any mobile home outside a mobile home park.

§ 96-17. Revocation of individual mobile home permit.

If the Building Inspector and/or Code Enforcement Officer, Health Officer or any authorized representative of the Town of Moreau finds that any mobile home outside a mobile home park is not being maintained in a clean and sanitary condition or is not being maintained in accordance with the provisions of this Article, such facts shall thereupon be reported to the Town Board, and said Town Board may direct the Town Clerk to serve an order, in writing, upon the holder of the permit and/or the owner of the mobile home and/or the owner of the premises, directing that the condition therein specified be remedied within five days after the date of service of such order. If such conditions are not corrected after the expiration of said five-day period, the Town Board may cause a notice, in writing, to be served upon the holder of such permit and/or the owner of said mobile home and/or the owner of the premises upon which it is located, requiring the appearance of the person so served before the Town Board of the Town of Moreau at a time to be specified in such notice to show cause why such mobile home permit should not be revoked. The Town Board may, after a hearing at which testimony of witnesses may be taken and the person or persons so served shall be heard, revoke such permit if the Town Board shall find that the said mobile home is not being maintained in a clean and sanitary condition or if it finds that any provisions of this Article have been violated or for any other sufficient cause. Upon the revocation of such permit, said mobile home shall be removed from the premises and disconnected from its water supply and sewage disposal system.

§ 96-18. Effect on existing individual mobile homes.

A. The provisions of § 96-13 of this Article shall not be applicable to any mobile home parked or placed outside a duly licensed mobile home park on or before the effective date of this Article.

B. Owners or occupants of mobile homes parked outside a duly licensed mobile home park prior to such effective date shall, however, apply for a permit pursuant to § 96-14 of this Article within 90 days of such effective date. Permits shall be issued to owners or occupants of such existing mobile homes upon proper application for a period expiring on the first day of July next following. Such permits may be renewed annually for a period of one year commencing the second day of July each year. Application for the renewal of such permit shall be in the form prescribed in § 96-14 of this Article, except that no plan will be required unless there has been a change in the location of the mobile home or its facilities. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

C. Any mobile home parked or placed outside a licensed mobile home park on or before the effective date of this Article which shall be moved to any new lot or premises within the town subsequent to said effective date shall immediately become subject to the provisions of § 96-13 of this Article.

§ 96-19. Exceptions.

A. None of the provisions of this Article shall be applicable to the business of mobile home sales.

B. None of the provisions of this Article shall be applicable to the storage or garaging of mobile homes not being used for living or sleeping purposes within a building or structure or to the storage of one unoccupied mobile home on premises owned by the owner of such mobile home; provided, however, that such unoccupied mobile home shall not be parked between the street line and the front building line of such premises and provided that such mobile home shall not be stored on premises owned by the owner for a period in excess of

60 days. For the purpose of this subsection only, the term "mobile home" shall not include a recreational vehicle designed for occasional living or sleeping purposes.

[Amended 7-13-1982]

C. None of the provisions in this Article shall be applicable to a mobile home located on the site of a construction project, survey project or other similar work project and used solely as a field office or work- or toolhouse in connection with such project, provided that such mobile home is removed from said site within a reasonable time after the completion of such project.

D. The provisions of this Article shall not be applicable within the Incorporated Village of South Glens Falls.

§ 96-20. Penalties for offenses.

[Amended 5-10-1988]

A. Any person who violates any provision of this Article shall be guilty of an unclassified misdemeanor, punishable by a fine of a definite amount of not more than \$1,000 or not more than 30 days' imprisonment, or both. When a violation of this Article or any provision thereof is continuous, each week thereof shall constitute a separate and distinct violation for which a separate and additional penalty may be imposed. A violation of this Article shall be prosecuted in the name of the Town of Moreau. The prosecution of a violation of this Article for a civil penalty under Subsection B herein and/or an action to compel compliance with or restrain violation of this Article by injunction under Subsection C herein shall not affect the right of the town to prosecute the person for violation of the unclassified misdemeanor herein.

B. In addition, the violation of this Article or any of the provisions thereof shall subject any person to a civil penalty in the amount of \$500. When a violation of this Article or any of the provisions thereof is continuous, each such 24 hours thereof shall constitute a separate and distinct violation. The penalty shall be recovered by the Town of Moreau in a civil action. The prosecution of a violation of this Article for a criminal penalty under Subsection A herein and/or an action to compel compliance with or restrain a violation of this Article by injunction under Subsection C herein shall not affect the right of the town to obtain the civil relief herein.

C. In addition, upon the violation of this Article or any provision thereof, the Town Board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with this Article or restrain by injunction any violation thereof. The prosecution of a violation of this Article for a criminal penalty under Subsection A herein or the prosecution of violation of this Article for a civil penalty under Subsection B herein shall not affect the right of the town to obtain the injunctive relief herein.

D. The remedies for violation of this Article are cumulative, and the prosecution of an action by the town for criminal penalty pursuant to Subsection A and/or the civil relief pursuant to Subsection B and/or for the injunctive relief pursuant to Subsection C shall not affect the right of the town to obtain any of the other relief, whether criminal, civil or injunctive, provided herein. Any such prosecution for violation of this Article or any of the provisions, herein shall not be deemed to prevent the revocation of any permit issued pursuant thereto or the enforced removal of conditions prohibited by this Article.

§ 96-21. Applicability of permit issuance.

The issuance of a permit pursuant to the provisions of this Article shall not be deemed to waive compliance by the holder thereof, by the property owner or by any occupant of any mobile home with any statute of the State of New York or ordinance or health regulation of the Town of Moreau.

ARTICLE II. Parks Unfit for Human Habitation

[Adopted 1-29-1988 as L.L. No. 1-1988]

§ 96-22. Intent.

A. By adoption of this Article, the Town Board of the Town of Moreau declares its intent to protect the health, safety and general welfare of the community and citizens of the Town of Moreau and to regulate the house

trailer camps and mobile home parks located in the town for the benefit of the owners or operators and residents of said mobile home parks.

B. Since mobile home parks were developed in the early 1950's, there has been a steady growth in the number of mobile homes and mobile home parks. Some mobile home park owners and operators have not maintained facilities in a clean, sanitary and safe condition. Because mobile home park tenants cannot remove their mobile homes to another location without considerable expenditure, mobile home park tenants are especially vulnerable to substandard conditions.

C. When the permit of a mobile home park has been revoked pursuant to § 96-10 of the Mobile Home and Mobile Home Park Ordinance of the Town of Moreau, Editor's Note: See Art. I of this chapter. the owner or operator of the mobile home park does not have an incentive to make any repairs or improve conditions. And, when the permit has been revoked pursuant to § 96-10 of the Mobile Home and Mobile Home Park Ordinance, the tenants of the mobile home park suffer a financial hardship by being compelled to relocate from said park.

D. Therefore, recognizing the above and the need of the community to regulate house trailer camps and mobile home parks and the termination of the operation of such parks, and in the exercise of its statutory authority under § 130, Subdivision 12, of the Town Law and its police power over these matters, the Town Board of the Town of Moreau does hereby enact the following Article.

§ 96-23. Definitions.

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

NOT FIT FOR HUMAN HABITATION

Conditions exist which are dangerous, hazardous or detrimental to the life, health or safety of persons or residents.

B. All other terms are identical to the definitions in the Mobile Home and Mobile Home Park Ordinance of the Town of Moreau, Chapter 96, Article I, of the Code of the Town of Moreau.

§ 96-24. Procedure for determination of unfitness.

The procedure for the Town Board of the Town of Moreau to declare that a mobile home park is not fit for human habitation shall be as follows:

A. When the Town Board of the Town of Moreau has revoked the permit of a mobile home park pursuant to § 96-10 of the Mobile Home and Mobile Home Park Ordinance of the Town of Moreau and the owner or operator thereof fails to correct conditions in the park within 30 days after the revocation of the permit, the Town Board may conduct a hearing as to whether said mobile home park is not fit for human habitation.

B. The owner of the mobile home park shall be notified in writing of the date and time and purpose of the hearing before the Town Board by personal service at least 10 days prior to the date of the hearing.

C. At the hearing before the Town Board, the sworn testimony of witnesses may be taken, the owner or operator of the mobile home park may be represented by counsel and shall have an opportunity to be heard and a transcript or other record of the proceedings shall be made.

D. In the event that the Town Board finds after a hearing that the mobile home park is not fit for human habitation, the Town Board shall make a finding that the premises are not fit for human habitation, and said finding shall be incorporated in a resolution.

§ 96-25. Nonpayment of rent.

A. Where the Town Board of the Town of Moreau has determined that a mobile home park is not fit for human habitation pursuant to § 96-24D herein, the tenants of said mobile home park shall be authorized to withhold payment of rent from the owner of said mobile home park.

B. In any eviction proceeding or proceeding to obtain possession of the premises by the owner or operator of such a mobile home park against a tenant based upon nonpayment of rent because of a finding by the Town Board of the Town of Moreau pursuant to this Article, said resolution and finding of the Town Board of the Town of Moreau that the premises of the mobile home park are not fit for human habitation pursuant to § ~~96-24D~~ herein shall be presumptive evidence in any court of law that said mobile home park is not fit for habitation and for the uses reasonably intended by the parties as defined in and pursuant to §§ 233(m) and 235-b(1) of the Real Property Law.

CHAPTER 98. (RESERVED)

[Former Ch. 98, Tower Moratorium, adopted 9-4-1996 by L.L. No. 2-1996, last extended for 90 days 1-13-1998 by L.L. No. 2-1998, was removed from the Code due to expiration.]

CHAPTER 100. NOISE

§ 100-1. Title.

§ 100-2. Purpose.

§ 100-3. Definitions.

§ 100-4. Evidence of violation.

§ 100-5. Prohibited acts; exceptions.

§ 100-6. Penalties for offenses.

§ 100-7. Severability.

§ 100-8. Effective date.

CHAPTER 100. NOISE

[HISTORY: Adopted by the Town Board of the Town of Moreau 11-23-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Dogs — See Ch. 59.

Public entertainment — See Ch. 65.

Peddling and soliciting — See Ch. 105.

Sand, gravel and mining — See Ch. 113.

Off-road recreational vehicles — See Ch. 139.

§ 100-1. Title.

This chapter shall be known as the "Town of Moreau Noise Control Local Law."

§ 100-2. Purpose.

It is hereby declared to be the policy of the Town of Moreau to prevent excessive, unnecessary, disturbing or unusually loud noise. 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 peace and quiet of the Town of Moreau and its inhabitants. It is the policy of the Town of Moreau that the property within the town may not be utilized in a manner that detrimentally effects the reasonable use and enjoyment of adjacent or neighboring property and that excessive, unnecessary, unreasonable or unusually loud noise results in such detrimental effect, especially between the hours of 11:00 p.m. and 7:00 a.m.

§ 100-3. Definitions.

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

ACTIVITY

Any act or combination of acts which causes the production of sound.

AMBIENT SOUND LEVEL

The level of all sound sources in the area.

ANSI

American National Standards Institute or its successor bodies.

AUDIO DEVICE

A machine capable of playing, reproducing and/or amplifying speech, including but not limited to a radio, tape player or compact disc player.

A-WEIGHTED SOUND LEVEL

The frequency-weighted sound-pressure level (in decibels) measured on a sound-level meter with an A-weighted scale as specified in the American National Standards Institute (ANSI) specifications for sound-level meters (ANSI No. 4-1971).

CONSTRUCTION

Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines or other property, including but not limited to related activities such as land clearing, grading, earth moving, excavating, blasting, filling and landscaping, but not including agriculture.

dB(A)

The abbreviation for A-weighted sound level in decibels.

DECIBEL

A unit for measuring the volume of sound equal to 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound measured to the reference pressure which is 20 micropascals.

EMERGENCY

A public calamity exposing any person or property to imminent danger or loss or harm.

EMERGENCY WORK

Work or activity that is necessary to prevent or recover from an emergency, including but not limited to work to repair electric, gas, water, sewage, telephone or other essential public utilities or services.

LEVEL

The logarithm of the ratio of a quantity to reference of the same kind. The base of the logarithm is 10.

OWNER

Any person who has regular control of a device or site, including but not limited to the owner of a freehold of the premises, or any lesser estate therein, or an agent or lessee of such person.

PERSON

Any individual, partnership, company, public or private corporation, association, firm, organization, political subdivision, governmental agency, administration or department, municipality, trust, estate, group of individuals or any other legal entity whatsoever.

PLACE OF PUBLIC ENTERTAINMENT

Any commercial or privately operated indoor or outdoor facility within which the general public or organizational members gather for dining, drinking, dancing or other social events, including, but not limited to, restaurant, bar, cafe, discotheque or dance hall.

REAL PROPERTY BOUNDARY

An imaginary line exterior to any structure, along the ground surface, which separates the real property owned by one person from that owned by another person, and the vertical extension of such line.

SENSITIVE RECEPTOR

Any occupied property, or if a condominium, apartment house, duplex or attached business, within any adjoining unit; or place of business which is affected adversely by noise.

SOUND AMPLIFIER OR SIMILAR DEVICE

Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc player, phonograph or any other sound-amplifying device.

SOUND LEVEL

The quantity in decibels measured by a sound-level meter satisfying the requirements of American National Specification for Sound-Level Meters S1.4-1971. This publication is available from the American National Standards Institute, Inc. (ANSI), 1430 Broadway, New York, New York, 10018. "Sound level" is the frequency weighted sound-pressure level obtained with the standardized dynamic characteristic fast or slow and weighting A, B and C; unless indicated otherwise, the A-weighting with a slow response is understood.

SOUND-LEVEL METER

An instrument, including a microphone, an amplifier, an output meter and frequency weighing network for the measurement of sound levels. "Sound-level meters" shall conform to the requirements of ANSI specifications for sound-level meters S1.4-1971, Types 1, 2, S1A or S2A.

SOUND-PRESSURE LEVEL

Twenty times the logarithm to the base 10 of the ratio of the root mean squared pressure of a sound to a reference pressure of 20 micropascals. The unit applied to this measure shall be the decibel (dB).

UNREASONABLY LOUD OR UNNECESSARY NOISE

A noise which is unreasonably loud or unnecessary is defined as any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a

reasonable person of normal and ordinary sensitivities, or which causes injury to animal life or damages to property or business. Standards to be considered in determining whether "unnecessary noise" exists in a given situation include but are not limited to the following:

- A. The volume of the noise.
- B. The intensity of the noise.
- C. Whether the nature of the noise is usual or unusual.
- D. Whether the origin of the noise is natural or unnatural.
- E. The volume and intensity of the background noise, if any.
- F. The proximity of the noise to residential sleeping facilities.
- G. The nature and the zoning district of the area within which the noise emanates.
- H. The time of day or night the noise occurs.
- I. The time duration of the noise.
- J. Whether the sound source is temporary.
- K. Whether the noise is continuous or impulsive.
- L. The presence of discreet tones.

§ 100-4. Evidence of violation.

It shall be prima facie evidence that an activity is in violation of this chapter when a sound-level meter determines that the decibel level of a particular activity is in excess of the standards hereinafter set forth. All measurements will be made on the A-2 weighted sound level of a Type 0, 1, or 2 sound-level meter with a slow response. The meter will be calibrated each day that an individual or set of measurements is to be taken.

§ 100-5. Prohibited acts; exceptions.

A. Any act in violation of any of the provisions of this section is deemed to be in violation of Subsection B of this section, without in any way limiting the generality of the provisions of Subsection B of this section.

B. Unnecessary noise. No person shall make, continue or cause or permit to be made any continued unreasonably loud or unnecessary noise, including any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities.

C. Sound reproduction.

(1) The operation, playing or permitting the operation or playing of any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device in a stationary position which produces, reproduces or amplifies sound in a manner which raises the ambient sound level within the nearest sensitive receptor to a level which exceeds:

(a) Fifty dB(A) (measured at the real property boundary line) between the hours of 10:00 p.m. and 8:00 a.m.; or

(b) Fifty-five dB(A) (measured at the real property boundary line) between the hours of 8:00 a.m. and 10:00 p.m.

(2) The operation, playing or permitting the operation or playing of any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device in a stationary position which produces a noise or sound level which is unreasonably loud or unnecessary which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities.

(3) This subsection does not apply to places of public entertainment or amusement. This subsection also does not apply to sounds that have a duration of less than five minutes between the hours of 9:00 a.m. and 10:00 p.m.

D. Places of public entertainment.

(1) No person shall operate or permit to be operated a place of public entertainment including, but not limited to, a restaurant, bar, cafe, discotheque or dance hall, from which the sound level is equal to or exceeds 75 dB(A) between the hours of 9:00 a.m. and 11:00 p.m. or from which the sound level is equal to or exceeds 60 dB(A) between the hours of 11:00 p.m. and 9:00 a.m., measured out-of-doors from a distance of at least 50 feet from the noise source or adjacent to the nearest sensitive receptor, whichever is closer.

(2) Unreasonably loud or unnecessary sound, including any excessive or unusually loud sound, which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal and ordinary sensitivities which is produced by any place of public entertainment or amusement referred to in § 100-5D(1) shall be deemed in violation of this chapter.

E. Building construction: operating or permitting the operation of any tool or equipment used in construction, drilling or demolition work, including, but not limited to, the excavation, alteration, construction or repair of any building, between the hours of 11:00 p.m. and 7:00 a.m., except in the case of an emergency or the interests of the public safety and then only with the permit of the Building Inspector, which permit may be issued for a maximum period of three days during the continuance of such emergency.

F. Refuse compacting: the operation of a refuse-compacting vehicle in the process of compacting or collecting refuse contained in a dumpster or similar receptacle or contained in an individual garbage can between the hours of 9:00 p.m. and 7:00 a.m.

[Amended 7-22-2008 by L.L. No. 5-2008]

G. Motor vehicles. No person may operate an audio device from any parked motor vehicle or motor vehicle that remains stationary for at least five minutes at sound levels which may be heard at a distance of 150 feet away from the motor vehicle.

H. Exception. This chapter shall not apply to the operation or use of any organ, radio, bell, chime or other instrument, apparatus or device by any church, synagogue, school or governmental officer or employee in the course of official duty or to properly functioning emergency and safety alarms sounding off for the protection of public health, safety and welfare; nor shall this chapter apply to legally permitted fireworks displays, weddings, community or religious events or special events or celebrations for which a permit to conduct outside entertainment has been issued by the Town of Moreau, or are otherwise sanctioned by the Town of Moreau.

I. Waiver. Upon a showing that it is in the public interest and for good cause, the Town Board may waive application of this chapter.

§ 100-6. Penalties for offenses.

A. Any person who violates any provision of this chapter shall be guilty of a violation punishable by a fine of:

(1) First offense: a fine not less than \$50 and not more than \$500.

(2) Second offense: a fine not less than \$150 and not more than \$1,000.

(3) Third offense: a fine of not less than \$300 and not more than \$2,000.

B. When a violation of this chapter or any provision thereof is continuous, each date or portion thereof on which a violation occurs shall constitute a separate and distinct violation for which a separate and additional penalty may be imposed.

C. In addition, upon violation of this chapter or any provision thereof, the Town Board may maintain an action or proceeding in the name of the Town of Moreau in a court of competent jurisdiction to compel compliance with this chapter or restrain by injunction any violation thereof. The prosecution of a violation of this chapter for any penalty under Subsection A hereof shall not affect the right of the town to obtain injunctive relief herein.

D. The remedies for violation of this chapter are accumulative, and the prosecution of an action pursuant to Subsection A, B or C herein shall not affect the right of the town to obtain any other relief, whether civil or injunctive.

§ 100-7. Severability.

If any provisions of this chapter are held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions.

§ 100-8. Effective date.

This chapter shall take effect upon filing in the Office of the Secretary of State.

CHAPTER 102. PARKS AND RECREATION

§ 102-1. Hours.

§ 102-2. Speed limit.

§ 102-3. Parking.

§ 102-4. Unlicensed vehicles.

§ 102-5. Alcoholic beverages.

§ 102-6. Glass containers.

§ 102-7. Penalties for offenses.

CHAPTER 102. PARKS AND RECREATION

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

GENERAL REFERENCES

Recreation Commission — See Ch. 28.

Vehicles and traffic — See Ch. 136.

Off-road recreational vehicles — See Ch. 139.

Recreation Commission Bylaws — See Ch. A156.

§ 102-1. Hours.

Town park hours shall be from 9:00 a.m. to dusk.

§ 102-2. Speed limit.

No person shall drive any vehicle in excess of 10 miles per hour within any town park.

§ 102-3. Parking.

In town parks, vehicles shall only be parked in designated parking areas.

§ 102-4. Unlicensed vehicles.

No unlicensed vehicles shall be permitted upon any town park lands.

§ 102-5. Alcoholic beverages.

The possession of alcoholic beverages on town park property shall be prohibited, except in designated picnic areas.

§ 102-6. Glass containers.

No glass bottles or containers of any kind will be permitted upon town park property.

§ 102-7. Penalties for offenses.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$250 or to imprisonment for a term not exceed 15 days, or both.

CHAPTER 105. PEDDLING AND SOLICITING

§ 105-1. Definitions.

§ 105-2. Exemptions.

§ 105-3. License required.

§ 105-4. Application for license.

§ 105-5. Issuance of license; conditions.

§ 105-6. Bond.

§ 105-7. License fees.

§ 105-8. Employees of licensee.

§ 105-9. Name and address on vehicle.

§ 105-10. Refusal or revocation of license.

§ 105-11. Restrictions.

§ 105-12. Orders.

§ 105-13. Records.

§ 105-14. Penalties for offenses.

CHAPTER 105. PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-11-1973 as Ch. 19 of the 1973 Code. Sections 105-2, 105-5E, 105-7 and 105-14 amended and § 105-6 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

§ 105-1. Definitions.

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

ESTABLISHED PLACE OF BUSINESS

Includes a building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

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 or highway, sells or barter, 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 capable of being sued.

SOLICITOR

Includes 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 or merchandise, 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.

§ 105-2. Exemptions.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The fee requirements of this chapter shall not be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established place of business within the town, or their employees, or to the peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities, to dealers in milk, baked goods, heating oil and daily newspapers, to any honorably discharged member of the Armed Forces of the United States who has procured a license as provided by the General Business Law of the State of New York or to persons soliciting or collecting for any bona fide charitable organization. This chapter shall also not apply so as unlawfully to interfere with interstate commerce.

§ 105-3. License required.

It shall be unlawful for any person within the territorial limits of the Town of Moreau, New York, to act as a hawker, peddler or solicitor as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

§ 105-4. Application for license.

Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information:

- A. That he is a citizen of the United States; that he has never been convicted of a felony or misdemeanor (or if so, giving the details).
- B. A detailed statement of the particular business, trade or occupation for which the license is requested.
- C. The number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.
- D. The kinds of goods, wares and merchandise he desires to sell or the kind of service he desires to render.
- E. The name, address and age of the applicant.
- F. The name and address of the person, firm or corporation he represents.
- G. The names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation, and the name and address of a person upon whom a legal notice may be served.
- H. Such other information as may be required by the Town Clerk.

§ 105-5. Issuance of license; conditions.

- A. Upon the filing of the application as provided in the preceding section, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided in § 105-3, signed by the Town Clerk.
- B. Except as hereinafter provided, no licenses shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare.
- C. A license shall not be assignable.
- D. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this chapter.

E. Such license shall automatically expire in July 1 following the date of issuance of such license, but such license may provide for an earlier expiration date. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

F. No license shall be granted to a person under 18 years of age.

G. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.

H. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

§ 105-6. Bond.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Upon application for a license, the applicant shall post a bond in the amount of \$1,000.

§ 105-7. License fees.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The license fee to hawkers, peddlers or solicitors shall be as set forth by resolution of the Town Board and on file in the town offices.

§ 105-8. Employees of licensee.

Any licensee using a horse and wagon or motor vehicle may employ not more than two persons to assist in selling and delivering the wares, but such persons shall so act only while accompanying a licensed peddler, hawker or solicitor.

§ 105-9. Name and address on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

§ 105-10. Refusal or revocation of license.

Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in § 137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason therefor, in writing, shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the Town Clerk.

§ 105-11. Restrictions.

A licensed hawker, peddler or solicitor shall:

A. Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

B. Keep the vehicles and 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 in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or any lessee of the premises objects.

D. Not sell any confectionery or ice cream within two 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

E. Not permit any vehicle used by him to stop or remain on any crosswalk.

F. Not 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.

G. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.

§ 105-12. Orders.

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, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

§ 105-13. Records.

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 the chapter, 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.

§ 105-14. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person who, himself or by his agent or employee, shall act as a hawker, peddler or solicitor, as herein defined, without a license or who shall violate any of the provisions of this chapter or who, having had his license revoked, shall continue to act as a hawker, peddler or solicitor shall, upon conviction, be punished by a fine of not more than \$250 or by imprisonment for a term not to exceed 15 days, or both. Each day on which such violation continues shall constitute a separate offense.

CHAPTER 109. RECORDS, PUBLIC ACCESS TO

§ 109-1. Designation of records access officers.

§ 109-2. Days and hours records may be obtained.

§ 109-3. Fees.

CHAPTER 109. RECORDS, PUBLIC ACCESS TO

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

§ 109-1. Designation of records access officers.

The Town Clerk and Deputy Town Clerks are hereby designated as the town records access officers pursuant to Article 6 of the Public Officers Law.

§ 109-2. Days and hours records may be obtained.

Town records may be requested and examined during regular Town Hall office hours.

§ 109-3. Fees.

The fees for copies of records shall be \$0.25 per photocopy not larger than nine inches by 14 inches, or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by statute.

CHAPTER 113. SAND, GRAVEL AND MINING

- § 113-1. Declaration of policy.
- § 113-2. Permit required; exceptions.
- § 113-3. Application for permit.
- § 113-4. Provisions applicable to all excavations.
- § 113-5. Soil erosion standards.
- § 113-6. Bond or cash deposit.
- § 113-7. Fees.
- § 113-8. Term of permit.
- § 113-9. Exceptions; use of facilities.
- § 113-10. Penalties for offenses.
- § 113-11. Modifications.
- § 113-12. Effect on statutory provisions.

CHAPTER 113. SAND, GRAVEL AND MINING

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

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Zoning — See Ch. 149.

§ 113-1. Declaration of policy.

It is the purpose of this chapter to promote the health, safety and general welfare of the inhabitants of the Town of Moreau and to safeguard the aesthetic qualities of the town by regulating the excavation of sand, gravel and other natural material deposits within the town and to assure the reclamation of mined lands in such a manner as to render such lands suitable for productive use.

§ 113-2. Permit required; exceptions.

No excavation for purposes other than the construction of a wall, driveway, sidewalk, building or part thereof shall be commenced until a valid permit is obtained in compliance with the provisions of this chapter.

§ 113-3. Application for permit.

A. Before any excavation for purposes included in this chapter is commenced and natural material is removed from the ground, the owner, lessee or agent of the premises shall obtain a permit therefor from the Town Board after Planning Board review, except that, where operations are being carried on at the time this chapter becomes effective, a period of 30 days shall be allowed to file an application for a permit while operations continue. However, all such excavations shall be subject to all provisions of this chapter from the date of its adoption.

B. For that purpose, each applicant shall file with the Town Clerk of the Town of Moreau an application for such permit as follows:

- (1) Two copies of the Town of Moreau application for sand, gravel and mining permit.
- (2) Two copies of the plan of the proposed excavation, drawn to a scale of between one inch equals 20 feet and one inch equals 100 feet, sufficient for detail, showing the location and dimensions of the premises, all adjoining roads and location, size and use of any buildings; topographic map with five-foot contours or a smaller interval, if necessary. The map shall show elevations of premises before work is commenced and after work is completed.
- (3) Two copies of a detailed state of the reclamation program, including the time schedule.

C. Mining operations in excess of 1,000 tons per year are required to obtain a state mining permit and submit a copy thereof or copy of the application for state mining permit to the town. Copies of the application and reclamation plan filed with the state are acceptable substitutes for the requirements of Subsection B(2) and (3) above.

§ 113-4. Provisions applicable to all excavations.

A. No such excavations shall be made:

(1) Within 50 feet of any property line, however, the Town Board may, within its discretion, allow excavations closer than 50 feet from any property line, provided that the applicant submits to the Town Board a duly acknowledged consent, in writing, of the owner, lessee and mortgagee, if any, of the adjoining property affected, consenting to such excavation and stating the distance agreed upon between the parties.

(2) Within 150 feet of the edge of any highway right-of-way line, except with the consent of the town.

B. Said excavations shall be leveled on the bottom before refilling, if necessary, or grading, all sides being left with a slope from top to bottom of not more than 33% or a one-to-two slope [one vertical to two horizontal] in any event that drainage must be provided.

C. During operations at any such excavation, the licensee shall comply with any reasonable direction by the Town Superintendent of Highways for control of dust at said operation. Failure to comply shall be grounds for revocation of any permit by the Town Board in its discretion.

D. If any existing water well is adversely affected by the operation of the mining of gravel and sand, the applicant must correct the situation satisfactorily to the Town Board.

E. The noise level shall not exceed 50 decibels at any boundary line of the property.

F. No foreign material, refuse or garbage shall be used in filling or grading before the six inches of topsoil is placed before seeding or planting.

G. Slopes caused by the excavation shall, upon completion, not exceed 30%.

H. The depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually, except upon a showing satisfactory to the Planning Board during site plan review that the site plans contain mitigative measures adequate to assure that the proposed use of the land will not cause any undue, adverse impacts either to such groundwater table or to any surface waters into which such lands drain.

I. Stockpiled material shall not exceed 35 feet.

J. Buffer zones.

(1) An undisturbed buffer zone of 50 feet shall surround the excavation within the limits of the property.

(2) The entry into the excavated area shall be designed so as to prevent a direct view from the public right-of-way.

(3) The provisions of the soil erosion standards in § 113-5 shall govern all excavations.

§ 113-5. Soil erosion standards.

A. Unless the standards in Subsection B below are more restrictive, the applicant shall conform to the Guidelines for Erosion and Sediment Control in Urban Areas of New York State, published by the United States Department of Agriculture Soil Conservation Service, copies of which are maintained at each Soil and Water Conservation District office.

B. Standards.

- (1) When land is exposed during development, the exposure should be kept to the shortest practicable period of time and the smallest amount of land possible.
- (2) Natural features, such as trees, groves, natural terrain, waterways and other similar resources shall be preserved and shall conform substantially to the natural boundaries and alignment of watercourses.
- (3) Temporary vegetation and mulching shall be used to protect critical areas exposed during development.
- (4) Permanent vegetation shall be successfully established, and erosion control structures shall be installed as soon as practical on the development. Wherever feasible, natural vegetation shall be retained and protected.
- (5) Topsoil removed from areas for structures shall be redistributed within the boundaries of the lands in question so as to provide a suitable base for seeding and planting.
- (6) The development shall be fitted to the topography and soils to create the least erosion potential.
- (7) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
- (8) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment runoff waters from land undergoing development.
- (9) The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparations and construction.
- (10) All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material. Fill material shall be compacted sufficiently to prevent problems of erosion.
- (11) Grades of at least 1/2% and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed within site plans, in which event there shall be sufficient water flow to maintain proposed water levels and avoid stagnation.
- (12) Provisions shall be made so that there will be no detrimental effect on water quality of the watercourses. There will be no discharge of sediment or other material into the watercourses.

§ 113-6. Bond or cash deposit.

Before the issuance of a permit, the applicant and the owner of record of the premises shall execute and file with the Town Clerk a bond, approved by the Town Board of the Town of Moreau, in an amount to be fixed by said Board, not less than \$2,000 per acre, but in any event a minimum of \$5,000, with a surety company as surety and conditioned for the faithful performance of the conditions contained in this chapter, and the observance of all state, county and municipal ordinances and laws to indemnify the Town of Moreau and/or the Superintendent of Highways for any damage to town property. In the event of a default, such bond shall be forfeited to the Town of Moreau. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Town Board, certifying to the fact that all provisions of this chapter and conditions of the permit have been fully complied with. In lieu of such bond, a cash deposit, irrevocable letter of credit or deposit of negotiable securities may be made with the Supervisor of the Town of Moreau. A policy of public liability insurance in the sum of \$100,000/\$300,000 for personal injury and \$50,000 for property damage shall be kept in effect at all times for the duration of this permit. In the event that a state bond is obtained, the Town of Moreau should be indicated as coinsured. The Town of Moreau shall be named as the insured, and there shall be a provision requiring 30 days' written notice of cancellation to the Moreau Town Board. If bond, cash or public liability insurance is posted with the State of New York to meet its specifications, a certificate of such coverage will suffice for town purposes. A duplication of insurance coverage is not anticipated, but the town should be carried as coinsured.

§ 113-7. Fees.

A. The Town Clerk when authorized by the Town Board, shall issue permits and charge and collect annual fees as set forth by resolution of the Town Board and on file in the town offices.

B. Payments of fees for permits shall be made at the time of application and thereafter on the first day of July of the calendar year if said permit is renewed and extended.

§ 113-8. Term of permit.

All permits are issued for a term of one year and shall expire on July 1 of each year unless extended by the Town Board.

§ 113-9. Exceptions; use of facilities.

A. Excavations.

(1) Nothing contained in this chapter shall require a person to obtain a permit for or prevent a person from removing topsoil, gravel or fill from one part of his lands to another part of the same premises when such removal is necessary as an accessory use or is made for the purpose of farming or improving said property.

(2) Excavations for ponds, land drainage diversions or other conservation measures which are installed in accordance with a written plan of conservation operations contained in an agreement with the Saratoga County Water and Soil Conservation Department are exempt from the provisions of this chapter. Before any excavation is commenced under this section, such agreement shall be displayed to the Town Board.

B. Any excavation reviewed and approved under this chapter shall not be utilized, upon the termination of said usage, as a landfill facility or any other type of disposal area.

§ 113-10. Penalties for offenses.

For any and every violation of the provisions of this chapter, the owner, general agent or contractor of a building or premises where such violations have been committed or shall exist, and the lessee or tenant of the premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of the premises in which part of said violation has been committed or shall exist, and the general agent, architect, engineer, surveyor or building contractor who maintains any premises in which such violation shall exist, shall be guilty of a misdemeanor, punishable by a maximum fine of \$1,000 or imprisonment for a term not to exceed one year, or both, for the first offense; and, for the second and subsequent offenses, by a fine not to exceed \$5,000 or imprisonment for a term not to exceed one year, or both. Each day's continued willful violation shall constitute a separate additional violation. Such fines or penalties shall be collected as like fines are now by law collected.

§ 113-11. Modifications.

Where there are particular difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Town Board shall have power to vary and modify the application of such chapter so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

§ 113-12. Effect on statutory provisions.

Nothing herein contained shall be construed to abrogate any provisions of the New York State Mined Land Reclamation Law, as the same now provides or as the same may hereafter be amended to provide. In the event of inconsistencies existing between the provisions of this chapter, said law shall govern.

CHAPTER 115. SEWERS

ARTICLE I. Sewer District No. 1 Rules and Regulations

§ 115-1. Word usage, definitions and abbreviations.

§ 115-2. Appointment of Superintendent; duties.

§ 115-3. Duties of Town Clerk.

§ 115-4. Claims and charges.

§ 115-5. Metering and sampling.

§ 115-6. Permit required for connection to sewer; application.
§ 115-7. Compliance with federal and city provisions.
§ 115-8. Attachments and connections restricted to persons authorized to perform.
§ 115-9. Application for connection; bond.
§ 115-10. Tapping of mains or pipes restricted.
§ 115-11. Permit required for street openings.
§ 115-12. Safety precaution for street openings.
§ 115-13. Installation of materials; inspection of installation.
§ 115-14. Record drawings.
§ 115-15. Infiltration/exfiltration testing.
§ 115-16. Certification.
§ 115-17. Maintenance of connection/sewer lateral.
§ 115-18. Notice to discontinue service.
§ 115-19. Effect of discontinuance of service.
§ 115-20. Charges for service.
§ 115-21. Payment of bills.
§ 115-22. Unpaid charges.
§ 115-23. Application for discontinuance of service.
§ 115-24. Use of sewer service in building construction.
§ 115-25. Effect of noncompliance.
§ 115-26. Right of entry.
§ 115-27. Location of fixtures; inspection.
§ 115-28. Inspection charges; payment for work and materials by user.
§ 115-29. Penalties for offenses.
§ 115-30. Insurance; indemnification.
§ 115-31. Interruption of service.
§ 115-32. Severability.
§ 115-33. When effective.

CHAPTER 115. SEWERS

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

GENERAL REFERENCES

Industrial site development — See Ch. 85.
Streets and sidewalks — See Ch. 121.
Water — See Ch. 145.
Zoning — See Ch. 149.

ARTICLE I. Sewer District No. 1 Rules and Regulations

[Adopted 6-9-1998 by L.L. No. 5-1998]

§ 115-1. Word usage, definitions and abbreviations.

For the purpose of this chapter, the word usage, definitions and abbreviations of terms are as follows:

A. The terms used in these rules and regulations shall have the same meaning as the terms defined in the Federal Water Pollution Control Act (sometimes referred to as the "Clean Water Act") and federal and New York regulations, except when the context herein clearly required otherwise or except as hereinafter provided.

ARTICLE

The rules and regulations for Sewer District No. 1, Chapter 115 of the Code of the Town of Moreau.

ASTM

American Society for Testing and Materials.

CITY

The Board of Water and Sewer Commissioners of the City of Glens Falls, a municipal corporation with offices at 42 Ridge Street, Glens Falls, New York.

DEC

State of New York Department of Environmental Conservation or its successor, if any.

DISTRICT

Sewer District No. 1.

EPA

United States Environmental Protection Agency or its successor, if any.

FACILITY

The city's wastewater treatment plant and appurtenant facilities located on a parcel of land on Shermantown Road, Glens Falls, New York.

GPD

Gallons per day.

INDUSTRIAL USER or USER

The owner or operator of property used for an industrial purpose.

INSPECTOR

The person or firm designated by the Sewer Superintendent to observe the installation of the sewer system to determine if the labor performed and the materials furnished are in compliance with the approved design plans and specifications. The inspector shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the contractors responsibility.

METER or SEWER METER

A device used in connection with measuring the quantity of sewage discharging to the sewer system.

MGD

Millions of gallons per day.

OSHA

Occupational Safety and Health Administration, United States Department of Labor.

PRIVATE PROPERTY

Lands located within the designated subdivision lot boundary as shown on the Moreau Industrial Park Subdivision Maps.

PUBLICLY OWNED TREATMENT WORKS (POTW)

Shall have the same meaning as the terms "sewer system."

RECORD DRAWINGS

Drawings depicting the location and related details and condition of improvements such as sewer mains, laterals, sampling stations, meters and appurtenances made in the connection of sewer service to premises.

RIGHT-OF-WAY

The street right-of-way as shown on the Moreau Industrial Park Subdivision Maps.

SEWER LINES

Collection and transportation system operated by the town and used to convey town wastewater to the facility, including but not limited to sewer pipes, pump stations and force mains.

SEWER SYSTEM

Sewer lines, comprising all property, structures and equipment used for the collection, transportation and treatment of wastewater within the town.

SIGNIFICANT INDUSTRIAL USER

An industrial user which discharges waste subject to pretreatment pursuant to 40 CFR Part 403, as amended, and Chapter 177 (formerly 88) of the Code of the city, as amended.

SUPERINTENDENT or SEWER SUPERINTENDENT

Sewer Superintendent of the district or the Deputy Sewer Superintendent.

TOWN INDUSTRIAL USER (TOWN IU)

An industrial user located within Sewer District No. 1.

TOWN OF MOREAU

Also when referring to individuals (i.e., Town Clerk, Town Supervisor, Town Board), it shall be the Town of Moreau.

TOWN SIGNIFICANT INDUSTRIAL USER (TOWN SIU)

A significant industrial user located within Sewer District No. 1.

USER or OWNER

The party that discharges wastewater to the sewer system, including domestic, commercial and industrial discharges.

WASTEWATER

Liquid and water-carried domestic, commercial, industrial or municipal wastes discharged to the sewer system. Wastewater shall not include groundwater, surface water or stormwater, except as found nonexcessive in a report prepared by The Saratoga Associates entitled "Engineering Report on Moreau Industrial Park" dated October 29, 1991, incorporated herein by reference.

WPCF

Water Pollution Control Federation.

§ 115-2. Appointment of Superintendent; duties.

There shall be appointed for Sewer District No. 1, in the same manner and for such terms and on such basis as the Town Board may determine, a Sewer Superintendent who, on behalf of the Town Board, shall have the responsibility for the general supervision of the operation of the sewer system in said district, shall issue all permits required hereby and shall read the meters at intervals as determined by the Town Board and immediately make report of such readings by filing the same with the Town Clerk.

§ 115-3. Duties of Town Clerk.

It shall be the duty of the Town Clerk of said town to promptly bill and collect the sewer service charges and report the same to the Town Board at each regular monthly meeting thereof.

§ 115-4. Claims and charges.

Claims and charges against the district shall be audited and paid in the same manner as town charges.

§ 115-5. Metering and sampling.

A. In order to assess appropriate charges and assure compliance with agreements and applicable statutes, ordinances and regulations, each user shall construct and maintain a metering station, including flow meters, composite sampling as deemed necessary by the Superintendent and related equipment such as records and charts showing the individual use of the facility by the user.

B. In the event that the city or the town deems it necessary for the user to construct its own sampling and/or metering facility, either initially with the issuance of the permit or at a future time, the following will apply:

(1) The user shall submit the plans and specifications for a composite metering system, and sampling system as deemed necessary, to the town for review; the user shall not undertake construction without receiving town approval of the proposed installation. The user shall be responsible for the costs of all such measuring and sampling equipment, including engineering, design, replacements and installation costs. The town and city shall inspect the completed installation to assure conformity with the approved plans. The town and city shall have access to and control of said measuring and sampling equipment at all times. In addition, the user shall establish monitoring and testing procedures and methods in accordance with good engineering practice to ensure the conformance of use of the facility by the user with the abovementioned requirements. Samples shall be analyzed by the user through a qualified professional in accordance with the latest procedures and requirements mandated by the city, EPA and DEC for the analysis of wastewater. Copies of all results of such analysis shall be furnished promptly to the town and city. The user will be responsible for operation and maintenance costs connected with the metering and sampling station. The user will provide all completed sampling and metering records to the town within the first 10 days of each month for the previous month. If, in the opinion of the Sewer Superintendent, the user is not performing its sampling and metering in an acceptable manner, the town shall have the right to terminate service. Any costs incurred by the town in connection with the sampling and metering of the individual user will be reimbursed to the town by the user.

§ 115-6. Permit required for connection to sewer; application.

A. No person or corporation shall connect to the district sewer system for any purpose whatsoever without having obtained a permit, upon written application therefor, after having first paid the charges pertaining to the connection to the premises.

B. All significant industrial users must apply for and obtain an industrial wastewater permit from the city and the town prior to discharging any industrial wastewater into the town's sewer system. See the attached document entitled "City of Glens Falls Industrial Wastewater Discharge Permit." Editor's Note: Said document is on file in the Town Clerk's office.

C. All significant industrial users shall enter into an agreement with the city, in the form prescribed by the city and/or the town.

D. All applications for sewer collection for any premises shall be made upon an application form furnished by the district for such purpose and shall be signed by the owner or his, her or its duly authorized agent and shall include a completed industrial waste survey in the form prescribed by the city and/or the town, and acceptable to the DEC and city pursuant to 40 CFR Part 403, and Chapter 177 (formerly 88) of the City Code, as amended; and the city and each significant industrial user shall enter an agreement in the form incorporated herein by reference. In conducting its industrial waste survey, the user shall use the standard NYSDEC industrial chemical survey forms (along with standard survey forms) supplied by the DEC.

§ 115-7. Compliance with federal and city provisions.

All users of the facility shall be legally bound to comply with all applicable provisions of the Federal Water Pollution Control Act, as amended, and regulations promulgated pursuant thereto, including but not limited to 40 CFR Part 403, and Chapter 177 (formerly 88) of the City Code, as amended, and Appendix A of the agreement between the city and the town, incorporated herein by reference, and shall engage in pretreatment as may be required, establish metering and sampling facilities, issue reports and in general perform all acts mandated by the aforesaid legal authorities.

§ 115-8. Attachments and connections restricted to persons authorized to perform.

A. No person, corporation or contractor shall make any attachment to or connection with any of the pipes or mains of the district nor make any repairs, additions or alterations to the sewer or lateral pipes, except on the user's side of the metering system and/or sampling system, unless he is an employee of the district or a person or corporation authorized, in writing, to do so by the Sewer Superintendent.

B. A list of persons authorized as provided in Subsection A above shall be on file in the office of Town Clerk.

§ 115-9. Application for connection; bond.

A. Any person or corporation may make application to the Sewer Superintendent for the purposes set forth in § 115-8.

B. Except in the case of work done wholly on the owner's property on the owner's side of the metering system and/or sampling system, such application shall be accompanied by the bond, the sum of which is to be determined by the Sewer Superintendent, with one or more sureties acceptable to the Town Board, conditioned that he, she or it will comply with this article, will pay to the district all fees, penalties or other charges required hereby in consequence of the work undertaken and that he, she or it will restore openings made in streets, roads, lanes and other public places and pavement thereon and therein to the same standard of condition as before the work started and keep and maintain the same in such condition for a period of one year after the work has been completed and, in case of failure so to do, will pay to the proper authority the cost of putting the same in such condition. The bond shall also include the amount necessary to reimburse the district for inspection fees as required by § 115-28. The Town Board may, at its discretion, grant or deny such application. Such permission, so given, may be revoked by the Town Board at any time.

§ 115-10. Tapping of mains or pipes restricted.

No person or corporation shall tap any sewer main or lateral pipe or make or interfere with any connection with the sewer system unless under the direction of and in the presence of the Sewer Superintendent or unless he is an employee of the district or unless specific written permission in each case is given by the Sewer Superintendent, nor shall any person or corporation make any alterations or additions in and about sewer pipes, other than on the owner's side of the metering system and/or sampling system, unless a permit shall have been given by the Sewer Superintendent upon written application therefor.

§ 115-11. Permit required for street openings.

No street or public place shall be opened by any person or corporation for the purpose of making a connection with the mains or for the laying of sewer pipes or fixtures unless a written permit shall have been granted by the Highway Superintendent.

§ 115-12. Safety precaution for street openings.

Whenever any street or public place shall have been opened for the purpose of making a connection with the sewer mains or for the laying of sewer pipes or fixtures, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night. All such related work shall be completed in full compliance with all OSHA and other applicable safety codes and regulations.

§ 115-13. Installation of materials; inspection of installation.

A. The size, slope, alignment, materials of construction of sewer pipes and laterals 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 New York State Uniform Fire Prevention and Building Code or other applicable rules and regulations and construction standards of the town, and shall be completed in conformance with the approved plans for the installation. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. FD-5 shall apply.

B. Construction and testing of new sewers and appurtenances including sanitary sewer mains, laterals, metering system and sampling system, between the existing main and inlet to the metering system and/or sampling system, shall be inspected by a designated representative of the Sewer Superintendent to determine if the labor performed and materials furnished are in compliance with the approved design plans and specifications. A video recording of the completed piping will be required prior to acceptance of the work. The cost of inspection and testing, including the cost of video recording, shall be borne by the user. The contractor shall notify the Sewer Superintendent a minimum of three working days prior to performing construction and testing so that necessary arrangements may be made for inspection.

§ 115-14. Record drawings.

The location and related details of all pipes, lateral connections and appurtenances including the metering system and/or sampling system shall be indicated on a drawing and four copies of this drawing, showing the as-built location and elevations of these connections, shall be furnished to the Sewer Superintendent before the commencement of sewer discharge.

§ 115-15. Infiltration/exfiltration testing.

All sanitary sewers or extensions to sanitary sewers, including manholes, shall satisfy requirements of a final infiltration/exfiltration (water or air) test before they will be approved and wastewater flow permitted by the Sewer Superintendent. Testing shall meet the requirements of the construction standards for the City of Glens Falls and the New York State Department of Environmental Conservation Design Standards for Wastewater Treatment Works, Latest Edition. Testing is to be performed by the contractor and witnessed by the inspector. The cost of testing is to be borne by the user as indicated in § 115-28.

§ 115-16. Certification.

No wastewater shall be permitted to flow to the district system until all work associated with the installation and testing has been certified and approved by the sewer district's representative and the specified number of record drawings have been submitted to the Sewer Superintendent.

§ 115-17. Maintenance of connection/sewer lateral.

It shall be the responsibility of the user to operate and maintain the sewer connection between the street main and the inlet to the metering and sampling facility. The appropriate provisions as included within these regulations will apply to all such operations and maintenance activities.

§ 115-18. Notice to discontinue service.

In case a building is to be closed or become vacant, notice thereof shall be given to the Sewer Superintendent in order that the sewer service be terminated and the pipes be sealed or plugged to prevent infiltration of any kind. The cost of sealing or plugging the pipes shall be borne by the user.

§ 115-19. Effect of discontinuance of service.

Where sewer service has been terminated by direction of the Sewer Superintendent, it shall not be again connected without the permission of the Sewer Superintendent.

§ 115-20. Charges for service.

The minimum charges, schedule of rates and billing periods shall be established and amended as necessary by resolution of the Town Board.

§ 115-21. Payment of bills.

Bills for sewer service shall become due and payable to the district, and such payment shall be paid to the Town Clerk at the Town Clerk's office on or before the due date of said bill. If such bill is not paid on or before the due date, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 30 days thereafter, a late payment charge to be computed at the rate of 1 1/2% per month, compounded monthly, will be applied to the unpaid balance. If such bill remains unpaid for a period of 60 days from the due date, sewer service shall be discontinued until such bill, together with all penalties and an additional sum to be determined by the Town Board to cover the expense of discontinuance and restoration of service, is paid.

§ 115-22. Unpaid charges.

A. Sewer service charges and penalties thereon shall be a lien upon the real property upon which the sewer is used, and on or before the day when, under Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Supervisor a statement showing all sewer service charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the sewer was provided or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Saratoga County Real Property Tax Department for the purpose of levying the same as a tax against the property affected.

§ 115-23. Application for discontinuance of service.

Notice in writing delivered to the Sewer Superintendent at least 60 days before the billing date shall be required in all cases of applications for the discontinuance of sewer service; otherwise, the user shall be liable for the minimum charge for the following billing period.

§ 115-24. Use of sewer service in building construction.

Sewer service will not be available for construction purposes.

§ 115-25. Effect of noncompliance.

Whenever any of the provisions of this article are violated, the sewer service may, at the determination of the Superintendent, be terminated and the connection sealed or plugged.

§ 115-26. Right of entry.

The Sewer Superintendent or his authorized agents shall have full power to enter the premises of any user, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using the sewer. Authorized officers, and employees of the City of Glens Falls shall at all times have access to inspect pipes, meters, sampling equipment or other appurtenances connected with the furnishing of sewer service.

§ 115-27. Location of fixtures; inspection.

The sewer lateral and all appurtenances related thereto, including the sampling and/or metering facility, between the street main and point of entry into the sampling and/or metering facility shall be located as designated by the Sewer Superintendent and as shown on the approved service connection drawings. All shall be furnished and installed by a person, corporation or contractor authorized to do so as provided by § 115-8.

§ 115-28. Inspection charges; payment for work and materials by user.

A. A charge shall be made by the district to the user for which the service connection is being provided to reimburse the district for full-time inspection of the above detailed work and shall include inspection of the portion of the service line located on private property between the main and the meter. The inspector shall be designated by the Sewer Superintendent and employed by the district. The cost to be reimbursed to the district by the user shall also include the preparation of certified record drawings depicting the exact location of the service and associated appurtenances.

B. It is the responsibility of the user to provide and pay for all work done and material furnished in the completion of the service connection line from the street main to the intake into the sampling and/or metering facility, including the sampling and/or metering facility. The service pipes and fittings and the metering/sampling facility shall be of a make, size and as indicated on the approved plans for installation thereof.

§ 115-29. Penalties for offenses.

In the event that the user engages in any activity or discharge into the system which would be a violation of these rules and regulations or a violation of the agreement between the town and the City of Glens Falls, which is expressly incorporated herein, the user shall defend, indemnify and hold harmless the town for any damages which may result and shall also be responsible for payment of all remediation costs including engineering and environmental review which may be required by the City of Glens Falls, Town of Moreau, Environmental Protection Agency, New York State Department of Environmental Conservation or other federal or state agency that may be involved.

§ 115-30. Insurance; indemnification.

A. Before contractors shall be permitted to work on the town sewer system, certificates of insurance covering the work will be required in the following amounts:

(1) Combined bodily injury and property damage liability: \$1,000,000, each occurrence; \$2,000,000 aggregate.

(2) Explosion/collapse/underground: aggregate limit applies per project.

B. The Town of Moreau Town Board and the Sewer District shall be named as additionally insured on the permittee's policy.

C. Should any of the policies be canceled before the expiration date thereof, the issuing company will mail 45 days' written notice to the Town Board by certified mail.

D. To the fullest extent permitted by law, and to the extent claims, damages, losses or expenses are not covered by the contractor's commercial liability insurance, the contractor shall indemnify and hold harmless the town and the Sewer District and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligation of indemnity which would otherwise exist as to a party or person described in this subsection.

§ 115-31. Interruption of service.

The town reserves the right to interrupt sewer service, without liability for damages, for lack of sewer service.

§ 115-32. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so decided to be unconstitutional or invalid.

§ 115-33. When effective.

This article shall become effective upon filing with the Secretary of State.

CHAPTER 117. SIGNS

§ 117-1. Title.

§ 117-2. Purpose.

§ 117-3. Definitions.

§ 117-4. Regulations.

§ 117-5. Permit required.

§ 117-6. Application for permit.

§ 117-7. Fee.

§ 117-8. Issuance of permit.

§ 117-9. Revocation of permit; removal of nonconforming signs.

§ 117-10. Removal of business or unsafe signs.

§ 117-11. Variances.

§ 117-12. Review and appeal.

§ 117-13. Penalties for offenses.

§ 117-14. Enforcement.

§ 117-15. Amendments.

§ 117-16. Severability.

CHAPTER 117. SIGNS

[HISTORY: Adopted by the Town Board of the Town of Moreau 10-8-2002 by L.L. No. 6-2002. Editor's Note: This local law also superseded former Ch. 117, Signs, adopted 12-11-1973 as Ch. 26 of the 1973 Code, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 74.

Zoning — See Ch. 149.

§ 117-1. Title.

This chapter shall be known as the "Sign Law of the Town of Moreau."

§ 117-2. Purpose.

It is hereby declared to be the policy of the Town of Moreau to regulate existing and proposed outdoor advertising signs and signs of all types. It is further declared that the provisions and prohibitions hereafter 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, physical appearance and scenic and natural beauty of the Town of Moreau and its inhabitants. It is the policy of the Town of Moreau that the property within the Town may not be utilized in a manner that detrimentally affects the reasonable use and enjoyment of adjacent or neighboring property.

§ 117-3. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

AREA OF SIGN

The entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems or other fixtures, together with any material or color forming an integral part of

the display or used to differentiate the sign from the background against which it is placed. Structural members bearing no copy shall not be included in the calculation of the area of the sign. Only one side of a freestanding or projecting double-faced sign shall be included in calculating surface area, provided that the two display surfaces are joined at an angle no greater than 45°. All sides of a multifaced sign visible from any one street shall be included in the calculation of surface area.

FACADE OF BUILDING

The exterior front or face of a building; the exterior surface of a building which faces a public street. The facade shall not be interpreted to extend above the lowest point of the roofline of the building.

SIGN

Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause, when such is placed in view of the general public; a name, identification, description, or illustration containing letters, numbers or symbols, which is affixed to, or painted, represented or installed on, any part of a building, structure, or lot, or otherwise placed in view of the general public, and used to direct attention to a person, institution, organization, activity, place, object, product or business. A sign does not include the flag, pennant or insignia of any nation or group of nations, any state, city or other governmental unit or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. A sign, as defined herein, shall not include a similar structure or device located within a building.

A. ADVERTISING — Any sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed or only incidentally sold, offered or existing on such lot.

B. BILLBOARD — Any outdoor signs, advertising medium, structure or device which advertises, directs or calls attention to any business, article, substance, service or any other thing, whether similar to the foregoing or not, which is painted, printed, pasted, posted or affixed to any building, wall, fence, railing, natural object or structure of any kind on real property or upon the ground itself and cannot exceed a maximum structure height of 30 feet and a maximum square footage of 1,200.

C. BUSINESS — A sign which is designed to advertise a business or commercial entity, industry, profession, commodity, service or activity conducted, sold or offered upon the same premises where such sign is located.

D. CONSTRUCTION — A temporary sign advertising an individual or firm doing work related to construction on the premises on which the sign is located.

E. DIRECTIONAL — A sign limited to providing information on the location of or direction to an activity, business, event or facility.

F. FREESTANDING — Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

G. HOME OCCUPATION — A sign limited to identifying by personal name, profession and/or address any resident therein carrying out a duly permitted home occupation.

H. ILLUMINATED:

(1) **DIRECTLY:** A sign which incorporates any artificial lighting as an inherent part or feature or derives its illumination from electricity or gaseous materials or substances; any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign and which includes reflective and phosphorescent light.

(2) **FLASHING:** An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity or color at all times while in use, excluding changes of text that indicate time and/or temperature only.

(3) **INDIRECTLY:** A sign illuminated with an artificial light which is separated from or is not an integral or intrinsic part of the sign.

I. **INSTITUTIONAL** — On-premises sign identifying apartment complexes, housing developments, schools, churches, hospitals and similar institutions.

J. **INTERSTATE HIGHWAY** — As designated by New York State Department of Transportation or the United States Department of Transportation.

K. **NONCONFORMING** — A sign which was legally permitted and installed prior to the effective date of this chapter and which is in conflict with the provisions of this chapter.

L. **PORTABLE** — A sign, other than a traffic sign, whether on its own trailer, wheels or other device, designed to be movable and not structurally attached to the ground; banners, pennants, flags, placards, posters and any other device not of a permanent nature.

M. **REAL ESTATE** — A sign advertising land or improvements thereon for sale.

N. **ROOF** — A sign painted on, constructed on or supported by the roof of any building.

O. **TEMPORARY** — A sign intended to advertise, announce or endorse a community or civic activity, political concept or candidate, real estate for sale or lease, campaign or other special event or construction on a temporary basis.

P. **TEXT** — The visual message displayed on a sign.

Q. **TEXT-CHANGE** — The change or alteration of the visual message displayed on a sign; excluding changes to illustrate time and/or temperature only.

R. **TRAFFIC** — A sign, whether portable or not, that is erected to control or direct traffic.

S. **WALL** — A sign that is painted on or attached to the wall of a building.

§ 117-4. Regulations.

The size, type and location of any sign shall be allowed only in accordance with the following regulations, and, whenever districts are set forth in these regulations, the same shall refer to the districts set forth in Chapter 149, Zoning, of the Code of the Town of Moreau.

A. Signs in agricultural and residential districts.

(1) Home occupation signs indicating the name and address of the occupant or permitted home occupation in any residence shall be allowed, provided that the combined area of such signs shall not exceed a total of three square feet and shall not include any illumination. Approved signs shall be affixed to the residence as a wall sign. No freestanding signs shall be allowed.

(2) Business signs for customary agricultural operations selling farm products grown on the premises shall be allowed, provided the combined area of such signs shall not exceed a total of 16 square feet in any R-1 or R-2 Residential Districts and 32 square feet in any agricultural and residential districts and shall not include illumination.

(3) Institutional signs shall be allowed, provided the combined area of such signs shall not exceed a total of 20 square feet in area and shall not include any flashing illumination, nor shall any source of illumination be directed toward any public street or adjacent residential property.

(4) Business signs pertaining only to legal nonconforming uses of the premises on which they are located shall be allowed, provided the combined area of such signs shall not exceed a total of 20 square feet and shall not include any flashing illumination, nor shall any source of illumination be directed toward any public street or adjacent residential property. Business signs legally in existence on the date of enactment of this chapter which pertain to nonconforming uses may continue to be used, except that all intermittent or flashing illumination shall be converted to a constant light source.

(5) Temporary signs shall be allowed, provided that such signs shall not exceed a combined total of six square feet in area and shall not be illuminated. Such signs shall promptly be removed by the property owner when the circumstances leading to their erection no longer apply.

(6) Advertising signs shall not be permitted in any agricultural or residential district except as allowed by other provisions of this chapter.

B. Signs in commercial and manufacturing districts.

(1) The signs permitted in agricultural and residential districts shall be allowed.

(2) Business signs relating to the use conducted in the building or on the immediate premises thereof shall be allowed, provided that the combined area of all such signs shall not exceed a total of 40 square feet. In the event that the facade of the principal use building on said premises shall exceed 800 square feet in area, a square footage for signs equal to 5% of the area of the facade of the front of the building on said premises in which said business is conducted shall be allowed, but in no event shall the total area of such sign or signs exceed 150 square feet.

(3) A business sign legally in existence on the date of the enactment of this chapter which does not conform to the specifications of this section may continue to be used, but may not be extended.

(4) Temporary signs advertising the sale, construction or improvement of the premises on which they are located shall be allowed, provided that the combined area of such signs shall not exceed a total of 32 square feet and that the signs shall be removed within five days after the conclusion of the circumstances leading to their erection. Failure to properly remove signs within the prescribed time period is a violation of this chapter.

(5) Advertising signs shall not be allowed in any commercial or manufacturing district except as allowed by other provisions of this chapter.

C. General regulations.

(1) Signs shall be constructed of durable materials and shall be maintained in good condition. Signs which are deteriorated shall be removed upon direction of the Building Inspector and/or Code Enforcement Officer following notification to the owner of the premises on which the sign is located.

(2) No sign shall be erected so that any portion thereof shall be any closer than 10 feet to the nearest lot line or within five feet of any utility pole.

(3) The maximum height of any portion of any sign shall not extend above the roofline of the tallest building on the premises.

(4) Flashing illuminated signs shall not be permitted in any zoning district.

(5) Signs to be erected by a nonprofit community service organization which are intended as a public service for the good of the community may be erected upon the granting of a special permit by the Planning Board pursuant to Article V, Special Use Permits, of the Zoning Law of the Town of Moreau. Editor's Note: See Ch. 149, Zoning.

(a) No sign shall exceed 20 square feet in area.

(b) Such signs shall not be illuminated.

(c) Such signs shall be limited to arterial and collector streets only.

(d) An applicant for a special permit hereunder shall be required to produce evidence of approval for the erection of the sign by the owner of the property on which it is to be placed.

(6) Temporary signs.

(a) All signs of a temporary nature, such as political candidate's signs, political, educational, or civic issue or movement signs or other signs of a similar nature, shall be allowed in any zoning district in the Town. Such signs shall not be attached to any fences, trees, shrubs, utility poles or the like; and further provided that such signs shall not be placed in a position that obstructs or impairs vision for traffic or in any manner creates a hazard, nuisance or disturbance to the health and welfare of the general public.

(b) Signs may be placed on private property for a period not to exceed 60 days, including removal time. All signs must be removed within five days after the date of activity that the sign was announcing or endorsing. Failure to properly remove signs within the prescribed time period is a violation of this chapter.

(7) Signs erected for the purposes of posting private lands shall be in accordance with Article 11 of the Environmental Conservation Law of the State of New York.

(8) Such off-premises directional signs as may be necessary to direct persons to commercial, industrial, service or community facilities may be erected in any zoning district, subject to the following:

(a) No such sign shall exceed 10 square feet in area, and no more than 32 square feet of signage shall be allowed on any one lot.

(b) No commercial, industrial or service use shall be permitted to have more than one directional sign.

(c) Text shall be limited to name or identification, arrow, direction and distance, but shall contain no advertising message.

(d) Such signs shall not be illuminated.

(e) Such signs shall be limited to arterial and collector streets only.

(f) An applicant for a sign permit hereunder shall be required to produce evidence of approval for the erection of the sign by the owner of the property on which it is to be placed.

(g) Permits for such signs shall be subject to the approval of the Planning Board pursuant to Article V, Special Use Permits, of the Zoning Law of the Town of Moreau. Editor's Note: See Ch. 149, Zoning.

(9) Billboard signs shall be allowed in all zoning districts that have frontage on an interstate highway.

(a) Signs must be within 1,000 feet of the property line and as otherwise restricted under Part 150 of the Regulations of the New York State Department of Transportation for advertising signs adjacent to interstate highways.

(b) Signs must face the interstate highway.

(10) Traffic signs shall be allowed in all zoning districts. All signs must be erected and removed by persons having jurisdiction over the property on which they are positioned.

(11) Portable signs shall not be allowed in any zoning district.

§ 117-5. Permit required.

After the effective date of this chapter, and except temporary signs as otherwise herein provided, no person shall erect any signs as allowed by § 117-4 herein without first obtaining a permit therefor from the Building Inspector and/or Code Enforcement Officer.

§ 117-6. Application for permit.

Application for a permit shall be made in writing, upon forms provided by the Building Inspector and/or Code Enforcement Officer.

§ 117-7. Fee.

A fee, as set by resolution of the Town Board and on file in the Town Clerk's office, shall be paid to the Building Inspector and/or Code Enforcement Officer for each sign permit issued. Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining a permit therefor, the fee specified above may be doubled, but the payment of such doubled fee shall not relieve any person or persons from fully complying with the requirements of this chapter in the execution of the work nor from the penalties prescribed in this chapter.

§ 117-8. Issuance of permit.

It shall be the duty of the Building Inspector and/or Code Enforcement Officer, upon the filing of an application for a permit for a sign, to examine such plans, specifications and other data submitted with the application and, if necessary, the building or premises upon which it is proposed to erect the sign. If the sign authorized under any such permit has not been completed within six months from the date of the issuance of such permit, the permit shall become null and void.

§ 117-9. Revocation of permit; removal of nonconforming signs.

No sign shall hereafter be erected or altered except in conformity with the provisions of this chapter. However, notwithstanding any provisions contained herein, the sign must be kept clean, maintained and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and the sign must be maintained at all times in safe condition so as not to be detrimental to the public health or safety. In the event of a violation of any of the foregoing provisions, the Building inspector and/or Code Enforcement Officer shall give written or personal notice specifying the violation to the named owner of the land upon which the sign is erected, sent to the address as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the land within 30 days from the date of said notice. In the event that such sign shall not be so conformed within 30 days, the Building Inspector and/or Code Enforcement Officer shall thereupon revoke the permit, and such sign shall be removed by the named owner of the land. Upon failure of said persons to remove such sign within 10 days from the expiration of said thirty-day period, the Building inspector and/or Code Enforcement Officer is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the owner of the land and/or land on which said sign is located.

§ 117-10. Removal of business or unsafe signs.

A. Any business sign legally permitted and existing on or after the effective date of this chapter which no longer advertises any existing business conducted or product sold on the premises shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Building inspector and/or Code Enforcement Officer, upon determining that any such sign exists, shall notify the owner of the premises in writing to remove said sign within 30 days from the date of such notice. Upon failure of the owner to comply with such notice within the prescribed time, the Building Inspector and/or Code Enforcement Officer is hereby authorized to remove or cause removal of such signs and shall assess all costs and expenses incurred in said removal against the land on which the sign is located.

B. If the Building Inspector and/or Code Enforcement Officer shall find that any sign regulated by this chapter is unsafe or is a menace to the public, a written notice shall be given to the named owner of the land upon which the sign is erected, who shall remove or repair said sign within seven days from the date of said notice. If said sign is not removed or repaired, the Building Inspector and/or Code Enforcement Officer shall revoke the permit issued for such sign, as herein provided, and may remove said sign and shall assess all costs and expenses incurred in said removal against the land on which such sign was located. The Building Inspector and/or Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

§ 117-11. Variances.

The Zoning Board of Appeals of the Town of Moreau may, in appropriate cases after public notice and hearing, vary or modify the application of this chapter, in harmony with its general purpose and intent, and act on variances wherever the same are required by the provisions of this chapter.

§ 117-12. Review and appeal.

Any person aggrieved by any decision of the Building Inspector and/or Code Enforcement Officer relative to the provisions of this chapter may appeal such decision to the Zoning Board of Appeals as provided in Chapter 149, Zoning, of the Code of the Town of Moreau and shall comply with all procedural requirements prescribed by such Zoning Board of Appeals.

§ 117-13. Penalties for offenses.

Failure to comply with any of the provisions of this chapter 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. Each week such violation continues shall constitute a separate violation.

§ 117-14. Enforcement.

This chapter shall be enforced by the Building inspector and/or Code Enforcement Officer of the Town of Moreau.

§ 117-15. Amendments.

The Town Board may, from time to time, on its own motion or on recommendation of the Planning Board or the Zoning Board of Appeals, after public notice and hearing, amend, supplement, change, modify or repeal this chapter pursuant to the provisions of the Town Law applicable thereto.

§ 117-16. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

CHAPTER 120. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

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CHAPTER 120. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Town Board of the Town of Moreau 2-28-2008 by L.L. No. 1-2008. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 78.
Freshwater wetlands — See Ch. 82.
Illicit discharges, activities and connections — See Ch. 84.
Sewers — See Ch. 115.
Subdivision of land — See Ch. 124.
Water — See Ch. 145.
Zoning — See Ch. 149.

ARTICLE I. General Provisions

§ 120-1. Findings of fact.

The Town Board of the Town of Moreau finds that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 120-2. Purpose.

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety and welfare of the public residing within this jurisdiction and to address the findings of fact noted in § 120-1 above. This local law seeks to meet those purposes by achieving the following objectives:

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

§ 120-3. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town of Moreau 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 Moreau and for the protection and enhancement of its physical environment. The Town Board of Moreau 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.

§ 120-4. Applicability.

- A. This local law shall be applicable to all land development activities as defined herein unless otherwise exempt pursuant to § 120-5 herein.
- B. The Town Board of the Town of Moreau shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Moreau engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- C. All land development activities subject to review and approval by the applicable board of the Town of Moreau under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law.
- D. Any person who proposes land development activities not subject to review as stated in Paragraph C hereof shall submit a stormwater pollution prevention plan (SPPP) to the Stormwater Management Officer who shall approve the SPPP if it complies with the requirements of this law.

§ 120-5. Exemptions.

The following activities may be exempt from review under this law:

- A. Agricultural activity as defined in this local law.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this law.
- C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Moreau on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.

ARTICLE II. Stormwater Management, Erosion and Sediment Controls

§ 120-6. Definitions.

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

AGRICULTURAL ACTIVITY

The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

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

BUILDING

Any structure, either temporary or permanent, having walls and roof, designed for the shelter of any person, animal, or property.

CHANNEL

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

CLEARING

Any activity that removes the vegetative surface cover.

DEDICATION

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

DESIGN MANUAL

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

DEVELOPER

A person who undertakes land development activities.

EROSION CONTROL MANUAL

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

GRADING

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

IMPERVIOUS COVER

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

INDUSTRIAL STORMWATER PERMIT

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

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

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

LAND DEVELOPMENT ACTIVITY

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

LANDOWNER

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

MAINTENANCE AGREEMENT

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

NONPOINT SOURCE POLLUTION

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

PHASING

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

POLLUTANT OF CONCERN

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

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

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

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

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

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

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

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

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

STORMWATER

Rainwater, surface runoff, snowmelt, and drainage.

STORMWATER HOTSPOT

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

STORMWATER MANAGEMENT

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

STORMWATER MANAGEMENT FACILITY

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

STORMWATER MANAGEMENT OFFICER

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

STORMWATER MANAGEMENT PRACTICES (SMPs)

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

STORMWATER POLLUTION PREVENTION PLAN (SPPP)

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

STORMWATER RUNOFF

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

SURFACE WATERS OF THE STATE OF NEW YORK

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

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 120-7. Prohibition against land development activity; permit required.

It shall be unlawful for any person, developer or entity to undertake or engage in land development activity as that term is defined in § 120-6 herein without complying with the terms and requirements of this local law which includes obtaining a land development activity permit from the Town. The permit application shall be on a form prescribed by the Town. The permit application fee shall be an amount established and amended from time to time by resolution of the Town Board.

§ 120-8. Stormwater pollution prevention plans.

No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SPPP) prepared in accordance with the specifications in this local law.

§ 120-9. Contents of stormwater pollution prevention plans.

A. All SPPPs shall provide the following background information and erosion and sediment controls:

- (1) Background information about the scope of the project, including location, type and size of project.
- (2) 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; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s). Site map for projects over five acres should be at a scale no smaller than one inch equals 100 feet. Site map for projects under five acres should be at a scale no smaller than one inch equals 50 feet.
- (3) Description of the soil(s) present at the site.

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

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

(6) 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.

(7) 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.

(8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

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

(10) Temporary practices that will be converted to permanent control measures.

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

(12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices.

(13) Name(s) of the receiving water(s).

(14) Delineation of SPPP implementation responsibilities for each part of the site.

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

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

B. Land development activities as defined in § 120-6 herein and meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Paragraph C below as applicable:

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

(2) Condition B. Stormwater runoff from land development activities disturbing five or more acres.

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

C. SPPP Requirements for Condition A, B or C.

(1) All information in Paragraph A of this section.

- (2) Description of each postconstruction stormwater management practice.
- (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice.
- (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
- (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
- (6) Dimensions, materials specifications and installation details for each postconstruction stormwater management practice.
- (7) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.
- (8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (9) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with §§ 120-16 and 120-17 herein.
- (10) For Condition A, the SPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

§ 120-10. Other environmental permits.

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

§ 120-11. Contractor certification.

A. Each contractor and subcontractor identified in the SPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

B. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

C. The certification statement(s) shall become part of the SPPP for the land development activity.

§ 120-12. Copy of SPPP.

A copy of the SPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 120-13. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed

and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

(1) New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).

(2) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SPPP shall be prepared by a licensed professional.

C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 120-14. Maintenance and inspection during construction.

A. The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

B. For land development activities as defined in § 120-6 hereof and meeting Condition A, B or C in § 120-8B hereof, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

C. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

§ 120-15. Maintenance easement(s).

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Moreau to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Moreau.

§ 120-16. Maintenance after construction.

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

A. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.

B. Written procedures for operation and maintenance and training new maintenance personnel.

C. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 120-11C hereof.

§ 120-17. Maintenance agreements.

The Town of Moreau shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. Editor's Note: Schedule B is on file in the Town offices. The Town of Moreau, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE III. Administration and Enforcement

§ 120-18. Construction inspection.

A. Erosion and sediment control inspection. The Town of Moreau Stormwater Management Officer may require such inspections as necessary to determine compliance with this law 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 law and the stormwater pollution prevention plan (SPPP) as approved. To obtain inspections, the applicant shall notify the Town of Moreau enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- (1) Start of construction.
- (2) Installation of sediment and erosion control measures.
- (3) Completion of site clearing.
- (4) Completion of grading.
- (5) Completion of final grading.
- (6) Close of the construction season.
- (7) Completion of final landscaping.
- (8) Successful establishment of landscaping in public areas.

§ 120-19. Stormwater management practice inspections.

The Town of Moreau Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

§ 120-20. Inspection of stormwater facilities after final project completion.

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based on complaints or other notice of possible violations; inspections of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspection of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

§ 120-21. Submission of reports.

The Town of Moreau Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

§ 120-22. Right-of-entry for inspection.

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Moreau the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Article III hereof.

§ 120-23. Performance 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 Moreau in its approval of the stormwater pollution prevention plan, the Town of Moreau 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 Moreau as the beneficiary. The security shall be in amount to be determined by the Town of Moreau 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 Moreau, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) 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 of Moreau. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

§ 120-24. 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 Moreau with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Moreau may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

§ 120-25. Recordkeeping.

The Town of Moreau may require entities subject to this law to maintain records demonstrating compliance to this law.

§ 120-26. Enforcement and penalties.

A. Notice of violation. When the Town of Moreau determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (1) The name and address of the landowner, developer or applicant.
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring.
- (3) A statement specifying the nature of the violation.
- (4) A description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action.
- (5) A statement of the penalty or penalties that shall be assessed against the person to whom the notice of violation is directed.

(6) A statement of the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

§ 120-27. Stop-work orders.

The Town of Moreau may issue a stop-work order for violations of this law. 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 Moreau confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

§ 120-28. Violations.

Any land development activity that is commenced or is conducted contrary to this local law may be restrained by injunction or otherwise abated in a manner provided by law.

§ 120-29. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law 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 of a third or subsequent offense all of which were committed within 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 local law 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.

§ 120-30. Withholding of certificate of occupancy.

If any building or land development activity is installed or conducted in violation of this local law, the Stormwater Management Officer may prevent the occupancy of said building or land.

§ 120-31. Restoration of lands.

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Moreau may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

ARTICLE IV. Miscellaneous Provisions

§ 120-32. Fees for services.

The Town of Moreau may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SPPPs, inspections or SMP maintenance performed by the Town of Moreau or performed by a third party for the Town of Moreau.

§ 120-33. Severability.

If the provisions of this article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order or judgement shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

§ 120-34. Effective date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law

CHAPTER 121. STREETS AND SIDEWALKS

ARTICLE I. Sidewalk Construction

§ 121-1. Permit required.

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§ 121-12. Duties of Superintendent of Highways.

§ 121-13. Record of notices.

§ 121-14. Construal of provisions.

CHAPTER 121. STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 12-11-1973 as Ch. 25 of the 1973 Code; Art. II, 12-11-1973 as Ch. 27 of the 1973 Code; Art. III, 2-14-1978 (as L.L. No. 1-1978) as Ch. 23 of the 1973 Code. Sections 121-3 and 121-9 amended and §§ 121-7 and 121-8 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Mobile home parks — See Ch. 96.
Subdivision of land — See Ch. 124.
Zoning — See Ch. 149.

ARTICLE I. Sidewalk Construction

[Adopted 12-11-1973 as Ch. 25 of the 1973 Code]

§ 121-1. Permit required.

No person shall construct, reconstruct or repair any sidewalks on or along any of the streets or highways of the Town of Moreau without first having made written application for permission so to do to the Building Inspector and/or Code Enforcement Officer of said town, and no such sidewalk shall be constructed, reconstructed or repaired along said streets or highways in said town until proper grade has been given by said town for the construction, reconstruction or repair of the same.

§ 121-2. Specifications.

All concrete sidewalks constructed, reconstructed or laid in any of the streets or highways of the Town of Moreau shall conform to the following specifications, which are hereby adopted as standard specifications for concrete sidewalks:

A. Foundation. The ground shall be excavated to a depth of not less than five inches from the finished grade of the sidewalk. In case the present ground level is below subgrade, the same shall be brought up thereto with good earth or cinders, properly tamped and thoroughly compacted and containing no stones over six inches in diameter. Where the present surface consists of soft or improper material, the same shall be excavated and brought to subgrade in the same manner as above. After the subgrade has been prepared and tamped, there shall be placed thereon one inch of good clean sand, which shall be evenly spread over the entire surface.

B. Portland cement. The portland cement used shall be of a quality equal to Glens Falls Portland cement and shall meet the requirements of the American Society for Testing and Materials.

C. Sand. Clean, coarse, sharp sand of good quality, free from clay, loam or other foreign materials shall be used.

D. Coarse aggregates. The coarse aggregates shall consist of the best quality stone of the size known as 3/4 inch or good clean gravel; the stone shall be properly screened to eliminate the dust and fine materials. The gravel shall be free from loam, sticks and other foreign materials.

E. Concrete.

(1) The foundation or lower part of sidewalks for a depth of three inches shall consist of the concrete materials as above described, mixed dry in the following proportions by measures:

(a) Portland cement: one part.

(b) Sand: three parts.

(c) Stone or gravel: five parts.

(2) The cement or sand shall be thoroughly mixed dry to a uniform color and a sufficient quantity of water added to produce a mortar of proper consistency, the stone or gravel to be then added and all thoroughly mixed. When placed in the work, the concrete is to have a consistency that will permit running without showing surplus water on the surface or quaking.

F. Forms. The forms shall be placed to accurately conform to the lines and grade established.

G. Surface; mortar finish.

(1) The finish or wearing coat shall be one-inch thick and shall consist of a mortar made of the materials above described, mixed in the following proportions by measure:

(a) One part portland cement to two parts sand; or

(b) One part portland cement, one part sand and one part trap rock screenings or iron ore railings.

(2) The surface or wearing coat of mortar shall in all cases be applied before the concrete foundation course shall have taken its initial set, in order that the two may properly unite and form a solid monolith.

H. Surface finishing. In all cases the surface finish shall not be excessively smooth, and after the surface has sufficiently set to admit floating off with a wooden float, the surface shall be fluted or troweled enough to avoid sharp rough particles in the surface finish, but not enough to bring an excess of portland cement to the top.

I. Thickness and dimensions of blocks. The thickness of the walk shall be four inches, which includes the concrete foundation and wearing surface. All walks shall be of a width of four feet and shall be cut into blocks to be not less than five feet in length.

J. Joints. Each block in the sidewalk shall be separated by a sand joint, which shall be continuous from the bottom of the concrete to top of mortar wearing surface and of sufficient thickness not less than 1/4 inch, to ensure the concrete and mortar material in each block from uniting with that adjoining, and the joint shall be filled with clean sand.

K. Joints and corner finish. The finish between the section and all corners forming the surface shall be furnished by tool dressing leaving rounded edges.

§ 121-3. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person violating any of the provisions of this Article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not exceeding \$250 for each offense or by imprisonment in the county jail for a term not to exceed 15 days, or by both such fine and imprisonment.

ARTICLE II. Streets

[Adopted 12-11-1973 as Ch. 27 of the 1973 Code]

§ 121-4. Purpose.

The purpose of this Article is to regulate the laying out of streets, thoroughfares and/or highways in the Town of Moreau, New York.

§ 121-5. Definitions.

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

HE

Refers to any individual or corporate subdivider, developer or owner.

§ 121-6. Word usage.

A. The word "shall" is mandatory and not directory.

B. Words used in the present tense include the future.

C. Wherever used this Article, the word "street" shall also be construed to mean a "thoroughfare" or "highway."

Editor's Note: Former §§ 27-4 through 27-11, dealing with street dedication and specifications, which immediately followed this subsection, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 121-7. Compliance with Subdivision Regulations.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. All streets to be laid out in the town shall comply with the applicable provisions of the Town Subdivision Regulations (Chapter 124, Subdivision of Land, of the Town Code).

§ 121-8. Required permits.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Permits shall be required for the following activities:

A. Connection of driveways to town streets.

B. Street excavations.

C. Curb cuts.

§ 121-9. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person who violates any provision of this Article shall be guilty of an offense against such Article, punishable by a fine of not more than \$250 and not more than 15 days' imprisonment. Such offense, for the purpose of conferring jurisdiction upon courts and judicial officers generally, shall be deemed a misdemeanor, and for such purposes only all provisions of law relating to misdemeanors shall apply to such violation. In addition, the violation of this Article or any of the provisions thereof shall subject the person, firm or corporation violating the same to a civil penalty in the sum of \$50. When a violation of this Article or any of the provisions thereof is continuous, each 24 hours thereof shall constitute a separate and distinct violation, said penalty to be recovered by the Town of Moreau in a civil action.

ARTICLE III. Notification of Defects

[Adopted 2-14-1978 (as L.L. No. 1-1978) as Ch. 23 of the 1973 Code]

§ 121-10. Defective highways and property.

A. No civil action shall be maintained against the Town of Moreau (hereinafter referred to as "the town") or the Superintendent of Highways of the town or against any improvement district in the town for damages or injuries to persons or property, including those arising from the operation of snowmobiles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town, or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk or to the Superintendent of Highways of the town and there was failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of.

B. No such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the town or any property owned by any improvement district in the town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Superintendent of Highways of the town and there was failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 121-11. Defective sidewalks.

No civil action shall be maintained against the town and/or the Superintendent of Highways of the town for damages or injuries to persons or property sustained by reason of any defect in the sidewalks of the town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the Superintendent of Highways of the town pursuant to statute; nor shall any action be maintained for damages or injuries to persons or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Superintendent of Highways of the town and there was failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 121-12. Duties of Superintendent of Highways.

The Superintendent Highways of the town shall transmit, in writing, to the Town Clerk within 10 days after receipt thereof, all written notices received by him pursuant to this Article, and he shall take any and all corrective action with respect thereto as soon as practicable.

§ 121-13. Record of notices.

The Town Clerk shall keep an index record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any town highway, bridge, culvert or a sidewalk or any other property owned by the town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Superintendent of Highways of the town of the receipt of such notice.

§ 121-14. Construal of provisions.

Nothing contained in this Article shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the town, its officers and

employees and/or any of its improvement districts any greater duty or obligation than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

CHAPTER 124. SUBDIVISION OF LAND

Attachments:

- 124a Sanitary Sewer Manhole Detail
- 124b Stormwater Drywell Detail under pavement
- 124c Stormwater Drywell Detail in lawn areas
- 124d Typical Catch Basin or Storm Sewer Manhole
- 124e typical Cul-de-Sac
- 124f Typical Road Sections

CHAPTER 124. SUBDIVISION OF LAND

[HISTORY: Adopted by the Planning Board of the Town of Moreau 11-15-1989; approved by the Town Board 12-29-1989. Editor's Note: These regulations repealed former Ch. 124, Subdivision of Land, adopted 9-28-1979 by the Planning Board. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 74.
Flood damage prevention — See Ch. 78.
Freshwater wetlands — See Ch. 82.
Mobile homes and mobile home parks — See Ch. 96.
Sand, gravel and mining — See Ch. 113.
Streets and sidewalks — See Ch. 121.
Zoning — See Ch. 149.

PART 1. Subdivision Regulations

ARTICLE I. Declaration of Policy

§ 124-1. Authorization; policy; Planning Board, members, alternate members.

[Amended 11-13-2001 by L.L. No. 5-2001]

A. By the authority of the resolution of the Town Board of the Town of Moreau, adopted on December 29, 1989, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Moreau is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to conditionally approve preliminary plats within the Town of Moreau. It is declared to be the policy of the Planning Board to consider land subdivision plats for residential, industrial and commercial uses as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, the regulations which shall be known as and which may be cited as the "Town of Moreau Land Subdivision Regulations" have been adopted by the Planning Board on November 15, 1989, and approved by the Town Board on December 29, 1989.

B. Planning Board.

(1) In accordance with § 271 of the Town Law of the State of New York, the Planning Board shall consist of seven members. The chairperson of the Planning Board shall be designated by the Town Board. In the

absence of a chairperson, the Planning Board may designate a member to serve as acting chairperson. The Planning Board may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose. The Town Board may require members of the Planning Board to complete training and continuing education courses in order to fulfill their duties as members of the Planning Board.

(2) The terms of the membership of the Planning Board shall be as set forth in § 271 of the Town Law and any amendment thereto.

(3) The Town Board may appoint alternate members of the Planning Board for the purpose of substituting for a member in the event such member is unable to participate due to absence or a conflict of interest. The term of the appointment of said alternate members shall be established through resolution of the Town Board. The Town Board may also require said alternate members to complete training and continuing education courses in order to fulfill their duties as members of the Planning Board.

(4) The Planning Board shall have such authority, powers and duties as specified in Article 16 of the Town Law and as may be amended, as well as the authority, powers and duties specified in the Moreau Town Code and as may be amended.

§ 124-2. Clearing of land.

A. Whenever any subdivision of land is proposed to be made which is subject to review hereunder and before any part thereof is made and before any land is cleared or vegetation removed in preparation for the proposed subdivision (except vegetation removed in connection with required surveying, engineering tests and inspections) and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider shall make application for and receive final approval of such proposed subdivision in accordance with the Town of Moreau Land Subdivision Regulations. No parcel of land may be subdivided which has been clear-cut within the previous five years.

B. For the purpose of this requirement, "clear-cutting" shall be defined as the cutting of more than 50% of any trees over six inches in diameter (as measured 4.5 feet above the ground level) over the entire area of the cutting.

§ 124-3. Conformance with Master Plan.

Subdivision plats shall be coordinated so as to compose a convenient system conforming to the Master Plan, if such exists. The plots shown on said plat shall comply with the requirements of the zone in which said subdivision is located and the land shown on such plats shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

ARTICLE II. Definitions

§ 124-4. Definitions and word usage.

A. For the purpose of these Subdivision Regulations, words used in the present tense include the future, the plural includes the singular, the word "lot" includes the word "plot," the word "building" includes the word "structure," and the word "shall" is intended to be mandatory.

B. Please refer to Town of Moreau Zoning Law for definition of additional terms not defined herein. Editor's Note: See Ch. 149, Zoning.

C. As used in these regulations, or in the appendices hereto, Editor's Note: See Part 2, Design and Construction Standards. unless the context otherwise requires, the following terms shall have the meanings indicated:

BERM

A small hillock or raise in grade generally high enough to visually screen headlights from automobiles or trucks on adjacent properties or to reduce sound levels between adjacent properties.

BOND or LETTER OF CREDIT

A written agreement issued by a qualified agent or banking organization which guarantees either the performance of a certain agreed-upon activity or an equivalent consideration if the activity is not completed as required.

CENTRAL PRIVATE UTILITY

A sewage or water system which serves a subdivision and which is paid for with nonpublic funds and without special district taxation.

CLEARCUTTING

The cutting of more than 50% of any trees over six inches in diameter (as measured 4.5 feet above ground level) over the entire area of the cutting.

CONSTRUCTION PLAN

The drawings showing location, profile and size of sewers, drains, water mains, pavements and other details of construction as specified in these Subdivision Regulations.

CROSSWALK or WALKWAY

An accessway designed for pedestrian traffic and dedicated to public use.

CUL-DE-SAC

Minor streets with one end open for public access and the other terminating in a vehicular turn-around or also "dead-end street."

EASEMENT

Deeded authorization by a property owner for the use of any part of his property.

EROSION

The wearing away of the land surface by rain, flowing water, wind or other geological, mechanical or chemical agents.

ESSENTIAL PUBLIC SERVICES

Services by public utilities or governmental agencies of gas, steam, sewer, electric, telephone or water transmission or distribution systems.

EXCAVATION

Any extraction from the land of more than 20 cubic yards of sand, gravel, clay, shale, rock, topsoil or other natural mineral deposits. (See "Commercial Sand and Gravel Extraction.") Editor's Note: See Ch. 113, Sand, Gravel and Mining.

EXPANSION

Any growth of activity which requires the enlargement of facilities, including building, parking spaces, storage yard or any other facilities which are required to accommodate such growth.

HISTORICAL BUILDING

Any building or structure which is historically or architecturally significant.

HISTORIC AREA

A district or zone designated by a local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their unique architectural style and scale, including color, proportion, form and architectural detail, or because of their being a part of or related to a square, park or area, the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

IN EXISTENCE

With respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed.

INFILL

A vacant lot between two other lots where there already exists a principal building on each.

INTERMITTENT STREAM

A naturally occurring stream which carries water only during the wet season(s) of the year or during heavy rainstorms and which might be dry for extended periods.

LANDCLEARING

The excavation, cutting, removal, alteration, destruction or clearing of perennial or annual vegetation, including trees, or the disturbance of soil.

LANDSCAPE

All the natural features, such as fields, hills, forests, water, etc., that distinguish one part of the earth's surface from another part, usually that portion of land or territory which the eye can comprehend in a single view, including all of its natural characteristics.

LANDSCAPE PLAN

A plan of sufficient detail to describe proposed changes in topography, structures, vegetation and visual characteristics.

LANDSCAPING

The act of changing or enhancing the natural features of a plot, buffer zone, public open space or other area or portion of a lot (often as a beautifying feature of a building or land use) so as to make said area more attractive, to add visual screening and/or to provide safety features to assist in protecting life and property. This may be accomplished by adding lawns, trees, shrubs, etc., or through the sculpturing of the terrain, i.e., earth berms, ponds, walkways, retaining walls, rock outcrops, etc., and/or installing lights, light poles, flagpoles, fences and traffic malls for the direction of traffic. This does not include any man-

made object that exceeds the maximum height requirement for a structure in the zone district in which it is located.

LAND USE OR DEVELOPMENT or USE

Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. "Land use and development" shall exclude any landscaping or grading which is not intended to be used in connection with another land use or ordinary repairs or maintenance or interior alterations to existing structures or uses shall also be excluded from the terms "land use or development."

LINE, STREET OR ROAD

The dividing line between the street right-of-way line and the lot.

LOT, BUILDING

The land occupied or capable of being occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be adequate as a condition of the issuance of a building permit for a building on such land.

LOT FRONTAGE

The distance between the boundaries of a lot measured at the points of intersection with, and parallel to, the street right-of-way line and generally at right angles to the depth.

[Added 6-14-1994 by L.L. No. 1-1994]

MASTER PLAN

The officially adopted Master Plan for the development of the town, which indicates the general location for physical growth of the community, together with any and all amendments thereto.

PAVEMENT

A compacted surface intended for pedestrian or vehicular use, through which drainage is impeded. Surface material could be compacted sand or gravel, a bituminous compound, concrete or other material.

PERMEABILITY, PERCENT OF

The area of the lot which is not covered by buildings, structures or nonpermeable surfaces divided by the total area of the lot multiplied by 100.

PLANNING BOARD or BOARD

The Planning Board of the town.

PLAT, FINAL

The final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with these regulations and which, if approved, shall be filed with the County Clerk.

PLAT, PRELIMINARY

A drawing or drawings clearly marked "preliminary plat," showing the salient features of a proposed subdivision, as specified in these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PLAT SKETCH or SKETCH PLAN

A sketch of a proposed subdivision showing the information specified in these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

REQUIRED IMPROVEMENTS

Any activities or improvements required by these regulations, except as may be waived by the Planning Board, including but not limited to streets and roads, utility installations, road ditches, drainage facilities and culverts, monuments and revegetation operations.

RETAINING WALL

A wall to maintain differences in ground elevation by holding back a bank of material.

RUNOFF

That portion of the precipitation, rain and/or snowmelt that cannot be absorbed by the soil within a drainage area that is discharged from the area in water channels, either natural, as a stream, or man-made. Types of "runoff" include surface, groundwater snowmelt, stormwater and/or seepage.

SCREENING

Foliage, berms, trees, shrubs or landscaped natural materials and plants which obscure the visual character and suppress the noise of any given building or use of land. Where natural plant material is not practical, fences and/or other artificial material may be partially or totally substituted according to individual site conditions.

SEDIMENT

Erodent soil particles which are transported by wind or water.

SEDIMENTATION

The process by which sediment is deposited in streams or lake bottoms.

SELECTIVE TREE CUTTING

The removal of single or scattered trees of any size, resulting in the appearance of the land area as not having been substantially disturbed.

SEQRA

The State Environmental Quality Review Act, Editor's Note: See Ch. 149, Zoning. a process that introduces the consideration of environmental factors into the early planning stages of actions in order to avoid adverse impacts on the environment.

SERVICE DISTRICT

Any private or public entity which provides a public service to residents of all or any part of the town to include, among others, fire departments, water districts and sewer districts.

SLOPE

The degree of deviation of a surface from the horizontal, usually expressed in percent of degrees.

STABILIZATION

The proper placing, grading and/or covering of soil, rock or earth to ensure their resistance to erosion, sliding or other movement.

STORM DRAINAGE SYSTEM

All structural works and ground alterations, as well as natural drainage patterns, which affect or regulate the flow of surface drainage, including those used to intercept, collect and transmit water or to discharge water above or below ground level.

STREET ARTERIAL

A street for through traffic connecting major land uses primarily for fast or heavy traffic.

STREET COLLECTOR

A street which collects traffic from local streets and connects with arterials.

STREET, LOCAL

A street which is used primarily for access to the abutting residential properties.

STREET MARGINAL

A street which is parallel to and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic.

STREET OR ROAD GRADE

The officially established grade of the street upon which a lot fronts; or, if there is no officially established grade, the existing grade of the street shall be taken as the "street grade."

STREET WIDTH

The distances between property lines on opposite sides of the street.

SUBDIVIDER

Any person firm, corporation, partnership or association or successors-in-interest to any such parties, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION

A division of any residential, commercial or industrial land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person or by any other person controlled by, under common control with any such person or group of persons acting in concert as part of a common scheme or plan; except a two-lot division of land fronting on existing public streets, not involving any new streets or roads 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 of the Master Plan, Official Map or Zoning Ordinance, if such exists, or these regulations. This exception shall not be repeated more than once in any seven-consecutive-year period. This definition shall not apply to conveyances of small amounts of land to correct a boundary of a lot so long as such conveyance does not create additional lots. Any lot, plot, parcel or site created by the act of subdividing shall front on a public street or roadway. For the purposes of these regulations, a condominium shall be reviewed as a "subdivision."

[Amended 6-14-1994 by L.L. No. 1-1994]

SURVEY

The determination of the location of land boundaries and natural and man-made objects by means of surveying instruments.

SURVEY MAP

A drawing made to scale based upon survey measurement showing land boundaries, natural and man-made objects, made by or under the direction of a New York State licensed land surveyor.

SURVEYOR

A person permitted to act as a land surveyor by the State of New York.

TOWN

The Town of Moreau in New York State.

ARTICLE III. Sketch Plan Conference

§ 124-5. Purpose.

A. Before preparing a preliminary plat pursuant to Article IV, the applicant should meet with the Town Planning Board at its regularly scheduled meeting to discuss the applicant's intentions. The applicant should present, by the submission deadline date specified by the Planning Board, a sketch plan as required pursuant to this Article.

B. The purpose of the sketch plan review submittal is to provide a cursory review of the proposed subdivision to:

- (1) Determine the extent of the proposed subdivision to determine the requirements, if any, of the State Environmental Quality Review Act. Editor's Note: See Article 8 of the Environmental Conservation Law.
- (2) Determine the requirements of the State Department of Health, Environmental Conservation and other state agencies whose approvals may be required by these regulations.
- (3) Determine the application of clustering as required under Article IX of these regulations.
- (4) Determine the requirements of local, county and town agencies whose review and/or approvals may be required by these regulations.
- (5) Discuss the appropriateness of the proposed subdivision layout to the goals and objectives of Town Master Plan, if such exists, and other Articles of these regulations.

§ 124-6. Requirements.

A. The applicant shall submit 10 copies of the sketch plan. Such subdivision sketch plan shall be prepared by a licensed professional engineer, a licensed professional land surveyor with properly executed New York State Education Department Exemption N or a licensed landscape architect.

B. Such sketch plan shall contain the following elements and information for the purpose of sketch plan review:

- (1) Survey. The sketch plan shall be laid out on a survey prepared by a licensed professional land surveyor or a licensed professional engineer with a properly executed New York State Education Department Exemption N. Such survey shall be prepared at a scale of 50 feet to the inch, clearly showing:
 - (a) The boundary of the subdivision.
 - (b) Topographic features, including existing grade contours at ten-foot contour intervals, U.S.G.S. datum.
 - (c) Existing watercourses, including lakes, ponds, wetlands, streams or intermittent streams.
 - (d) Areas of existing vegetation, including woodlots and hedgerows.
 - (e) Areas within the designated one-hundred-year floodplain as determined by the United States HUD Flood Insurance Program.
 - (f) Existing man-made features, including location and sizes of power lines, pipelines, buildings and structures, storm drains and culverts and wells and septic tanks and fields of adjoining properties.
 - (g) Existing rights-of-way and/or easements across or adjacent to the proposed subdivision.
- (2) Sketch plan. The proposed sketch plan shall show the following:
 - (a) Names and street addresses of all applicants, if an individual or partnership, and the names and street addresses of principal officers of a corporation.

(b) Name and street address of owner(s) of land on which the subdivision is to be located.

(c) A location map showing the property included in the proposed subdivision and all contiguous properties of the proposed subdivision and all properties which front on any contiguous street or highway and are within 500 feet of the proposed subdivision. All properties shall be identified by lot and parcel number and names of owners.

(d) The location and width of proposed street right-of-way and pavements.

(e) The proposed arrangement and approximate area, width, length and setback requirements of each lot and street pattern for the purpose of demonstrating to the Board that the proposed location of streets allows for lot layout in accordance with the Zoning Ordinance Editor's Note: See Ch. 149, Zoning, for the zoning district or districts in which the subdivision is located.

(f) Sketch grading and drainage plan prepared by a licensed professional engineer or landscape architect or licensed professional land surveyor with a properly executed New York State Education Department Exemption N. Such plan shall indicate the general slope of the land and method of draining stormwater, including proposed culverts, storm drainage structures and retention ponds.

(g) Any parcels of land proposed to be dedicated to public use, such as parks, recreation areas, conservation areas or scenic easements.

(3) Environmental assessment. An environmental assessment describing the potential environmental impact of the proposed subdivision on the adjoining area and the Town of Moreau, including the EA Long Form, and proposed actions to minimize potentially adverse environmental impacts. Additional environmental information may be required in accordance with the provisions of the State Environmental Quality Review Act. Editor's Note: See Article 8 of the Environmental Conservation Law.

(4) Additional information. Such additional information and exhibits the developer or the Planning Board may feel necessary to describe the project and its compliance with the requirements of these regulations.

(5) Fees.

(a) The application for sketch plan approval shall be accompanied by a fee listed on the current Schedule of Fees for the Town of Moreau posted in the office of the Zoning Enforcement Officer.

(b) In addition to the fee listed on the Schedule of Fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of the legal and technical assistance to the Planning Board.

§ 124-7. Procedures.

A. Submission of sketch plan. Prior to any subdivision of land, the subdivider shall submit to the Planning Board by the submission deadline date specified by the Planning Board 10 copies of a sketch plan and related elements and information in accordance with this Article.

B. Discussion of requirements and classification. After submission of a sketch plan, the subdivider shall meet with the Planning Board to discuss the requirements of these regulations, including those relating to street design and construction, placement of utilities, drainage, sewerage, water supply, fire protection and parks and open space areas, as well as the availability of existing services and other pertinent information.

C. Planning Board recommendations.

(1) The Planning Board shall study the sketch plan in conjunction with other maps and information as may be appropriate to determine if the proposed subdivisions are in areas where there are severe limitations to development. The Planning Board shall make advisory recommendations which shall be applicable to the entire area for development.

(2) For subdivisions of four lots or less, the Planning Board, when requested by the subdivider, may waive certain preliminary and final plat submission requirements as deemed appropriate for the nature of the subdivision proposed. These may include two-foot contour interval on plan (except in areas of proposed roads and utilities); clearing plan; grading and erosion control plan; and drainage report. However, under no circumstances shall these requirements be waived for subdivisions of an environmentally sensitive or controversial nature.

ARTICLE IV. preliminary plat Review

§ 124-8. Purpose.

The preliminary plat review is the first step in a two-step review process following the sketch plan conference. The Planning Board meeting for which the preliminary plat is submitted shall be separate and apart from the meeting at which final plat submission is made. The purpose of the preliminary review is as follows:

A. To ensure the proposed subdivision meets all requirements of the Zoning Law of the Town of Moreau.
Editor's Note: See Ch. 149, Zoning.

B. To ensure the proposed subdivision meets all requirements of Article VIII, Design Standards, of these regulations.

C. To receive public comments on the proposed subdivision.

D. To ensure the proposed subdivision addresses all issues raised during the sketch plan conference.

E. To initiate formal review of the proposed subdivision.

§ 124-9. Requirements.

The applicant is required to submit 10 copies of the preliminary plat application. Such application shall include the following documents and/or information.

A. Preliminary plat. The preliminary plat shall be laid out by a licensed professional engineer and/or a licensed professional land surveyor with a properly executed New York State Education Department Exemption N. Such preliminary plat shall be prepared at a scale of 50 feet to the inch and shall clearly show:

(1) The location of all existing and proposed property lines, buildings, watercourses and other important topographic features.

(2) Existing and proposed contours showing elevations at two-foot contour intervals and extending at least 100 feet in each direction beyond the property lines of the parcel being subdivided. Existing contours shall be as determined by an actual field survey.

(3) The location, names and width of all existing and proposed streets, easements, lots, building lines, wells and septic tanks and leach fields and similar facts regarding property immediately adjacent or opposite the proposed subdivision.

(4) A location map showing:

(a) The zoning district or districts in which the land to be subdivided is located.

(b) The property included in the proposed subdivision and all contiguous properties of the proposed subdivision and all properties which front on any contiguous street or highway and are within 500 feet of the proposed subdivision. All properties shall be identified by lot and parcel number and names of owners.

(5) The location and size of any existing sewers, water mains, culverts and drainpipes, electric and telephone lines, cable television, proposed sewers, water mains, culverts and drainpipes on the property or immediately adjacent to the property to be subdivided.

(6) The proposed arrangement and area, width and length of street frontage and setback requirements of each lot for the purpose of demonstrating to the Planning Board that the layout of streets and lots is in accordance with the requirements of the Zoning Ordinance Editor's Note: See Ch. 149, Zoning. for the district or districts in which the subdivision is located.

(7) All parcels of land proposed to be dedicated to the public use.

(8) Date, North arrow and scale.

(9) The title under which the proposed subdivision is to be recorded, with the names of the owner and the engineer or land surveyor who prepared the preliminary plat; the license number of the engineer or land surveyor shall be shown on the drawing.

(10) Stormwater pollution prevention plan. A stormwater pollution prevention plan (SPPP) consistent with the requirements of Chapter 120 of the Code of the Town of Moreau (Chapter 120) shall be required for preliminary subdivision plat approval. The SPPP shall meet the performance and design criteria and standards in Chapter 120. The approved preliminary subdivision plat shall be consistent with the provisions of Chapter 120.

[Added 2-26-2008 by L.L. No. 1-2008]

B. Layout plans. Layout plans shall be prepared by a professional licensed engineer or professional licensed land surveyor with a properly executed New York State Education Department Exemption N. Such construction drawings shall be at a scale of 50 feet to the inch and shall show the following:

(1) The exact layout and dimensions of proposed streets, including stationing and tie-ins to the center lines of existing streets with monuments and other points as required, including a tie-in to the Saratoga County Geodetic Monumentation Network.

(2) The location and widths of all streets, pavements, curbs, sidewalks, easements, parks and other open spaces.

(3) The proposed names of all streets and radii of all curves in the street line.

(4) The location of all proposed utilities, including the proposed water supply, sanitary sewers, stormwater drainage system and any other proposed underground utilities.

(5) Proposed lot lines.

(6) Date, North arrow and scale.

(7) Title under which the proposed subdivision is to be recorded with the names of the owner and engineer or land surveyor who prepared the layout plans; license number of the engineer or land surveyor shall be shown on the drawing.

C. Construction details. Construction details shall be prepared by a licensed professional engineer or a licensed professional land surveyor with a properly executed New York State Education Department Exemption N. Such details shall include:

(1) The proposed sanitary sewer system, including pipe sizes, bedding and profiles.

(2) The proposed storm drainage system, including pipe sizes, bedding, catch basin and manhole details, profiles and method of disposal of collected stormwater.

(3) The proposed water supply system.

(4) Any other proposed underground utilities.

(5) Typical cross section of the roadway, including the right-of-way width, pavement width and depth of pavement materials and subbase, location of utilities, character and dimensions of curbs and sidewalks and side slope grading.

(6) Profiles, showing original ground surface at center line and both right-of-way lines of all streets and finished street surface at center lines of all streets, percentage of grades of streets, stationing and elevations of all points of curvature, points of intersection, points of tangency and of proposed sewers, drains, culverts, manholes and other features. Invert elevations and slopes of sewers and drains and both surface and invert elevations of manholes shall be indicated. Profiles shall be drawn to the scale of five feet to the inch vertical and 50 feet to the inch horizontal. The stationing shall show accurate center-line distances. The elevations of the original ground surface shall be to the nearest tenth of a foot and, of fixed points, to the nearest hundredth of a foot.

(7) The location and elevation of all proposed monument locations.

(8) Date and scale.

(9) The title under which the proposed subdivision is to be recorded, with the names of the owner and engineer who prepared the construction details; the license number and seal of the engineer shall be affixed to the drawing.

D. Clearing plan. A clearing plan shall be prepared at a scale of 50 feet to the inch. Such plan shall show the following details:

(1) Existing vegetation prior to any clearing of the site for site investigation purposes.

(2) Areas of vegetation removed from the site for investigation purposes.

(3) The location of roadways, underground or overhead utilities not in roadways, limits of grading, proposed location of any buildings, septic systems, wells and driveways and any other improvements which might require clearing.

(4) Areas where slopes are greater than 15%.

(5) Limits of proposed clearing of trees.

(6) Measures to be taken to protect remaining trees, including details.

E. Grading and erosion control plans. A grading plan and erosion control plan shall be prepared at a scale of 50 feet to the inch. Such plan shall show the following:

(1) A generalized grading and drainage plan.

(2) Any phasing of tree removal and/or construction.

(3) Proposed erosion control measures, including scheduling and phasing during the site preparation, site construction and post construction.

(4) Details of all erosion control measures.

F. Drainage report. A drainage report shall be prepared by a licensed professional engineer or a licensed landscape architect. Such drainage report shall be prepared in accordance with the design standards established under Section VIII. Design Standards, of these regulations.

G. Environmental report. An environmental report in accordance with the State Environmental Quality Review Act Editor's Note: See Article 8 of the Environmental Conservation Law. describing the potential environmental impact of the proposed subdivision as required by the Town Planning Board.

H. Statement of intent. A statement of intent shall be submitted by the applicant. Such statement shall include:

- (1) Proof of ownership of the land to be subdivided in a form approved by the Town Attorney.
- (2) The nature and extent of proposed street improvements.
- (3) The nature and extent of any recreational features, parks, playgrounds, water supply, sewerage and drainage rights-of-way and easements, retention basins and other land to be dedicated to public use and the conditions under which dedication of these features is to be made to the town.
- (4) A statement that the applicant will install all improvements in accordance with the standards prescribed by the departments of the town having jurisdiction and set all monuments as shown on the final plat thereof in such a manner as the Board may designate.

I. Notification of property owners. The town shall notify by registered mail all property owners of land contiguous to the proposed subdivision and property owners who front on contiguous streets or highways and are within 500 feet of the proposed subdivision. Such notification shall indicate the subdivider's intent to subdivide and the date and time of the public hearing to be held by the Planning Board.

J. Fees.

- (1) The application for preliminary plat approval shall be accompanied by a fee listed on the correct Schedule of Fees for the Town of Moreau posted in the office of the Zoning Enforcement Officer.
- (2) In addition to the fee listed on the Schedule of Fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of the legal and technical assistance to the Planning Board.

§ 124-10. Procedures.

A. Application.

- (1) Unless otherwise agreed upon by the Planning Board and the subdivider, the subdivider shall submit an application for preliminary plat review within 12 months after the sketch plan discussion.
- (2) The subdivider must submit to the Planning Board, by the submission deadline date specified by the Planning Board, 10 copies of the preliminary plat application, including all drawings and reports.
- (3) The Planning Board, at its regular monthly meeting, shall review and determine the completeness of an application for preliminary plat approval. The date of the submission of the preliminary plat shall be considered to be the date on which the Planning Board determines the application is complete and payment of the required fees have been made to the Planning Board.

B. Extent on preliminary plat. Approval of the preliminary plat shall include the entire subdivisions including all phases of development as presented and discussed during the sketch plan conference. If additional land is proposed to be subdivided or if the proposed preliminary plat is substantially altered from the sketch plan, the applicant shall be required to resubmit a sketch plan for discussion with the Planning Board, showing the full extent of the new subdivision prior to submitting such subdivision for preliminary plat review.

C. Public hearing. Within 45 days after the date of official submission of the preliminary plat, the Planning Board shall hold a public hearing, which shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such preliminary plat.

D. Notice. The subdivider shall display prominently on the subject property for 10 days preceding the date of the public hearing at least one sign, two feet by three feet in size and carrying a legend prescribed by the Town Planning Board, announcing the public hearing. The sign shall be in full public view from the street pavement and legible from the street. If the property is bounded by more than one street, a sign shall be placed on each street that bounds the property.

E. Study of preliminary plat.

(1) The Planning Board shall study the preliminary plat, taking into consideration the provisions of these regulations. Particular attention shall be given to the arrangement, location and design of streets and their relation to topography, water supply, sewage disposal, drainage, lot sizes and arrangement, the placement of utilities, the future development of adjoining lands as yet unsubdivided and the requirements of the Land Use Plan and Zoning Law Editor's Note: See Ch. 149, Zoning. and the requirements of the State Environmental Quality Review Act. Editor's Note: See Article 8 of the Environmental Conservation Law.

(2) Prior to approval of the preliminary plat, the Planning Board shall submit copies of the proposed subdivision to the appropriate town departments for their review and comment.

F. Action on preliminary plat.

(1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat. Within 45 days after the completion of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plat. This time period may be extended by written agreement of the subdivider and the Planning Board. The grounds of a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When approving a preliminary plat, the Planning Board shall state in writing such modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of such preliminary plat, it shall be certified as having been granted preliminary approval and a copy filed in the Town Clerk's office, a finding sheet mailed to the owner and a copy forwarded to the Town Board. Failure of the Planning Board to act within such 45 days or otherwise agreed-upon period shall constitute approval of the preliminary plat.

(2) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to:

(a) The modifications to the preliminary plat.

(b) The character and extent of any required improvement for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals and general welfare.

(c) The amount of improvements or the amount of all bonds therefor which it will require as prerequisite to subdivision plat approval. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat and as a guide to the preparation of the subdivision plat.

(3) The developer shall sign and date a copy of the Planning Board's findings sheet and such approval shall be deemed to have occurred upon the return of such signed findings sheet to the Planning Board.

ARTICLE V. Final Plat Review and Approval

§ 124-11. Purpose.

The final plat review and approval is the second step in a two-step review process. The Planning Board meeting at which the final plat is submitted shall be separate and apart from the meeting at which preliminary plat submission is made. The purpose of the final plat review is as follows:

A. To ensure that the proposed subdivision meets all state and local regulations related to provision of public services.

- B. To ensure that the proposed subdivision addresses all issues raised during preliminary plat review.
- C. To receive additional public comment when the Planning Board deems it necessary.
- D. To facilitate the orderly approval of phases of the proposed subdivision.

§ 124-12. Requirements.

The applicant is required to submit 10 copies of the final plat application. Such application shall include the following documents and/or information:

A. Final plat. The final plat shall be laid out by a licensed professional engineer with a properly executed New York State Education Department Exemption N or a licensed land surveyor. Such final plat shall be prepared at a scale of 50 feet to the inch, clearly showing:

- (1) The bearing and length of all straight lines and the radii, lengths and central angles of all curves along all property and street lines.
- (2) The area of each lot in square feet or in acres, if such lot is larger than one acre.
- (3) The connection by proper measurement between street center lines where such streets are not straight across an intersecting street, both within the subdivision and where opposite existing streets or subdivision.
- (4) A system of monuments to be located at all corners of intersections and angle points.
- (5) Proposed block and lot numbers as approved by the County Real Property Tax Service.
- (6) Building setback lines for each lot.
- (7) Fire and school district boundaries within the subdivision area.
- (8) Existing zoning with location of any district boundaries within 200 feet of the property to be subdivided.
- (9) The boundaries of the property, the lines of proposed lots, streets and parks and the lines of all adjoining streets, their names and exact survey locations.
- (10) The names of all subdivisions immediately adjacent and opposite or, if not subdivided, the names of the owners of record of adjacent and opposite property.
- (11) A statement that the plan is in compliance with the Zoning Ordinance of the Town of Moreau. Editor's Note: See Ch. 149, Zoning.
- (12) A statement reading as follows:

Approved under authority of a resolution adopted _____ by the Planning Board of the Town of Moreau, New York. _____ Chairman _____ Planning Board Member.

- (13) Title, showing name of subdivision, owner, scale, date and North point.

- (14) A certificate of the licensed engineer and/or land surveyor making such plan to the effect that the plan is correct and made from an actual survey. The license number and seal of the engineer and land surveyor shall be affixed to the drawing.

(15) Stormwater pollution prevention plan. A stormwater pollution preventive plan consistent with the requirements of Chapter 120 herein and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SPPP shall meet the performance and design criteria and standards in Chapter 120. The approved final subdivision plat shall be consistent with the provisions of Chapter 120.

[Added 2-26-2008 by L.L. No. 1-2008]

B. Endorsement of state and county agencies. Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the subdivision plat requiring approval by the Department of Environmental Conservation and/or New York State Department of Health have received at least preliminary approval(s) of such facilities and that any special district extensions required have been authorized by the Moreau Town Board. Any proposed water supply and sewage disposal facility shall meet the Town of Moreau design and construction standards for such facility. The plat shall not be stamped approved until all state or county required approvals for each lot of the subdivision have been received in writing by the Planning Board.

C. Other plans and reports.

(1) Drainage report, demonstrating proper sizing of drainage swales, culverts, pipes, inlets and stormwater detention basins.

(2) Planting plan, illustrating species and location of proposed tree planting.

(3) Tree-clearing plan illustrating areas and methods of protection of existing trees to remain.

(4) Erosion control plan illustrating methods and location of erosion control devices and schedule of maintenance of such devices and other actions to reduce erosion.

(5) Construction plans showing grading and other site improvements and details of those site improvements.

D. Homeowners' association or condominium agreements. If the subdivision is to be managed by a homeowners' association or condominium, copies of their regulations and agreements indicating any restrictions required by the Planning Board. If the subdivision is to be sold fee simple, copies of deeds indicating any restrictions required by the Planning Board.

E. Streets, recreation land or open space.

(1) The plat shall be endorsed with the necessary agreements in connection with required easements or releases. Offers of dedication to the town shall be presented prior to plat approval. Formal offers of dedication to the town of all streets and parks not marked on the plat with a notation to the effect that such dedication will not be offered, shall be filed with the Planning Board prior to plat approval. If the owner of the land or his agent who files the plat does not add as part of the plat a notation to the effect that no offer of dedication of such streets, highways or parks or any of them is made to the public, filing of the plat in the office of the County Clerk or registrar shall constitute a continuing offer of dedication of the streets, highways or parks or any of them to the public and said offer of dedication may be accepted by the Town Board at any time prior to revocation of said offer by the owner of the land or his agent.

(2) The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. If the Town Board determines that a suitable park or parks of adequate size cannot be properly located in any such plat or is otherwise not practical, the Board may require as a condition to approval of any such plat a payment to the town of a sum to be determined by the town, which sum shall constitute a trust fund to be used by the Town Board exclusively for neighborhood park, playground or recreation purposes, including the acquisition of property. The Planning Board may require the filing of a written agreement between the applicant and the Town Board covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any park or playground area.

F. Fees.

(1) The application for final plat approval shall be accompanied by a fee listed on the correct Schedule of Fees for the Town of Moreau posted in the office of the Zoning Enforcement Officer.

(2) In addition to the fee listed on the Schedule of Fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of the legal and technical assistance to the Planning Board.

§ 124-13. Procedures.

A. Application.

(1) Unless otherwise agreed by the Planning Board and the subdivider, the subdivider shall submit an application for subdivision plat approval for the first phase of the proposed subdivision [maximum 35 lots] within 12 months after preliminary plat approval. Failure to do so within such time period may require resubmission of the preliminary plat to the Planning Board. The application shall be on a form provided by the Planning Board and shall include elements described in this Article, and the plat shall conform to the preliminary plat, as modified by the Planning Board, if such preliminary plat was approved with modifications. Application and fee must be submitted to the Planning Board at least 21 days before the regularly scheduled Planning Board meeting.

(2) The Planning Board, at its regular monthly meeting, shall review and determine the completeness of an application for final plat approval. The date of the submission of the final subdivision plat application shall be considered to be the date on which the Planning Board determines the application is complete and payment of the required fees have been made to the Planning Board.

B. Extent and character of final plat. Review and approval of the final plat shall include a maximum of 35 lots. Such lots shall be in substantial agreement with the preliminary plat approved under Article IV of these regulations and modified in accordance with requirements of such approval, if such preliminary plat has been approved with modifications.

C. Additional or second public hearing. Within 45 days of the date of official submission of the subdivision plat for approval, the Planning Board may require a public hearing if said plat is substantially different from the preliminary plat or if the Planning Board determines that it is in the public interest to conduct a second public hearing. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved in this Article and modified in accordance with requirements of such approval, if such preliminary plat was approved with modification, the Planning Board may waive the requirement for such public hearing.

D. Notice. If the Planning Board requires a public hearing, the subdivider shall comply with § 124-91, Notification of property owners, and § 124-10D. Notice, of these regulations.

E. Action on subdivision plat.

(1) Within 45 days of the date of official submission of a subdivision plat, if no hearing is held or, in the event a hearing is held, not more than 45 days after the completion of such hearing, the Planning Board shall, by resolution, conditionally approve, disapprove or grant final approval and authorize the signing of such plat. This time period may be extended by written agreement of the subdivider and the Planning Board. Failure to take action on a final plat within such time period shall constitute final approval of the plat.

(2) Upon granting conditional approval of the final plat, the Planning Board shall empower a duly designated officer to sign the plat upon compliance with such conditions and requirements as may be stated in the resolution of conditional approval. Within five days of such resolution, the plat shall be certified by the Chairman of the Planning Board as conditionally approved and a copy filed in the office of the Planning Department and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include two findings sheets, one of which shall be signed by the applicant and returned to the Planning Board. Such requirements, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements to the satisfaction of the duly designated officer of the Planning Board, the plat shall be deemed to have received final approval, and such officer shall sign the plat accordingly. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board

may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion, such extension is warranted in the circumstances, for one or two additional periods of 90 days each.

(3) The final plat shall show the exact location and depth of sanitary sewer, storm sewer and water service. It shall also set forth the exact layout and dimensions of proposed streets with the street names and house numbers.

(4) Final approval of the subdivision plat plan shall be limited to that phase of the development currently pending before the Planning Board.

F. 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 Board and a duly designated officer thereof has signed the plat, unless such plat is first resubmitted to the Planning Board and such Board approves in writing any modifications. In the event that any such modified or revised subdivision plat is recorded without complying with this requirement, such recording shall be null and void, and the Board shall institute proceeding to have the plat stricken from the records of the County Clerk.

G. Final approval and filing.

(1) Upon receiving final approval pursuant to this Article and being properly signed by the duly designated officer of the Planning Board or upon receiving a certificate from the Town Clerk as to the Planning Board's failure to act within the prescribed time period, a subdivision plat may be filed or recorded in the office of the Clerk of Saratoga County.

(2) Any subdivision plat not so filed or recorded within 60 days of the date of such final approval shall become null and void.

ARTICLE VI. Construction

§ 124-14. Purpose.

The construction of the subdivision shall proceed in accordance with the final plat approval. Requirements of the subdivider during construction are herein stated for the following purposes:

- A. To ensure that the subdivision is constructed in accordance with all plans and details submitted and approved under Article V, Final Plat Review and Approval, of these regulations.
- B. To ensure the proposed subdivision meets all requirements of Article VIII, Design Standards, of these regulations.
- C. To ensure the public health, safety and welfare during the construction of the subdivision.
- D. To finalize all agreements, transfer of land and improvements to be dedicated for public use.

§ 124-15. General requirements.

- A. Availability of plans. During construction operations, the subdivider shall maintain a copy of the approved drawings on the site. Such plans will be used for review of work in process. If such drawings are not available on site, construction may be stopped until such time as the subdivider can provide and maintain the appropriate plans at the construction site.
- B. Construction sequence. Prior to installation of road pavement, the developer shall, at his own cost and expense, cause to have installed utilities and services, including water mains, storm drains and sanitary sewer, including laterals to the property lines.
- C. Signing.

(1) Street signs shall be supplied and installed by the Town of Moreau and shall be installed as soon after beginning of construction of the road as possible to ensure proper inspection and for identification by emergency vehicles, especially fire trucks and ambulances. The subdivider shall notify the Town Highway Superintendent at the earliest possible time that signs may be installed.

(2) Prior to constructing any buildings, each lot shall have posted, visible from the public road, the lot and block number to ensure proper inspection and identification for emergency vehicles, especially fire trucks and ambulances.

D. Review by town officials. The Building Inspector and Zoning Enforcement Officer shall act as agent to the Planning Board for the purpose of assuring the satisfactory completion of improvements required by the Planning Board. Each phase of road construction must be inspected by the Highway Superintendent. If the Planning Board or the Zoning Enforcement Officer finds, upon inspection, that any of the required improvements have not been constructed in accordance with Planning Board recommendations or the approved construction plans or details, the applicant and the bonding company, if any, will be severally and jointly liable for the costs of completing said improvements according to specifications.

E. Construction inspection. The town shall retain a licensed professional engineering consultant to inspect the installation of all utilities and road construction and confirm for the town's benefit that construction is in accordance with the approved subdivision drawings. The cost of this construction inspection service shall be borne by the subdivider and shall be paid to the town prior to the acceptance of any roads in the subdivision.

F. Monuments.

(1) A system of permanent monuments shall be located at all corners of all lots, intersections and angle points after the subdivision improvements are completed. Such monuments shall be installed by the engineer or land surveyor during the performance of the field work.

(2) Monuments at intersections and angle point of streets shall be substantial granite posts with a cross on top or concrete posts four inches square. Monuments shall be accurately set, not less than three feet in the ground. Monuments at the corners of lots not coincidental with the street corners shall be iron rods set accurately not less than three feet in the ground.

G. Driveway permits. A driveway permit shall be required for all lots to be developed in the subdivision.

H. Record drawings. Prior to release of any funds in escrow or monies or commitments held by the town to the subdivider, approved record drawings conforming to construction records shall be submitted to the Town Planning Department. Such drawings shall be reviewed, approved and signed-off by the Highway Department, Water Department (for water and sewer) and the Zoning Officer.

§ 124-16. Preconstruction conference; variances; public streets, parks and recreation areas.

A. Preconstruction conference. Once the subdivision plat has been filed and prior to any clearing, demolition or excavation on the subdivision site, the subdivider or his authorized agent shall meet with the officials from the Town Highway Department, Water Department and Zoning Enforcement Office to discuss town requirements, scheduling, inspection procedures and other issues pertinent to the construction phase of the subdivision as set forth in this Article.

B. Variance from plans.

(1) If, upon inspection, any required improvements are not able to be constructed in accordance with the approved plat or construction plans or details to the extent that lot lines of the subdivision will be altered or where construction cannot be completed in accordance with the design standards established under Article VIII of these regulations, the subdivision shall be resubmitted to the Planning Board for review and approval under Article V. Final Plat Review and Approval, of these regulations.

(2) In the event that any such modification is constructed without Planning Board approval, the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

C. Public streets, parks and recreation areas.

(1) Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not constitute an acceptance by the town of a street or road in accordance with Article VIII, Design Standards, and other town standards related to the construction of roads and highways. Before the town accepts the street or road, the Town Highway Superintendent shall review said road or street and make recommendations to the Town Board for acceptance.

(2) Ownership and maintenance of parks and recreation areas. When a park, playground or other recreation area or open space shall have been shown on a plat, the approval of the plat shall not constitute an acceptance by the town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a declaration of dedication for any such area, which shall dedicate that area for the common use approved by the Town Board, which declaration shall be recorded in the Saratoga County Clerk's Office at the developer's expense. Such common area shall be assessed from the time of filing of the approved subdivision plat to all parcels in the plat benefiting therefrom.

(3) Title insurance and fees. An abstract of title continued to recent date showing marketable title to the premises offered for dedication or, in the alternate, a policy of title insurance insuring the fee interest of said land to the Town of Moreau in amount not less than \$10,000 shall be required. The subdivider shall be required to pay any and all deed recording fees and taxes required for the transfer of property.

(4) See Article VII, Public Streets, Parks, Open Spaces and Natural Features, for requirements and procedure in making an offer of dedication of required improvements.

ARTICLE VII. Public Streets, Parks, Open Spaces and Natural Features

§ 124-17. Public streets.

A. The Zoning Ordinance of the Town of Moreau Editor's Note: See Ch. 149, Zoning. provides that no building permits shall be issued for any lot or parcel of land that does not front on a town accepted roadway. The Town Board shall not accept any roadway shown on an approved subdivision plat except when same is built per the specifications hereof. However, where the subdivider has constructed a roadway per the specifications hereof, except for application of surfacing materials, the Town Board may accept the offer of dedication if the subdivider files with the Town Clerk a certified check or irrevocable letter of credit covering the cost of satisfactorily completing construction of the subject road. Said certified check shall be deposited by the Town Fiscal Officer in an interest-bearing account.

B. The acceptance of roads within a subdivision may be phased. However, the termination point(s) of the road(s) shall be approved by the Town Highway Superintendent and shall be chosen such that the accepted portions of the road(s) meet the requirements of this regulation with regard to design standards and emergency vehicle access.

C. The Town Board shall, in considering an offer of dedication of roadway, have the right to reject the same if all other municipal improvements provided by developer concerning the lots fronting on said roadway are not also complete or also for reasons of public safety.

D. In making said offer of dedication, the subdivider shall submit the following documents to the Town Attorney:

(1) An abstract of title continued to recent date showing marketable title to the premises offered for dedication or, in the alternate, a policy of title insurance insuring the fee interest of said roadway to the Town of Moreau in amount not less than \$10,000.

(2) A copy of a survey of subject roadway certified to the Town of Moreau by a professional preparing the same.

(3) Current tax search of subject premises.

(4) Written approval of the Highway Superintendent.

(5) Written approval of the Water Department Superintendent when the proposed subdivision is located within a town water district.

(6) If surfacing material has not been applied, then a certified check, irrevocable letter of credit or bond with annual update in an amount recommended by the Town Highway Superintendent, to cover the cost of satisfactorily completing construction of said roadway.

(7) An affidavit signed by the subdivider agreeing to complete surfacing of the roadway within two years after the base course has been installed or at least 2/3 of the phase is completed. Said subdivider shall bear the expense of any paving cost overruns if the certified check on deposit with the town, with accrued interest, should be an insufficient amount. In addition, should any amount of moneys remain after surfacing is satisfactorily completed, said moneys, plus accrued interest, shall be refunded to the subdivider.

E. The owners of all parcels deeded to and accepted by the town subsequent to the taxable status date (March 1) shall have to pay all taxes levied against the property until the next following taxable status date.

[Added 6-14-1994 by L.L. No. 2-1994]

§ 124-18. Parks, open spaces and natural features.

A. Purposes. The purpose of this section is to provide an equitable and effective development standard for securing adequate land and funding for parks, playgrounds and open space recreation areas in the Town of Moreau.

B. Fee.

(1) The Planning Board shall require, as condition of approval of the plat, a payment of recreation fees in such amount to be set by the Town Board. Such fees shall be paid to the Town Board at the time of final plat approval and no plat shall be approved by the authorized officer of the Planning Board until such payment is made. Such payments shall be held in a special fund for acquisition and development of recreation land. All money in this fund is to be used only for:

(a) The purchase of land that is suitable for new or enlarged parks, playgrounds or open spaces and located so as to serve the inhabitants of the town's residential neighborhoods.

(b) The improvement of new or existing park, playground and open space lands which serve the town's residential neighborhoods.

(2) In any case, the Planning Board shall be satisfied that required recreation land will be maintained and will not be used for other than recreation purposes.

C. Land dedication in lieu of fees.

(1) In cases where the Board finds that due to the size, shape or location of the subdivision, land dedication for a park, playground or other recreational purpose is preferable to the payment of a recreation fee, the Town Board may waive the fee and require as condition of approval the dedication of land for recreational purposes.

(2) The subdivider shall then file with the Town Board a plat detailing the sites for the development of a park, playground or other recreational facility. Recreation space shall be provided by the subdivider on the basis of at least 1,000 square feet per lot but in no case shall the amount be more than 10% of the total area of the subdivision. Such area or areas may be dedicated to the town by the developer if the Town Board approves such dedication. All lands designated on the plat as park, playground or other recreation areas not in town ownership shall be subject to such conditions as the Planning Board may establish, such as hours of operation, access to the general public, use and maintenance of such lands as deemed necessary to assure the preservation of such land for its intended purpose. Such conditions shall be shown on the plan prior to plat approval and recording. The Planning Board shall consider the following in determining the suitability of the served land for recreational purposes:

(a) The size and shape of the reserved land.

(b) Whether the land is usable land, which for purposes of these regulations shall be taken to mean land that is relatively level and dry.

(c) The location of the reserved land, i.e., whether the land is:

[1] Located in an area which is heavily populated.

[2] Near other recreation areas.

[3] Near other recreation areas providing the same type of recreation.

[4] In a location which will provide a safe and accessible recreation area for town residents.

D. Nothing in this section will be construed as prohibiting a developer from reserving land for recreation purposes in addition to the requirements of this section.

E. The Planning Board shall not at any time authorize the waiver of both the fee and land dedication in lieu thereof requirements.

ARTICLE VIII. Design Standards

§ 124-19. General provisions.

A. These standards are issued as guides for design and construction of facilities by private developers. They are formulated so that all facilities may eventually be accepted for maintenance by the town. Within this objective, adequate design life, ease of operation and maintenance and standardization have been given primary consideration. Each facility shall be designed and constructed as part of a future complete system.

B. Any standard or specification referred to shall be understood to be the current version of that standard or specification. The Board may require higher standards where it believes they are justified. The Board will also consider approval of a design or construction method which is not included in these standards.

C. All design and construction shall be in accordance with the current editions of design and Construction Standards of the Town of Moreau Highway Department, Water Department and Sewer Department, if such standards exist.

D. The list of approved material is under constant review by the Board and submission of requests for inclusion of such new material is encouraged. Such requests should be substantiated by test results, specifications and other data. Listing of a material or component in the list of approved materials or approval of new material does not prevent the Board from requiring inspections or tests deemed by the Board to be necessary before such material or component is installed.

E. In general, the subdivision plat, plans and profiles included in the final submission shall include enough detail to show compliance with design standards. The Board may require the submission of design calculations for review by the town's Engineer.

F. Compliance with all standards cited herein will be required prior to final approval for construction. Failure to do so shall prevent the issuance of building permits for construction on the individual lots.

§ 124-20. Surveying and mapping.

A. General. Procedure shall include tension, temperature and slope corrections to distance measurements, adjustment of closed baseline traverses, presentation of all necessary data clearly and completely and the use of proper methods to obtain the required standards of accuracy cited in the Code of Practice.

B. Mapping accuracy. The limits of error in any map shall not exceed 1/10 inch between points as scaled on the original map. The elevation error shall not exceed 1/2 the contour interval.

C. Monuments and bench marks.

- (1) Monuments shall be reinforced concrete or stone four inches square, a minimum of three feet long.
- (2) There shall be a minimum of two monuments within each subdivision to control the location of lot corners and road lines. If these monuments are at road intersections or along road lines, they should not be set until the road has been constructed. They should be in position when the Town Highway Superintendent inspects the road prior to dedication.
- (3) The number of monuments to be set should depend on the size of the subdivision. In general, a pair of intervisible monuments should be set along each road.
- (4) The record map should show the location of the monuments to be set, along with the coordinate values and elevation of the top of each monument. The elevation of the monuments should be referred to sea level datum, as established by the United States Geological Survey. Where applicable, monuments shall be tied into the Saratoga County Geodetic Monumentation Network as established by the Saratoga County Geodetic Survey Monumentation Law.
- (5) If an elevation control monument does not exist within one mile of the subdivision, then the elevation shown on the United States Geological Survey topographic map, at the nearest road intersection, shall be used as a bench mark and so noted on the subdivision map.

D. Permanent markers. Each lot in the subdivision shall be indicated by permanent iron rod markers, set in the ground, designating each corner and change of direction.

§ 124-21. Character of land.

A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health.

B. Property or any part thereof which has been clear-cut within the last five years will not be considered for subdivision. Precautions shall also be taken to protect existing trees and shrubbery and protected plants or endangered species during the process of grading the lots and roads. Where there is a question as to the desirability of removing a group of trees which serve to add interest and variety to the proposed subdivision in order to allow for use of the land for a lot or lots, the Planning Board may, after proper investigation, require modification of such lots. Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written permission from the Planning Board.

- (1) To the fullest extent feasible, all existing trees and shrubbery and endangered/protected species shall be conserved by the subdivider. Special consideration shall be given to the arrangement and ultimate improvement or development of the lots to this end.
- (2) Where a subdivision is traversed by a natural lake, pond or stream, the boundaries or alignment of said watercourse shall be preserved unless, in the opinion of the Planning Board, a change or realignment will enhance the development and beauty of the subdivision or the utilization of such features by the future residents of the subdivision. All proposed changes in watercourse alignment shall be in accordance with the Environmental Conservation Law.
- (3) Unique physical features such as historic landmarks and sites, rock outcroppings, hilltop lookouts, desirable natural contours and similar features shall be preserved if possible.
- (4) The subdivider shall not be permitted to leave any surface depressions which will collect pools of water. This shall not preclude the use of retention or detention basins as part of a stormwater management program.
- (5) The subdivider shall not be permitted to leave any piles or mounds of dirt or other debris or materials around the tract. All surfaces shall be restored within six months of the time of the completion of the section of the subdivision.

(6) Floodplain.

(a) Mapping. If any portion of the land within the subdivision is subject to inundation or flood hazard by stormwater, such fact and portion shall be clearly indicated on the preliminary and subdivision plats and the prominent note on each sheet of such map whereon any such portion shall be shown.

(b) Use. Land subject to flooding and land deemed by the Planning Board to be otherwise 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.

§ 124-22. Density.

The maximum buildable lots for a conventional subdivision shall be calculated as follows: From the total area of the property to be subdivided, subtract:

- A. The area to be occupied by the proposed streets rights-of-way; and
- B. The area to be set aside for other public use such as park land; and
- C. Any unbuildable areas of the lot such as wetlands, rock outcrops, slopes over 25% and bodies of water; then divide the resulting figure (the remaining acreage) by the lot size allowed in the zone in which the lots will be located.

§ 124-23. Layout of streets and roads.

[Amended 6-14-1994 by L.L. No. 1-1994]

The town streets and roads shall include public streets and roads in all sections of these regulations.

- A. The design and construction of all streets and roads shall be in accordance with the Moreau Highway Department's Design and Construction Standards current edition.
- B. Relationship to natural features.
 - (1) All streets and roads shall be logically related to the existing topography, soil, vegetation and other natural features and shall be coordinated into the logical and efficient system. All roads shall be arranged so as to obtain a maximum number of building sites at or above the grade of the roads.
 - (2) Grades of roads shall conform as closely as possible to the original topography, except that in all cases the provisions concerning road grades of this Article shall be observed.
 - (3) Installation of all utility distribution and service lines shall be planned at the time road layout is determined. For these purposes, areas with steep slopes, shallow soils, with a water table at or near the surface and soils that are highly susceptible to erosion or slippage shall be avoided insofar as practical.
 - (4) Road layout shall minimize stream crossings and be perpendicular to the stream.
 - (5) Easements. An easement shall be provided for all natural drainageways and all utility lines when such utility line or lines do not fall within a dedicated right-of-way. All easements shall be plotted on the preliminary plat and subdivision plat. A clause shall be inserted in the deed of each lot affected by an easement indicating that the easement exists and its purpose. Except as further required in this section, easements shall have a minimum width of 10 feet. Where a subdivision is traversed by a drainageway, channel or stream, a drainageway easement conforming substantially with the lines of such watercourse shall be provided. The easement shall be 20 feet wide or such width as will be adequate to preserve natural drainage and provide sufficient width for maintenance. Where it is found that additional easement width is needed, width shall be determined by the Planning Board. Prior to the completion of the roadway, all utility lines which are primarily intended to provide service to the lots within the subdivision shall be installed underground at a depth and at such location as will minimize risk of interruption of services.

C. Intersections. In general, all streets and roads shall intersect so that for a distance of at least 100 feet, each street is approximately at right angles to the street it joins. Local street intersections with collector streets shall be separated by at least 600 feet. Local street intersections with arterial highways shall be held to a minimum and shall be spaced at least 1,000 feet apart.

D. Special treatment along certain highways. When a subdivision abuts or contains an arterial or collector highway, the Planning Board may require that no lot front or have direct access on said highway. The Planning Board may also require marginal access streets, reverse frontages, screen plantings in nonaccess reservations along property lines, deep lots with rear service alleys and other designs deemed necessary to protect neighboring properties and community aesthetics and separate through traffic from local traffic. If the Planning Board finds the foregoing unfeasible, then lot frontages may be increased by as much as 100% of the authorized lot width within the applicable zone to a maximum lot frontage of 250 feet. Residential subdivisions on arterial highways shall have two-hundred-fifty-foot frontages on said highways. Turnarounds shall be required on all lots fronting on arterial highways and may be required on collector highways. The Planning Board shall examine proposed frontages, applicable zoning density, applicable lot widths, current and anticipated traffic patterns and volumes, sight distances, drainage, topography and any other criteria it deems relevant in determining special treatment.

[Amended 6-14-1994 by L.L. No. 1-1994]

E. Local streets. Subdivisions shall be so designed as to provide a street pattern which shall be based upon a local residential street pattern connected to a residential collector street system. Local streets shall be laid out so that their use by through traffic will be discouraged.

F. Dead-end streets.

(1) Dead-end residential streets with culs-de-sac will be permitted whenever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, the Board may require the reservation of a twenty-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street when the Board, in its discretion, feels such easement is necessary or desirable. Subdivisions containing 35 lots or more shall have at least two street connections with existing public streets. In the case of an internalized subdivision, the requirements for two entrances may be satisfied by a provision of a double-width [two times standard road width] road from the main connecting street to the first intersection street. A planted center island will be required in a double-width roadway and an increase in the right-of-way will be required to provide for the planted center island.

(2) When a planted island is proposed, the subdivider shall indicate on the plan who shall maintain such.

G. Continuation of projection of certain streets. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, 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 services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuation or projection undesirable or impracticable, this requirement may be modified. Right-of-way for future connection links shall be deeded to the town at the time of street dedication. However, connector links shall not be constructed unless necessary for the subdivision and, if constructed, shall be served by an appropriate turnaround in accordance with the requirements herein.

H. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited-access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of 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 distance shall also be determined with due regard for the requirements of approach grades and future grade separations.

I. Location. Streets shall follow low land, excepting wetlands, whenever feasible. When a subdivision street intersects an existing street, the Board may require the owner to improve the existing street within 100 feet of said intersection to meet the requirements of these regulations for intersection design.

J. Street design.

(1) A curve shall be required whenever a collector or local street deflects more than 10°. A curve shall be required for any deflection in an arterial street. Minimum center line radius for horizontal curves shall be as follows:

Street Type	Minimum Radius (feet)
Collector	300
Local	100
[Amended 6-14-1994 by L.L. No. 1-1994]	
Marginal access	200

(2) A tangent of at least 50 feet shall be required between reverse curves, except where the topographical conditions of the site being subdivided would require a lesser radius or tangent without disturbing major portions of unexcavated soil and foliage.

(3) Street grades.

(a) Maximum street grades shall be as follows:

Street Type	Maximum Grade (percent)
Collector	8
Local	10
Marginal access	10

(b) Street grades shall not be less than 0.75%. Grades at street intersections shall be held to a maximum of 3% for a distance of 100 feet from the edge of pavement of the intersected street. Vertical parabolic curves shall be introduced at changes of grade exceeding an algebraic difference of 1% and shall provide the following minimum sight distances:

Street Type	Minimum Sight Distance (feet)
Collector	250
Local	100
Marginal access	100

(4) Street intersection.

(a) T-intersections shall be used in residential areas where practical. Intersections of more than two streets shall be prohibited. Intersecting streets shall be laid out so as to intersect at 90°. Any change in street alignment to meet this requirement shall be at least 100 feet from the pavement edge of the intersected street.

(b) Street right-of-way lines and roadways at intersection shall be rounded with a radius determined from the following table by the higher type of street in the intersection:

Street Type	Minimum R.O.W.D. Radius (feet)	Roadway Radius (feet)
Arterial	Varies	Varies
Collector	22	40
Local	7	25
Marginal access	2	20

(c) Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of 125 feet between their center lines.

(d) Sight distances at intersections shall meet the requirements of New York State Department of Transportation's design standards.

(5) Dead-end streets. Dead-end streets shall not be longer than 1,000 feet and shall be provided with a turnaround at the closed end, having a street right-of-way diameter of at least 140 feet and an outside edge of pavement diameter of at least 100 feet. The island left in the turnaround shall be graded to a low point drain at the center of the turnaround. There shall be no curbs around the island. The turnaround pavement shall slope to the outside of the circle. The pavement radius at the entrance to the turnaround shall be 55 feet for symmetrical turnarounds and greater for offset turnarounds. When a street is extended beyond an intersection to make provision for its future extension, a temporary turnaround shall be provided at the end of the street. The temporary turnaround shall meet the requirements for a permanent turnaround.

(6) Street access. Access to arterial streets shall be restricted as far as practicable.

(7) Street setbacks. Setbacks from existing streets shall be in accordance with the Zoning Law. Editor's Note: See Ch. 149, Zoning.

(8) Fill slopes. Where streets are constructed on new fill, the side slopes of the fill shall be as follows:

Fill Height (feet)	Slope (Vertical to Horizontal)
0 to 6	1 to 4 or flatter
6 to 12	1 to 3 or flatter
Above 12	Not permitted

K. Guardrailing. Where streets are constructed on fills of greater than six feet in height, guard railing shall be installed along the side of the road, eight feet from the edge of the roadway.

L. Street entrances to subdivision. In all subdivisions of 35 lots or more, at least two entrances to the subdivision from an existing public street shall be installed.

M. Street names. The developer shall establish street names as approved by the town. Street names should have a relationship to the subdivision name. The developer shall obtain approval of all proposed street names from the Saratoga County Department of Emergency Services.

N. Classification of roadways. The Planning Board of the Town of Moreau shall designate which highways fall within the various classifications as defined in § 124-4 of the Code and, upon approval of the designations by the Town Board, the Planning Board shall cause the list of highway designations to be posted in the Town Clerk's office and open to public inspection. The Planning Board shall, from time to time, update said list with Town Board approval.

[Added 6-14-1994 by L.L. No. 1-1994]

§ 124-24. Layout of lots.

A. The lot size, width, depth, shape, orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. All lots shown on the subdivision plat shall at least comply with the minimum requirements of the Zoning Ordinance Editor's Note: See Ch. 149, Zoning, as to area and dimensions for the zone in which the subdivision is located. However, in accordance with the Town Law, the Planning Board may use its discretion in determining lot sizes to ensure that the land shown on such plats shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

C. Each lot shall abut on a public street built to the town's specification. The required frontage for one principal building shall be 40 feet; and such frontage shall provide actual physical access to and from the lot to be built upon for purposes of ingress and egress to the lot by emergency vehicles such as fire trucks and/or ambulances.

[Amended 6-14-1994 by L.L. No. 1-1994]

D. Corner lots shall have width sufficient for maintenance of required front yard building lines on both streets as required by the Zoning Ordinance.

E. Side lines of lots shall be, as far as practicable, at right angles to straight streets and radial to curved streets.

F. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions or similar circumstances, the Planning Board may, after adequate investigation, require modification of such lots.

G. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the Zoning Ordinance and to provide for convenient access, circulation control and safety of street traffic.

H. Blocks intended for commercial or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

I. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear, except where such natural conditions exist that prohibit such resubdivision.

J. Driveway access grades shall conform to specifications as established by the Highway Superintendent. Driveway grades between the pavement and setback line shall not exceed 10%.

K. Lots facing on collector or arterial streets shall be of such dimension as to permit a turnaround to allow resident automobiles to enter onto such collector or arterial street in a forward motion.

L. 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 Planning Board may require that streets and lots be laid out so as to permit future resubdivision (unless further restricted) in accordance with the requirements contained in these regulations.

§ 124-25. Grading.

A. Lots.

(1) Grading of each building lot shall be such that positive surface drainage is provided for all areas. Minimum site grading slopes of 1% are recommended. Maximum site grades shall be one vertical on three

horizontal, except specially landscaped areas which will not require mowing. Finished grade adjacent to building foundations shall be a minimum of one foot above the corresponding edge of pavement elevation, where practical.

(2) Grades adjacent to buildings shall be a minimum slope of 2% away from the building for a minimum of 10 feet on the side and rear of the structure and a minimum slope of 2% up from the edge of any road or drainage facility to the front of the structure.

B. Low lots. Lots having driveways sloping away from streets shall have driveways graded so as to provide a high point at or near the right-of-way of the street so as to prevent street runoff from entering the lot.

C. Retention of vegetation. Site grading (excavation and filling) shall minimize destruction of natural vegetation, the potential for erosion, sedimentation and stormwater runoff and shall protect the health, safety and welfare of neighboring properties and the general public.

D. Site grading shall not disturb the bank or shoreline of any lake, stream, pond or wetland without permit required by the New York State Department of Environmental Conservation.

E. Site preparation and construction activities shall not result in the encroaching on or blocking or restriction of swales, storm sewer systems, wetlands or surface waters.

F. All fill material shall be of a composition suitable for fill and free of brush, stumps and other debris. No organic material shall be disposed of on site.

§ 124-26. Stormwater pollution prevention plan.

[Amended 2-26-2008 by L.L. No. 1-2008 Editor's Note: This ordinance also repealed former § 124-27, Storm drainage, and redesignated §§ 124-28 through 124-70 as §§ 124-27 through 124-69, respectively.]

A stormwater pollution prevention plan (SPPP) consistent with the requirements in Chapter 120 of the Code of the Town of Moreau (Chapter 120). The SPPP shall meet the performance and design criteria and standards in Chapter 120. The approved erosion control permit shall be consistent with the provisions of Chapter 120.

§ 124-27. Sanitary sewage disposal.

A. Sanitary sewers.

(1) Where an existing sanitary sewer is within 1,000 feet of the proposed subdivision, the developer shall submit a request to the Town Board to extend such sanitary sewer to adequately accommodate the proposed subdivision.

(2) If individual lot sanitary waste disposal is proposed, the Planning Board may require the subdivider to provide dry sewers to the limits of the subdivision for the purpose of serving the subdivision when sanitary sewers become available. This requirement shall only be made when a municipal sanitary sewer is projected to be available for connection of the subdivision within a reasonable period of time and when sufficient information is available regarding the location and elevation at which the subdivision sewers may be connected to the municipal system.

(3) All elements of the sanitary sewer system must be approved by the Town of Moreau and shall be constructed in accordance with the Town of Moreau's Sewer Use Ordinance and design and construction standards if such exist, and all other local and regional agencies which have jurisdiction.

(4) Installation of sanitary sewers shall be planned at a time when the road layout is determined.

B. Individual septic systems. Where the daily discharge of sanitary sewage into an individual system for an individual residential structure is less than 1,000 gallons per day per structure, the waste treatment (septic) system shall be designed and constructed according to the provisions and standards of the Waste Treatment Handbook. Individual Household Systems (blue book) New York State Department of Health Division of Sanitary Engineering.

C. Combined septic systems. Where the daily discharge from a structure, group of structures or units into a single sewage treatment system exceeds 1,000 gallons per day, the standards and approval of the New York State Department of Environmental Conservation or the Town of Moreau, whichever is more restrictive, will be required.

§ 124-28. Water systems.

A. General.

(1) Where an existing water main is within 1,000 feet of the proposed subdivision, a request to the town to connect to the town water supply system shall be submitted to the Water Department. If the town permits the connection to the town water supply system, the developer shall pay all costs of extending the water district.

(2) All components of the water system shall meet the requirements of the Moreau Water Department design and construction standards, if such exists, and of the Rural Water Supply Manual of the New York State Department of Health.

B. Water supply. A source of supply shall be developed which will yield 100 gallons per resident in approximately 16 hours over a prolonged period of time without disturbing the normal groundwater reserve.

C. Water quality. Water supplies for community water systems shall meet all requirements of the New York State Public Drinking Water Standards.

D. Hydropneumatic pressure system. Pumps, tanks and accessory equipment shall provide adequate pump capacity and pressure with one-day storage.

§ 124-29. Tree cutting and planting.

A. Tree cutting.

(1) Clearing shall be limited to the extent required for regrading or provision of utilities only as approved by the Planning Board.

(2) All clear-cutting operations must make provision for protection against erosion in accordance with this Article.

(3) Landscaping and ground cover.

(a) All disturbed areas which are not covered by structures or paving shall be properly seeded by the developer.

(b) The developer shall provide a landscaping scheme for the entire subdivision. Each lot shall be provided with a minimum of two trees. This requirement may be waived by the Planning Board in wooded areas where the subdivider intends to maintain existing trees.

(c) Individual property owners may, by written agreement with the subdivider and builder, seed and landscape their yards independently.

(d) When a proposed subdivision borders upon an existing commercial or industrial establishment or any other use which, in the opinion of the Planning Board, may be visually detrimental to the tranquility of the future residents of the subdivision, the Planning Board may require a landscape screen to buffer the subdivision from the visually noncompatible use.

B. Street trees. All street trees should be planted in every subdivision at intervals from 40 to 60 feet along both sides of the street. Existing trees may be taken into consideration when determining the above. Trees should be at least three feet from any sidewalk and located on the building side of the walk rather than the street side wherever practicable. Where dwelling structures are oriented with their rear on the street, street trees shall be at least six feet from the curbline or edge of pavement. Trees should also be at least five feet from any utility

line. The average trunk diameter shall be at least two inches and a minimum height of six feet above finished grade level is required. Such trees shall be of a species and at locations approved by the Planning Board. No tree shall be planted within 25 feet from an existing or proposed streetlight or street intersection.

C. Shade trees. Where subdivisions or parts thereof are devoid of trees, the subdivider shall be required to provide shade trees in accordance with Subsection A(3). Such trees shall be in accordance with standards of size, kind and locational limitations prescribed for trees along the street line.

ARTICLE IX. Cluster Development

§ 124-30. Statutory authorization.

Whereas, pursuant to a resolution of the Town Board, the Planning Board has been empowered to modify the minimum lot area and minimum lot width requirements of the Zoning Ordinance Editor's Note: See Ch. 149, Zoning, in accordance with the provisions of § 281 of the Town Law, in order to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the standards and procedures.

§ 124-31. Purpose.

The purpose of the cluster provisions is to encourage flexibility in the design and development of land in order to promote its most environmentally sensitive use; to facilitate the adequate and economical provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage compatibility with the goals and objectives of the Comprehensive Land Use Plan.

§ 124-32. Objectives.

In order to realize the purpose of this Article, a cluster design shall achieve the following objectives:

A. A development pattern which preserves outstanding natural topography and geological features, scenic vistas and trees and prevents the disruption of natural drainage patterns.

B. An efficient use of land resulting in smaller networks of utilities and streets.

C. A development pattern in harmony with the land use intensity, transportation facilities and community facilities objectives of the Comprehensive Land Use Plan.

§ 124-33. Standards.

A. No such modification by the Planning Board shall result in a greater overall density of lots or dwelling units than is permitted in the zoning district wherein such lands lie, as specified in the Zoning Ordinance. Editor's Note: See Ch. 149, Zoning.

B. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Zoning Ordinance.

C. The minimum acreage to which this section may be applicable shall be five times the minimum lot area for the zoning district involved. Therefore, in any given district, the minimum number of units to which this section applies is five.

D. In the event that the utilization of this section results in a plat showing lands available for park, recreation or other municipal purposes directly related to the plat or in a plat showing lands to be retained in open space in order to comply with the average density of lots or dwelling units that is permitted in the zoning district wherein such lands lie, the Planning Board may establish, in the case of lands for park, recreation or other municipal purpose, such conditions on the ownership use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes and may further, in the case of lands to be retained in the open space, require that such lands be restricted by deed restriction, restrictive covenant, conveyance of a scenic easement or other conservation restriction to the town or other appropriate means

against development of land use inconsistent with their retention. Nothing in this Article shall supersede the Town Board's right and responsibility to determine land to be acquired for town parks, after consulting with the Recreation Commission and Planning Board.

E. The maximum buildable lots for a conventional subdivision shall be calculated as follows:

(1) From the total area of the property to be subdivided, subtract:

(a) The area to be occupied by the proposed street rights-of-way.

(b) The area to be set aside for other public use, such as parkland.

(c) The area occupied by other public easements or rights-of-way across the property, such as major power or telephone lines.

(2) Then divide the resulting figure (the remaining acreage) by the lot size allowed in the zone in which the lots will be located.

F. Where vistas and open field areas are to be preserved, lots shall be clustered at the edges of the open field areas or behind topographic features which block views from the existing public way, whenever possible.

§ 124-34. Procedures.

A. Request by Planning Board. A cluster design alternative shall be considered if the characteristics of the site include any of the following:

(1) A significant wildlife or plant habitat exists on the site or may be impacted by the development of the site.

(2) Wetlands occupy over 25% of the site or where streams are crossed by the development of the site.

(3) Slopes greater than 15% occupy over 50% of the site.

(4) Slopes greater than 25% occupy over 25% of the site.

(5) Soils with a percolation rate of greater than 60 minutes per inch occupy over 25% of the site.

(6) Soils with depth to bedrock at 18 inches or less occupy over 25% of the site.

(7) Soils with depth to seasonal high-water table of three feet or less occupy over 25% of the site.

(8) Sites adjacent to buildings or structures of historic significance.

B. Request by subdivider. A subdivider may request the use of this section simultaneously with or subsequent to the submission of the sketch plan, as described in Article III. Any submission subsequent to preliminary approval of a plat shall require a resubmission of the sketch plan.

C. Alternate sketch plan. The Planning and Zoning Department or the Planning Board may request that a subdivider present, along with a proposal utilizing the provisions of this section, an alternate sketch plan, with lots meeting the minimum lot area, minimum lot width and minimum shoreline lot width requirements of the Zoning Ordinance. Editor's Note: See Ch. 149, Zoning.

D. Plat submission. Upon determination by the Planning Board that the sketch plan utilizing the provisions of this section is suitable, the procedures attendant to and subsequent to the sketch plan submission, as set forth in Article III, shall be followed in regular order.

E. Local filing, notation on Zoning Map. Any subdivision plat finally approved which involves modification as provided for in this Article shall be filed, in addition to the filing required by Article V hereof, with the Planning

and Zoning Department, who will make appropriate notation and reference thereto on the Town Zoning Map.
Editor's Note: A copy of the Town Zoning Map is included in a pocket at the end of this volume.

ARTICLE X. Phased Development

§ 124-35. Maximum number of units.

Approvals for subdivisions shall be phased. Thirty-five dwelling units shall be the maximum number of units that may be approved in any one phase. The Planning Board shall consider the layout of roads, waterlines, drainage facilities and other pertinent facts in determining the exact phasing sequence and number of dwelling units in each phase. Subsequent phases of a project shall not be submitted for final approval until 60% of the dwelling units in the previous phase have received certificates of occupancy. This section shall not apply to planned unit developments which have an approved staging plan under § 149-27 of the Moreau Zoning Law, nor shall it apply to subdivisions of less than 35 dwelling units.

§ 124-36. Applicability of new regulations.

Each subsequent phase shall comply with any new standards instituted by the Town of Moreau since approval of the preliminary plat, except for those phases which are under final plat review by the Planning Board, in accordance with § 124-13A(2) of these regulations, at the date such new standards are adopted by the Town Board.

ARTICLE XI. Environmental Quality Review

§ 124-37. Coordination of review procedures.

To the greatest extent possible, the procedures prescribed in 6 NYCRR Part 617, State Environmental Quality Review, have been incorporated into the procedures described in these regulations. Time periods for the conduct of public hearings in order to coordinate the SEQRA environmental review process with other procedures relating to the review and approval of actions may affect the subdivision review process. When this occurs, applicants may be requested to extend the scheduled review period to accommodate the SEQRA process.

§ 124-38. Sketch plan review.

A. The subdivider shall, as part of the sketch plan submittal, include the Long Form EAF (Environmental Assessment Form), except that in subdivisions of three lots or fewer, the Planning Board may, at its discretion, permit the Short Form EAF to be submitted in lieu of the Long Form EAF, provided that there are no known or suspected environmental concerns connected with the proposed site.

[Amended 6-14-1994 by L.L. No. 1-1994]

B. The Planning Board shall, as part of its review of the sketch plan submittal, determine whether the action is subject to SEQRA. If the action is exempt, an excluded action or a Type II action, the subdivider shall not be required to submit further information. If the action is Type I or unlisted, the subdivider will be required to submit further environmental information in accordance with SEQRA requirements as part of the preliminary subdivision review application.

C. If the project is a Type I action, the Planning Board shall mail a copy of the sketch plan and Long Form EAF to all other agencies involved in the review of approvals required for construction of the subdivision, notifying such agencies that within 30 days of the date of sketch plan and Short Form EAF was mailed, a lead agency must be designated.

D. If the town has been designated lead agency, the town shall schedule a scoping meeting. Such meeting will identify all issues to be addressed in the EAF Form to be submitted for preliminary plat review.

§ 124-39. Preliminary plat review.

A. If the action is determined to be Type I or unlisted, the subdivider shall submit the Long Form EAF (Environmental Assessment Form) as part of the preliminary plat submission.

B. The Planning Board shall mail a copy of the completed EAF and application for preliminary plat review to all other involved agencies.

C. Within 45 days of mailing or within 15 days of its receipt of any information it may need to make the determination of significance, whichever occurs later, the Planning Board, if lead agency, shall determine the significance of the action and immediately notify all other involved agencies of its determination.

D. If the Planning Board determines that an environmental impact statement (EIS) is required, it shall immediately notify the subdivider and all other agencies involved.

E. Because of the extended time required to prepare, submit, review and approve an EIS, the Planning Board, with approval of the subdivider, shall extend the time required for approval of the preliminary plat in accordance with § 124-10.

ARTICLE XII. Assignment of Approval; Waivers

§ 124-40. Transfer of lands.

The Planning Department shall be given 10 days' notice of the transfer of land for which final approval has not yet been granted. Further, the subdivider shall provide the Planning Board with written proof that any purchaser of the lands subject to this provision has received in writing any and all conditions imposed upon approval by the Planning Board.

§ 124-41. Waivers.

A. Where the Planning Board finds, due to the special circumstances of a particular plat, that meeting a certain requirement of these regulations is not requisite in the interest of the public health, safety and general welfare, it may waive such requirement subject to appropriate conditions, provided that in no case shall any of the provisions of Article XI be waived.

B. In granting waivers, the Planning Board shall impose such conditions and will substantially assume that the objectives of the standards or requirements so waived are met.

C. If the Town Board finds that, due to special circumstances, it is inappropriate to extend municipal services to the proposed subdivision, access to said municipal services may be denied.

PART 2. Highway Design and Construction Standards

ARTICLE XIII. Design Standards

§ 124-42. General provisions.

All aspects of roads or highways to be dedicated to the Town of Moreau shall comply with the current Town of Moreau Subdivision Regulations and with the current Moreau Highway Department Design and Construction Standards.

§ 124-43. Geometric requirements.

The road or highway design shall comply with the geometric requirements of the Town Subdivision Regulations and special requirements which the Highway Superintendent deems warranted by the type, location or use of the road.

§ 124-44. Road cross section.

A. The road cross section shall be in accordance with current Town of Moreau Typical Road Sections drawing. Editor's Note: This drawing is included at the end of this chapter. The section to be utilized shall depend upon the existing subgrade (the original soil existing in the right-of-way over which the subbase is to be placed).

B. Granular and clayey subgrades shall be defined in accordance with the following and in reference to American Association of State Highway and Transportation Officials soils classifications A-1 through A-7 as defined in the Asphalt Institute Manual MS 10 current edition:

(1) Granular Subgrade: AASHTO A-1 through A-3.

(2) Clayey Subgrade: AASHTO A-4 through A-7.

§ 124-45. Storm drainage.

The storm drainage system shall be designed to adequately collect and convey stormwater away from the traveled road lanes and to prevent any ponding of stormwater which could present a hazard to traffic. The storm drainage shall be designed in accordance with the requirements of Town of Moreau Subdivision Regulations Editor's Note: See Part 1 of this chapter. and any special requirements which the Town Highway Superintendent deems warranted by special circumstances.

§ 124-46. Highway subdrainage.

A. Highway subdrains shall be required in all areas of clayey subgrade where the seasonal high-water table is within three feet of the finished road center line elevation; and in areas of granular subgrade when the seasonal high groundwater table is within two feet of the finished road center line elevation.

B. Highway subdrains shall be designed in accordance with NYSDOT design standards and shall be designed with a gravity outlet and sufficient grade to drain freely.

§ 124-47. Materials for highway construction.

Materials to be incorporated in the design of roads and highways shall be in accordance with the requirements of the Approved Materials for Highway Construction, Article XVI herein.

§ 124-48. Plans and drawings.

A. The owner shall provide the Town Highway Superintendent with a complete set of plans as approved by the Planning Board prior to the start of construction.

B. After construction is complete and prior to acceptance of the roadways, the owner shall provide the Town Highway Superintendent with as-built drawings showing all modifications made during the construction. As-built drawings shall be prepared and signed by a licensed professional engineer registered to practice in the State of New York.

ARTICLE XIV. Construction Standards

§ 124-49. General provisions.

A. Highway construction shall be performed in accordance with New York State Department of Transportation Standard Specifications, current edition, and with these construction standards.

B. All highway construction shall be controlled by stakes for grade and alignment.

§ 124-50. Protection of traffic.

The owner shall maintain traffic and protect the public from damage to person and property while construction is being performed in any public right-of-way or any private street. Travel shall be maintained over a reasonably smooth traveled way which shall be marked as necessary for the type of street so that a person who has no knowledge of conditions can safely and with a minimum of discomfort and inconvenience drive or walk over all or any portion of the street. The Town Highway Superintendent shall determine whether one-way or two-way traffic shall be maintained.

§ 124-51. Clean up and repair.

The owner shall clean up all debris or materials left as a result of his work and completely repair damage caused by him to any public or private property, including any existing street he may have used. Resetting of surveying points and reseeding roadside areas are included in repairs required.

§ 124-52. Construction and modifications in field.

The town may require construction of a type not contemplated at the time of Planning Board review, provided that such requirements are for a higher type of construction. This is to allow for proper construction to meet conditions not known at the time of review. Such construction changes shall be shown on as-built drawings.

§ 124-53. Weather conditions.

Application of asphaltic concrete on new roads shall be permitted only during the time period of April 1 through November 1. The temperature during the time of construction shall be at least 50° F. Construction shall not occur during wet weather or during other adverse weather conditions. Deviation from these conditions shall be permitted only by special permission from the Town Highway Superintendent.

§ 124-54. Clearing and grubbing.

A. Sod, topsoil, organic matter, foreign material and cobbles larger than four inches shall be removed from the entire right-of-way and shall be disposed of in an acceptable manner. Topsoil shall be stockpiled on site for use in topsoiling and seeding.

B. In cases where the subgrade consists of clayey soil as defined herein, the removal of the appropriate amount of this material shall be accomplished in an acceptable manner prior to grading the subgrade. Muck, spongy material or other unsuitable material shall be completely removed and the excavation filled with suitable material.

§ 124-55. Grading and compaction of subgrade.

A. Grading and compaction of the subgrade shall commence after completion of the clearing and grubbing and prior to the placement of any embankment or subbase material. The grading and compaction shall be done in conformance with the accompanying road sections and with the approved grade profile of the road.

B. Compaction of the subgrade shall be accomplished by means of a vibratory eight- to ten-ton roller as outlined in Section 203-3. 12 B.2 of the NYSDOT Standard Specifications. The method of compaction used shall also comply with the above-referenced standard.

C. Soft areas identified during compaction may require the installation of underdrain fillers and/or geotextile materials as determined by the Highway Superintendent.

§ 124-56. Embankments.

A. No organic material, frozen material or other unsuitable material shall be used in embankments. Compaction shall be done in accordance with the NYSDOT Standard Specifications.

B. Embankments shall be placed and rolled in layers of maximum eight-inch depth, measured before compaction. The embankment subgrade shall be prepared as required under § 124-55. Grading and compaction of subgrade.

§ 124-57. Testing and inspection of subgrade.

Compaction of the subgrade shall be achieved to the satisfaction of the Town Highway Superintendent. Placement of the subbase shall not proceed until approval of the subgrade is received in writing from the Town of Moreau.

§ 124-58. Subbase construction.

A. The subbase course shall consist of Type 3 (Item 304.04) or Type 4 (Item 304.05) gravel as defined in Section 304-2.02 of the NYSDOT Standard Specifications.

B. The minimum number of lifts permitted for the subbase shall be two. Compaction of the subbase shall be accomplished by means of an eight- to ten-ton roller or other compacting device as defined in Section 203-3.12 of the NYSDOT Standard Specifications and shall be graded in accordance with the accompanying drawing. Any imperfections, irregularities or other damage in the subbase shall be repaired prior to the installation of the base course.

§ 124-59. Testing and inspection of subbase.

Prior to the placement of the gravel, the contractor shall have a sample analyzed that is truly representative of that material to be used for compliance with the appropriate NYSDOT Standard. A New York State approved laboratory for sieve analysis shall be used. The results of the sample tested shall be submitted for the town's approval. Town approval, in writing, shall be obtained before the commencement of any work. In the event that the gravel bank changes, the procedure outlined above shall be repeated. Additional testing may be required at the discretion of the Town of Moreau Highway Superintendent. The owner shall provide the Highway Superintendent with men and equipment to dig or have dug test holes to confirm the depth of subbase actually placed. The location of such test holes shall be at the Highway Superintendent's discretion.

§ 124-60. Base course construction.

The base course shall consist of two inches, after compaction, of Type 3 asphalt concrete (Item 403.13 NYSDOT Standard Specifications) binder material. Application of the base course shall be in conformance with Section 401-3 NYSDOT Standard Specifications and shall be graded as shown on the accompanying drawing and the approved grade profile.

§ 124-61. Top course construction.

A. The top course shall consist of 1 1/2 inches, after compaction, of Type 7 asphalt concrete (Item 403.18 NYSDOT Standard Specifications) top material. Application of the top course shall be in conformance with Section 401-3 NYSDOT Standard Specification and shall be graded as shown on the accompanying drawing and the approved grade profile.

B. The top course shall not be placed until certificates of occupancy are issued for at least 2/3 of the lots within the subdivision or approved phase of the subdivision or until two years after the base course has been installed. However, the owner shall provide the town with a certified check or irrevocable letter of credit in accordance with Article VII of the Town of Moreau's Subdivision Regulations.

§ 124-62. Inspection.

Upon completion of the asphaltic concrete base course and top course, the owner shall furnish the Highway Superintendent with men and equipment to dig or have dug test holes to establish and confirm the depth and quality of each paving course.

§ 124-63. Storm drainage and underdrain construction.

The construction of storm drains and highway underdrain shall be properly sequenced with the road construction. Storm drains and underdrains shall be constructed in accordance with the approved plans and in accordance with the NYSDOT Standard Specifications.

ARTICLE XV. Inspections and Approvals

§ 124-64. General provisions.

It is the duty of the Highway Superintendent and the town-appointed engineer to make inspections of highway improvements. The owner shall afford them the opportunity to inspect the work in order that they may assure the town that these specifications are being complied with.

§ 124-65. Schedule of inspections.

Inspections shall, at a minimum, occur at the following stages of construction. The owner shall give the Highway Superintendent at least two days' notice of completion of construction of each stage and shall not proceed to the next stage until the Highway Superintendent and the town-appointed engineer have inspected and approved the work.

- A. Upon completion of subgrade.
- B. Upon completion of subbase course.
- C. Prior to beginning of paving operations.
- D. Upon completion of base course paving.
- E. Upon completion of top course paving.

§ 124-66. Access.

The Highway Superintendent and the town-appointed engineer or their representative shall be given access to the work at all times in order that they may inspect the work as it progresses.

§ 124-67. Remedial work.

If such inspections reveal that the work is not in conformance with the plans or these requirements, the Highway Superintendent shall notify the owner promptly of such deficiencies. The owner shall correct these deficiencies promptly before proceeding with any other items of the work. If such deficiencies remain uncorrected and subsequent stages of construction are begun, the Highway Superintendent shall notify the Town Board and shall recommend that the road not be accepted for dedication to the town.

§ 124-68. Maintenance.

During development construction prior to final acceptance, it is expected and understood that as part of the conditions of approval of the subdivision, the developer shall agree to maintain the roads giving access to the houses in the development.

§ 124-69. Acceptance of roads.

Acceptance and dedication of town roads shall be in accordance with Article VII of the Town of Moreau Subdivision Regulations.

ARTICLE XVI. Approved Materials for Road Construction.

(Reserved)

Attachments:

- 124a Sanitary Sewer Manhole Detail
- 124b Stormwater Drywell Detail under pavement
- 124c Stormwater Drywell Detail in lawn areas
- 124d Typical Catch Basin or Storm Sewer Manhole
- 124e typical Cul-de-Sac
- 124f Typical Road Sections

CHAPTER 127. SWIMMING POOLS

§ 127-1. Title.

§ 127-2. Definitions.

§ 127-3. Permit required; application for permit.

§ 127-4. Location requirements.
§ 127-5. Separation from water supply system.
§ 127-6. Use of public water supply.
§ 127-7. Building permit for accessory structures.
§ 127-8. Safety requirements.
§ 127-9. Fence maintenance.
§ 127-10. Discharge of drainage.
§ 127-11. Illumination; electrical inspection.
§ 127-12. Penalties for offenses.

CHAPTER 127. SWIMMING POOLS

[HISTORY: Adopted by the Town Board of the Town of Moreau 12-11-1973 as Ch. 28 of the 1973 Code. Sections 127-3A, 127-7 and 127-12 amended and § 127-6 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Fences — See Ch. 70.
Fire prevention and building construction — See Ch. 74.
Water — See Ch. 145.
Zoning — See Ch. 149.

§ 127-1. Title.

This chapter may be known and cited as an "Ordinance Regulating the Installation, Construction and Maintenance of Swimming Pools."

§ 127-2. Definitions.

[Amended 8-10-1976]

For the purpose of this chapter, certain words shall be considered to have the following meanings:

SWIMMING POOL

Any artificial facility for swimming over 18 inches in depth, constructed above or below the ground, including "swimming pools" constructed as accessory uses to residential buildings or "swimming pools" constructed as accessory uses to motels or other commercial establishments.

§ 127-3. Permit required; application for permit.

A. No person shall construct a swimming pool without first having obtained a permit therefor from the Building Inspector and/or Code Enforcement Officer and having paid a fee for said permit pursuant to the schedule of fees established by resolution of the Town Board and on file in the town offices. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. Application for said permit for the construction and maintenance of a swimming pool shall be made to the Building Inspector and/or Code Enforcement Officer by the owner of the property, a registered architect or licensed engineer. The application shall be accompanied by duplicate sets of plans and specifications and plot plans. The plot plans shall show the entire lot on which the pool is proposed to be constructed, indicating the exact size and shape of the pool and the distance of the pool from all lot lines, pool fencing and screening, existing and contemplated structures and septic tanks and fields, if any.

§ 127-4. Location requirements.

No swimming pool, excluding the fencing as required herein, shall be constructed or installed within 10 feet of the lot line on each side or in the rear. No swimming pool constructed as an accessory use to a residential dwelling or the necessary fencing as required shall be constructed or installed nearer to the highway upon which the residential property abuts than the residential dwelling itself. In the case of a corner lot, no swimming pool or the

necessary fencing as required herein shall be constructed so as to be nearer than 35 feet to the nearest line of the highway upon which the dwelling or the commercial building to which said pool is an accessory use faces.

§ 127-5. Separation from water supply system.

There shall be no physical connection between a public water supply system and a pool structure.

§ 127-6. Use of public water supply.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. If, within any existing water district, the owner of a swimming pool wishes to fill such pool using the public water supply, a fee, as set by resolution of the Town Board and on file in the town offices, shall be required.

§ 127-7. Building permit for accessory structures.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. A pump house, filter house or structure erected in connection with any such swimming pool shall require a building permit and shall comply with the State Uniform Fire Prevention and Building Code.

§ 127-8. Safety requirements.

[Amended 8-10-1976]

All swimming pools as defined in this chapter, with the exception of aboveground pools as hereinafter provided for, shall be completely enclosed by a fence constructed of materials, whether artificial or natural, which shall be durable enough to prevent the entrance into the pool area by any persons. The wall of the dwelling and/or its accessory buildings may act as an integral part of the fence. If of wire-mesh construction, this fencing shall not have linkage of more than two inches in width and shall be nonclimbable. The entrance gate or gates shall have a closing device with protective fastening latch and a lock. Fence height shall be a minimum of five feet and a maximum of eight feet, as measured from grade level. All fencing, as required herein, shall be constructed so that the bottom of the fence is flush with the ground. Fence location shall be subject to the approval of the Building Inspector and/or Code Enforcement Officer, and said location shall be shown on the application for a building permit as provided for by § 127-3 hereof. Any openings or doors in the fence herein provided for, or in the wall of a dwelling or accessory building which acts as an integral part of the fence, shall be kept locked while the premises are unsupervised by an adult. The required fencing shall be constructed within 30 days from the date the pool is filled with water. All in-ground pools shall be completely enclosed by a temporary fence, at least four feet in height, from the date the pool is filled with water until construction of the permanent fence. Aboveground pools completely surrounded by decking and railing at least five feet in height from ground level, together with a locking ladder approved by the Building Inspector and/or Code Enforcement Officer, will require no fencing.

§ 127-9. Fence maintenance.

[Added 8-10-1976]

All fencing required by § 127-8 of this chapter shall be maintained in such a manner that the swimming pool will remain completely enclosed. Any repairs must be made with materials matching the original construction.

§ 127-10. Discharge of drainage.

All drainage from a swimming pool shall be discharged in such a manner that sewage cannot be siphoned, flooded or otherwise discharged into the swimming pool.

§ 127-11. Illumination; electrical inspection.

All outside lights for illumination of a swimming pool shall be so installed and maintained that the beam of light is not directed toward a public street or neighboring property. All wiring must pass inspection by the National Fire Protection Association and a certificate evidencing approval must be furnished to the Building Inspector and/or Code Enforcement Officer. Editor's Note: Former § 28-11, Compliance of existing swimming pools, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 127-12. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person, firm, corporation or other entity who shall violate the terms of this chapter shall be guilty of an offense and, upon conviction, shall be subject to a fine of not more than \$250 or imprisonment for a term not exceeding 15 days, or both. Each week's violation shall constitute a separate and additional violation. Notwithstanding the penalty herein provided for, the Town of Moreau may enforce obedience of this chapter or any part hereof by injunction to restrain such violation.

CHAPTER 130. TAXATION

ARTICLE I. Senior Citizens Tax Exemption

§ 130-1. Purpose.

§ 130-2. Grant of exemption; qualifications.

ARTICLE II. Business Investment Exemption

§ 130-3. Reduction of exemption.

ARTICLE III. Real Estate Improvements for Disabled Tax Exemption

§ 130-4. Purpose.

§ 130-5. Grant of exemption; qualifications.

ARTICLE IV. Cold War Veterans Exemption

§ 130-6. Purpose.

§ 130-7. Authority.

§ 130-8. Basis for eligibility.

§ 130-9. Maximum allowable exemption.

§ 130-10. Exception.

§ 130-11. Effective date.

§ 130-12. Duration.

CHAPTER 130. TAXATION

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

GENERAL REFERENCES

Receiver of Taxes and Assessments — See Ch. 24.

ARTICLE I. Senior Citizens Tax Exemption

[Adopted 12-11-1973 by Ch. 29 of the 1973 Code]

§ 130-1. Purpose.

The purpose of this Article is to grant a partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or over, meeting the requirements set forth in § 467 of the Real Property Tax Law.

§ 130-2. Grant of exemption; qualifications.

[Amended 6-10-1975; 9-13-1977; 4-29-1983; 2-28-1984; 1-12-1988; 12-12-1989]

Real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from town taxes to the extent of the per centum of assessed valuation set forth in Subsection B hereof, subject to the following conditions:

A. The owner or all of the owners must file an application annually in the assessor's office on or before the taxable status date or such other time as may hereafter be fixed by law.

B. The income of the owner or the combined income of the owners must not exceed \$17,500 for the income tax year immediately preceding the date of making application for exemption except that, pursuant to the provisions

of § 467 of the Real Property Tax Law, a percentage of exemption, based upon the following schedule shall be allowed:

[Amended 2-9-1993 by L.L. No. 1-1993; 1-27-1995 by L.L. No. 1-1995; 12-27-1996 by L.L. No. 4-1996]

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
Up to but not more than \$17,500	50%
\$17,500 but less than \$18,500	45%
\$18,500 but less than \$19,500	40%
\$19,500 but less than \$20,500	35%
\$20,500 but less than \$21,400	30%
\$21,400 but less than \$22,300	25%
\$22,300 but less than \$23,200	20%
\$23,200 but less than \$24,100	15%
\$24,100 but less than \$25,000	10%
\$25,000 but less than \$25,900	5%

C. Where title is vested in either the husband or wife, the combined income may not exceed the sums set forth in the foregoing schedule. 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 or inheritances. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

D. Title to the property must be vested in the owner or one of the owners for at least 24 consecutive months prior to the date that the application is filed, with the proviso as provided by § 467, Subdivision 3(b) of the Real Property Tax Law.

E. The property must be used exclusively for residential purposes, be occupied in whole or in part by the owners and constitute the legal residence of the owners, with the exceptions and provisos set forth in § 467, Subdivision 3(c) and (d) of the Real Property Tax Law.

ARTICLE II. Business Investment Exemption

[Adopted 5-30-1986 by L.L. No. 1-1986]

§ 130-3. Reduction of exemption.

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from property taxes, special ad valorem levies and service charges provided by such § 485-b is hereby eliminated by reducing the per centum of exemption to zero; provided, however, that exemptions existing prior in time to the effective date of this Article shall not be subject to any such reduction.

ARTICLE III. Real Estate Improvements for Disabled Tax Exemption

[Adopted 11-10-1992 by L.L. No. 4-1992]

§ 130-4. Purpose.

The purpose of this Article is to authorize tax exemptions for improvements to certain real property for the purpose of accommodating owners who are physically disabled or members of their household who are physically disabled meeting the requirements set forth in § 459 of the Real Property Tax Law.

§ 130-5. Grant of exemption; qualifications.

An improvement to any real property in the Town of Moreau used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owner's household who is physically disabled, if such member resides in the real property, subject to the following conditions:

A. The individual must meet the qualifications of a physically disabled person as required by § 459 of the Real Property Tax Law.

B. The owner must complete and file with the Assessor of the Town of Moreau an application with the appropriate certified statement of physical disability or certificate of blindness on or before the taxable status date of the town.

C. If granted, the exemption shall continue on the real property until the improvement ceases to be necessary to facilitate and accommodate the use and accessibility of the property by the resident who is physically disabled.

D. The exemption provided for herein shall apply to improvements constructed prior to the effective date of this Article, as well as to improvements constructed subsequent to such effective date.

ARTICLE IV. Cold War Veterans Exemption

[Adopted 8-26-2008 by L.L. No. 7-2008]

§ 130-6. Purpose.

The purpose for this article is to provide for exemption allowable to Cold War veterans pursuant to § 458-b of the Real Property Tax Law of the State of New York. The definitions of terms in this article are those set forth in § 458-b of the Real Property Tax Law of the State of New York, which are expressly incorporated herein.

§ 130-7. Authority.

The authority for this article is contained in § 10, Subdivision 1(i), of the Municipal Home Rule Law of the State of New York and § 458-b of the Real Property Tax Law of the State of New York.

§ 130-8. Basis for eligibility.

Pursuant to the provision of § 458-b of the Real Property Tax Law of the State of New York, the exemption provided in this local law is available to residential real property owned by a Cold War veteran, being any person who served active duty for a period of more than 365 days in the United States Armed Forces, during the time

period from September 2, 1945, to December 26, 1991, and was discharged or released therefrom under honorable conditions, and who applies for said exemption in accordance with the requirements of § 458-b of the Real Property Tax Law of the State of New York.

§ 130-9. Maximum allowable exemption.

Pursuant to the provisions of § 458-b of the Real Property Tax Law of the State of New York, the exemption from real property taxes allowable to Cold War veterans is established as follows:

A. Qualified residential real property as defined in § 458-b of the Real Property Tax Law shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate for the Town of Moreau, whichever is less.

B. In addition to the exemption provided by Paragraph A of this subdivision, where the Cold War veteran receives a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property also shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the Cold War veteran disability rating, provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate for the Town of Moreau, whichever is less.

§ 130-10. Exception.

If a Cold War veteran has a real property tax exemption under § 458 or 458-a of the Real Property Tax Law, such veteran shall not be eligible to receive this exemption.

§ 130-11. Effective date.

This article shall become effective immediately upon being filed in the Office of the Secretary of State.

§ 130-12. Duration.

This article shall remain in effect until rescinded or superseded by a subsequent local law.

CHAPTER 134. VEHICLES, ABANDONED

§ 134-1. Purpose.

§ 134-2. Definitions.

§ 134-3. Removal procedure.

§ 134-4. Penalties for offenses.

CHAPTER 134. VEHICLES, ABANDONED

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

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Junkyards — See Ch. 87.

Vehicles and traffic — See Ch. 136.

Off-road recreational vehicles — See Ch. 139.

Zoning — See Ch. 149.

§ 134-1. Purpose.

This chapter is enacted in recognition of the fact that junk cars abandoned or stored on private property in the Town of Moreau can constitute both a public and private nuisance. They are a source of potential harm to children and others who may find them an attractive nuisance. They are replete with broken glass, sharp, torn metal edges

and points, gasoline remaining in tanks of a highly explosive and combustible nature and hurtful acid in batteries, to mention but a few of the more obvious sources of potential physical hurt found on these junk cars. Besides this, these junk cars constitute a blight on the town's landscape, they destroy the aesthetic qualities of the town, and they are generally otherwise unsightly. Their existence tends to depreciate not only the property on which they are located but also the property of other persons in the neighborhood and the town generally. They constitute to the town a less safe and less pleasant place in which to live and to do business. They hurt the welfare of the town as a whole. The intent of this chapter is to establish a legal procedure for the removal of these junk cars where they are found in the town outside duly licensed establishments, pursuant to Junkyards, Chapter 8Z, of the Code of the Town of Moreau.

§ 134-2. Definitions.

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

ENFORCEMENT OFFICER

The Building Inspector and/or Code Enforcement Officer of the town, unless the Town Board, by resolution, designates some other town officer as enforcement officer.

JUNK CAR

Any motor vehicle, whether automobile, bus, truck, trailer, mobile home or any other contraption originally intended for travel on public highways, which is abandoned, stored outdoors, left or located by its owner or any other person, or is permitted or condoned to be abandoned, stored, left or located by its owner or any other person, on private property in the Town of Moreau and outside any junkyard established duly licensed by the town pursuant to Chapter 8Z, Junkyards, of the Code of the Town of Moreau, which "junk car" is unregistered by the State of New York or any other state or not operable and does not bear a valid New York State inspection sticker in the current year or a valid inspection sticker of any other state for the current year. The use of the term in the singular herein is intended, where applicable, to include the plural.

PERSON

Any individual person or persons, firm, partnership, corporation, whether business, membership, religious, charitable or otherwise, or any association or other unit or entity owning real property in the Town of Moreau.

§ 134-3. Removal procedure.

Any junk car, as defined in this chapter, may be removed from the premises on which it is located by the Town of Moreau in the manner hereinafter provided:

A. The enforcement officer, upon detecting a junk car, shall serve written notice on the person owning the premises on which the same is located, ordering such person to remove the same or cause the same to be removed therefrom within 30 days of the date of such service. Such notice shall also contain a description of the premises, a statement as to the location thereon of a junk car, reference to this chapter and to the fact that the location of such junk car on such premises is in violation of this chapter. If such premises are owned by more than one person, personal service on any one of such owners shall suffice; however, as to any owner not personally served with such notice, or if no owner can be located upon whom to make personal service, the enforcement officer shall mail such notice to owners not personally served or to the owner and to all the owners, if no owner was personally served, by registered mail to their or his last known address as shown on the latest completed assessment roll of the town. In addition, such enforcement officer shall post conspicuously a copy of such notice on the premises upon which such junk car is located.

B. At the expiration of 30 days after the service or mailing of a notice pursuant to Subsection A above, if such junk car has not been removed, the enforcement officer shall contract for the removal of such junk car.

C. Any expense to the town in accomplishing such removal may be assessed by the Town Board on the real property from which such junk car was removed, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as other town charges.

D. Upon notification from the property owner within 30 days after the service or mailing of the notice provided for in Subsection A that the junk car was abandoned on his property by another, the following procedure shall be observed.

(1) The enforcement officer shall make an inquiry in an attempt to identify the last registered owner of the junk car.

(2) Following identification of the last owner, the enforcement officer shall contact the owner by registered mail, return receipt requested, and advise said owner that the junk car shall be removed from the property by the enforcement officer at the expiration of 10 days from the receipt of service by registered mail. The notice shall also contain the name and address of the owner of the property, a description of the property and a description of the junk car, including any vehicle identification number or other numerical identification, reference to this chapter and the fact that the location of such junk car on such premises is a violation of this chapter.

(3) In the event that the enforcement officer cannot locate the last owner of the junk car, he shall publish a notice in the official newspaper having a circulation in the Town of Moreau containing a statement that the junk car is to be removed, allowing the owner an opportunity to be heard regarding the removal, a description of the property, a description of the junk car, including any vehicle identification number or other numerical identification, reference to this chapter and the fact that the location of such junk car on such premises is a violation of this chapter and a request for proposals to remove such junk car.

(4) The last registered owner of an abandoned vehicle shall be presumed to be the owner and liable to the Town of Moreau for the costs of removal and storage of such vehicle, unless he shall present proof of present ownership in another person.

(5) If the enforcement officer has received proper notification from the property owner within the thirty-day period that the junk car was abandoned on his property by another and has been unable to identify the last registered owner, the junk car shall be removed from the property, and the cost of removal of the junk car shall become a charge against the Town of Moreau.

§ 134-4. Penalties for offenses.

A. In addition to the remedies otherwise provided in this chapter, it shall be unlawful and an offense against the provisions of this chapter for any person to abandon, leave or locate or to permit or condone any other person to abandon, leave or locate any junk car on private premises in the Town of Moreau outside a duly licensed junkyard establishment. Any person committing such an offense shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense shall constitute, for each week the offense is continued, a separate and distinct violation.

B. In addition to the above-provided penalties and punishment, the town may also maintain an 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 violation of such chapter and collect any other costs incurred, including but not limited to storage and towing costs.

CHAPTER 136. VEHICLES AND TRAFFIC

ARTICLE I. General Provisions

§ 136-1. Definitions.

§ 136-2. Authority to install traffic control devices.

§ 136-3. Schedules; adoption of regulations.

ARTICLE II. Traffic Regulations

§ 136-4. Traffic control signals.

§ 136-5. One-way streets.

§ 136-6. U-turns.

§ 136-7. Prohibited turns at intersections.

§ 136-8. Prohibited right turns on red signal.

§ 136-9. Stop intersections.

§ 136-10. Yield intersections.

§ 136-11. Trucks over certain weights excluded.

§ 136-11.1. Prohibited vehicles excluded from certain roads/streets; exceptions.

ARTICLE III. Parking, Standing and Stopping

§ 136-12. Application of article.

§ 136-13. Seasonal parking restrictions.

§ 136-14. Parking prohibited at all times.

§ 136-15. No stopping.

§ 136-16. No standing.

§ 136-17. Parking prohibited certain hours.

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CHAPTER 136. VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Town Board of the Town of Moreau 7-27-1990 by L.L. No. 4-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation — See Ch. 102.
Streets and sidewalks — See Ch. 121.
Abandoned vehicles — See Ch. 134.
Off-road recreational vehicles — See Ch. 139.

ARTICLE I. General Provisions

§ 136-1. Definitions.

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. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE

The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS

New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

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.

§ 136-2. Authority to install traffic control devices.

The Town Board 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 it 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.

§ 136-3. Schedules; adoption of regulations.

A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.

B. Regulations shall be adopted by the Town Board in accordance with provisions of the Town Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Town Board to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

ARTICLE II. Traffic Regulations

§ 136-4. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (§ 136-30), attached to and made a part of this chapter.

§ 136-5. One-way streets.

The streets or parts of streets described in Schedule II (§ 136-31), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

§ 136-6. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule III (§ 136-32), attached to and made a part of this chapter.

§ 136-7. Prohibited turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule IV (§ 136-33), attached to and made a part of this chapter.

§ 136-8. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule V (§ 136-34), attached to and made a part of this chapter.

§ 136-9. Stop intersections.

The intersections described in Schedule VI (§ 136-35), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 136-10. Yield intersections.

The intersections described in Schedule VII (§ 136-36), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 136-11. Trucks over certain weights excluded.

Trucks in excess of the weights indicated are hereby excluded from the streets or parts of streets described in Schedule VIII (§ 136-37), except for the pickup and delivery of materials on such streets.

§ 136-11.1. Prohibited vehicles excluded from certain roads/streets; exceptions.

[Added 9-4-2003 by L.L. No. 4-2003]

A. No person, firm or corporation shall drive or operate or permit to be driven or operated any prohibited vehicle, as defined herein, into, on, along, or through the roads or streets described in § 136-47 herein.

B. "Prohibited vehicle" shall mean any truck, commercial vehicle, tractor, tractor-trailer combination or tractor-semitrailer combination in excess of 25 feet in length, whether loaded or unloaded and traveling to or from the Moreau Industrial Park.

ARTICLE III. Parking, Standing and Stopping

§ 136-12. Application of article.

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.

§ 136-13. Seasonal parking restrictions.

[Amended 3-10-1998 by L.L. No. 3-1998]

A. The parking of vehicles is hereby prohibited on all highways, roads, streets and rights-of-way, including all paved or nonpaved areas and shoulders thereof (for the purpose of this section only, hereinafter "restricted area"), within the Town of Moreau from November 1 to May 1 (hereinafter "restricted period").

B. Notwithstanding any other provision contained in this chapter, any vehicle parked in a restricted area during a snow storm or at such time when the Town of Moreau Highway Department is removing snow from a restricted area in the restricted period may, by authority of the Highway Superintendent, be removed and thereafter stored in accordance with § 136-24 hereof.

§ 136-14. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule IX (§ 136-38), attached to and made a part of this chapter.

§ 136-15. No stopping.

No person shall stop a vehicle upon any of the streets or parts of streets described in Schedule X (§ 136-39), attached to and made a part of this chapter.

§ 136-16. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule XI (§ 136-40), attached to and made a part of this chapter.

§ 136-17. Parking prohibited certain hours.

No person shall park a vehicle between the hours specified in Schedule XII (§ 136-41) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XII, attached to and made a part of this chapter.

§ 136-18. No stopping certain hours.

No person shall stop a vehicle during the times specified in Schedule XIII (§ 136-42) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XIII, attached to and made a part of this chapter.

§ 136-19. No standing certain hours.

No person shall stand a vehicle during the times specified in Schedule XIV (§ 136-43) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XIV, attached to and made a part of this chapter.

§ 136-20. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XV (§ 136-44) at any time between the hours listed in said Schedule XV of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XV, attached to any made a part of this chapter.

§ 136-21. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XVI (§ 136-45) except at the angle designated and only within the painted stall lines. On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

§ 136-22. Loading zones.

The locations described in Schedule XVII (§ 136-46), attached to and made a part of this chapter, are hereby designated as loading zones.

ARTICLE IV. Removal and Storage of Vehicles

§ 136-23. Authority to impound vehicles.

A. When any vehicle is parked or abandoned on any highway or public parking lot within this town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Town Board.

B. When any vehicle is found unattended on any highway or public parking lot within the town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Town Board.

§ 136-24. Storage and charges.

After removal of any vehicle as provided in this Article, the Town Board may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom stored of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.

§ 136-25. Notice of removal.

It shall be the duty of the town police officer to ascertain to the extent possible the owner of the vehicle or the person having the same in charge and to notify him of the removal and disposition of such vehicle and of the

amount which will be required to redeem same. Said police officer shall also without delay report the removal and disposition of any vehicle removed as provided in this Article to the Town Clerk.

ARTICLE V. Miscellaneous Provisions

§ 136-26. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

§ 136-27. When effective.

A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York this chapter and any regulations adopted hereunder shall take effect as provided by law.

B. Any part or parts of this chapter and any regulations adopted 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.

§ 136-28. 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.

§ 136-29. Repealer.

All prior ordinances, regulations and rules, or parts thereof, 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 ordinance, regulation or rule hereby repealed prior to the taking effect of this chapter.

ARTICLE VI. Schedules

§ 136-30. Schedule I: Traffic Control Signals.

In accordance with the provisions of § 136-4, traffic control signals shall be installed at the following described intersections:

Intersection

(Reserved)

§ 136-31. Schedule II: One-Way Streets.

In accordance with the provisions of § 136-5, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
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(Reserved)		
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§ 136-32. Schedule III: U-Turn Prohibitions.

In accordance with the provisions of § 136-6, no person shall make a U-turn at any of the following locations:

Name of Street	Location
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(Reserved)

§ 136-33. Schedule IV: Prohibited Turns at Intersections.

In accordance with the provisions of § 136-7, no person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
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(Reserved)

§ 136-34. Schedule V: Prohibited Right Turns on Red Signal.

In accordance with the provisions of § 136-8, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
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(Reserved)

§ 136-35. Schedule VI: Stop Intersections.

[Amended 10-29-1993 by L.L. No. 4-1993; 11-10-1997 by L.L. No. 11-1997; 12-11-2001 by L.L. No. 7-2001; 1-28-2003 by L.L. No. 1-2003]

In accordance with the provisions of § 136-9, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Intersection of
Adams Road	North/East	Adgro Avenue
Adams Road	South/West	Fort Edward Road
Amy Drive	North	Kimberly Lane
Anderson Road	North	Ferry Boulevard
Aster Court	North/West	Primrose Avenue
Azalea Court	West	Iris Avenue
Balsam Lane	North/East	Cedar Lane
Balsam Lane	South/West	Evergreen Lane
Barrington Drive	South/East	Route 9
Barrington Drive	South/West	Barrington Drive

Stop Sign on	Direction of Travel	At Intersection of
Bayberry Drive	North/West	Washington Road
Bayberry Drive	South/East	Maplewood Parkway
Beechwood Drive	North/West	Oakwood Drive
Beechwood Drive	South/East	Elmwood Drive
Birch Drive	South/West	Fort Edward Road
Blanchard Road	West	Route 9
Briarhurst Drive	North	Briarhurst Drive
Briarhurst Drive	South	Spier Falls Road
Burt Road	North	Reservoir Road
Burt Road	North and South	Reynolds Road
Burt Road	South	Clark Road
Butler Road	East	Route 9
Butler Road	South/West	Potter Road
Cardinal Drive	East	Amy Drive
Cardinal Drive	West	Kimberly Lane
Carmella Drive	West	Fortsville Road
Cashmere Drive	East	Corriander Drive
Castle Road	North	Myron Road
Castle Road	South	Bluebird Road
Cedar Lane	South/West	Evergreen Lane
Centerbar Heights	West	Gansevoort Road
Cheryl Drive	South	Myron Road
Christie Lane	East	Coriander Drive
Christie Lane	West	Cashmere Drive
Clark Road	North/East	Gansevoort Road
Clark Road	North/East	West River Road
Clark Road	South/West	Fortsville Road
Clark Road	South/West	Gansevoort Road

Stop Sign on	Direction of Travel	At Intersection of
Columbine Avenue	North/West	Daffodil Drive
Columbine Avenue	North/West (both ends)	Nolan Road
Columbine Avenue	South/East	Nolan Road
Congdon Road	North/East	Pine Valley Drive
Congdon Road	North/West	Jerome Lane
Connor Drive	North/East (both ends)	Pine Valley Drive
Coriander Drive	North	Reynolds Road
Coriander Drive	West	Cashmere Drive
Crocus Court	East	Primrose Avenue
Daffodil Drive	North/West	Dogwood Drive
Deer Run	North/West and South/East	Pheasant Way
Doe Run	North/West and East	Potter Road
Dogwood Drive	North/East	Tanglewood Drive
Donna Avenue	South/West	Pine Road
Douglas Avenue	North	Linden Street
Douglas Avenue	North and south	Spruce Street
Douglas Avenue	North and south	Willow Street
Douglas Avenue	South	Pine Road
East Road	South/West	Feeder Dam Road
Elmwood Drive	North/East	Merritt Road
Elmwood Drive	South/West	Tanglewood Drive
Evergreen Lane	South/West (both ends)	Redmond Road
Farnan Road	North/West	Bluebird Road
Fawn Road	North/West and South/East	Route 9
Fawn Road	North/West and South/East	Spier Falls Road
Fawn Road	South/East	Fortsville Road
Fedor Road	East	Burt Road
Fedor Road	West	Gansevoort Road

Stop Sign on	Direction of Travel	At Intersection of
Fernwood Road	North/West	Washington Road
Fernwood Road	South/East	Route 9
Flushing Avenue	North	Bluebird Road
Frankie Lane	South/East	Route 9
Fuller Road	North/West	Hudson Drive
Fuller Road	South/East	East Road
Fuller Road	South/East and North/West	West Road
Grant Road	South/West (both ends)	Ferry Boulevard
Grants Way	South/East	Route 9
Greenway Road	East	Gansevoort Road
Greenway Road	East and West	Lincoln Avenue
Greenway Road	North/West	Route 9
Grey Fox Drive	East	Grey Fox Drive
Grey Fox Drive	North	Kimberly Lane
Grey Fox Drive	West	Amy Drive
Grover Avenue	South/West	Fort Edward Road
Harrison Avenue Extension	East	Bluebird Road
Harrison Avenue Extension	East and West	Sisson Road
Hatchery Road	North/East	Selfridge Road
Hatchery Road	South/West	Fortsville Road
Hazen Place	North/West	Reservoir Road
Henry Road	North	Myron Road
Hilton Drive	South/East	Feeder Dam Road
Hilton Drive	South/West	North Feeder Dam Road
Hilton Drive	South/West	Windy Lane
Hobbs Lane	South/East	Robert Rogers Avenue
Hobbs Lane	South	Speakman Road
Holly Drive	South/East	Spier Falls Road

Stop Sign on	Direction of Travel	At Intersection of
Hudson Drive	South	Feeder Dam Road
Iris Avenue	North/East	Tanglewood Drive
Iris Avenue	South/East	Dogwood Drive
Jackson Road	North/East	Feeder Dam Road
Jacobie Road	South/East	Route 9
Jacobie Road	South/East and North/West	Maplewood Parkway
Jacobie Road	South/East and North/West	Washington Road
Jacobie Road	South/West	Wynnefield Drive
Jamaica Avenue	North	Bluebird Road
Jan Avenue	North	Bluebird Road
Jennifer Lane	South/West	Jennifer Lane
Jerome Lane	North/East	Pine Valley Drive
Jerome Lane	South/West	Tanglewood Drive
John Kay Road	South and North/East	Michael Road
Karen Lane	South/East	Evergreen Lane
Kimberly Lane	South	Reynolds Road
LaFond Drive	South/East and North/East	Briarhurst Drive
Laurel Road	North/West	Birch Drive
Lilac Court	North/West	Columbine Avenue
Lincoln Avenue	North	Pine Road
Lincoln Avenue	North and South	Greenway Road
Lincoln Avenue	North and South	Woodlawn Avenue
Lincoln Avenue	North/West	Route 9
Linden Street	East	Gansevoort Road
Linden Street	West	Donna Avenue
Lisa Drive	South/West and North/East	Karen Lane
Maplewood Parkway	North/East	Fernwood Road
Maplewood Parkway	South/West	Merritt Road

Stop Sign on	Direction of Travel	At Intersection of
Maplewood Parkway	South/West and North/East	Jacobie Road
Marine Drive	North/East	Hilton Drive
Marine Drive	North	Hilton Drive
Meadow Drive	East	North Feeder Dam Road
Merritt Road	North	Feeder Dam Road
Merritt Road	South/East	Route 9
Michael Road	East	Michael Road
Michael Road	North	Reynolds Road
Michael Terrace	West	Kimberly Lane
Middleton Drive	East (both ends)	North Feeder Dam Road
Mill Site Road	South/West	West River Road
Mockingbird Lane	North	Reynolds Road
Modinger Way	North/East	South Road
Mott Road	West	Gansevoort Road
Mountain Road	North	Spier Falls Road
Mountain Road	North/East	Spier Falls Road
Mountain Road	South	Old Saratoga Road
Mountainview Drive	North	North Road
Mountainview Drive	North/West South/East	Ryder Avenue
Mountainview Drive	South	Fuller Road
Mulford Road	South/East	Route 9
Myron Road	East	Bluebird Road
Myron Road	West	Gansevoort Road
North Feeder Dam Road	South	Jackson Road
Oak View Drive	West	Oak View Drive
Oakwood Drive	South/East	Elmwood Drive
Oakwood Drive	South/West	Tanglewood Drive
Old Bend Road	South/West	Butler Road

Stop Sign on	Direction of Travel	At Intersection of
Old Saratoga Road	South/East	Route 9
Old West Road	North/East	Fortsville Road
Old West Road	North	Route 9
Overlook Circle	South/East	River Crest Road
Palmer Road	North/East	Fortsville Road
Paris Road	North/West	Old Bend Road
Park Drive	East	East Road
Park Drive	North	North Road
Park Exit road	North/West	Jan Avenue
Pheasant Way	North/West	William Street
Pine Road	East	Gansevoort Road
Pine Road	West	Route 9
Pine Valley Drive	South/East	Nolan Road
Pine Valley Drive	South/West	Tanglewood Drive
Potter Road	South/East	Spier Falls Road
Primrose Avenue	North/West	Iris Avenue
Primrose Avenue	South/West	Iris Avenue
Recreation Road	North/West	Gansevoort Road
Redmond Road	North/West	Butler Road
Redmond Road	South/West	Spier Falls Road
Reservoir Road	North/East	Fort Edward Road
Reservoir Road	North/East and South/West	Gansevoort Road
Reservoir Road	South/West	Route 9
River Crest Road	South	Potter Road
Robert Rodgers Avenue	South	Birch Drive
Roslyn Avenue	North	Bluebird Road
Ryder Avenue	East	Mountainview Drive
Ryder Avenue	North/East	Park Drive

Stop Sign on	Direction of Travel	At Intersection of
Ryder Avenue	South/West	Hudson Drive
Ryder Avenue	West	Mountainview Road
Selfridge Road	North	Reynolds Road
Selfridge Road	North and South	Clark Road
Sisson Road	North and South	Bluebird Road
Sisson Road	North and South	Harrison Avenue Extension
Sisson Road	South	Fort Edward Road
Snowberry Lane	North/East	Snowberry Lane
Snowberry Lane	South/East	Selfridge Road
South Road	North	Old Saratoga Road
South Road	South	Route 9
Southwoods Road	North/East (both ends)	Butler Road
Speakman Street	East	Robert Rogers Avenue
Speakman Street	South	Fort Edward Road
Spruce Street	East	Gansevoort Road
Spruce Street	East and West	Douglas Avenue
Spruce Street	West	Donna Avenue
Sunset Drive	North/West (both ends)	Feeder Dam Road
Sweenor Lane	South/West	Potter Road
Sweet Road	North/West	Selfridge Road
Tanglewood Drive	North/West	Feeder Dam Road
Tanglewood Drive	North/West	Jerome Lane
Tanglewood Drive	North/West and South/East	Iris Road
Tanglewood Drive	South/East	Dogwood Drive
Tanglewood Drive	South/East	Nolan Road
Terry Drive	North/West	Terry Drive
Terry Drive	South	Myron Road
Thornapple Drive	South	Thornapple Drive

Stop Sign on	Direction of Travel	At Intersection of
Thornapple Drive	West	Selfridge Road
Thomas Avenue	North/West	Bluebird Road
Tulip Street	East	Jamaica Avenue
Van Buren Street	South/East	Harrison Avenue Extension
Wallingford Court	North/East	Barrington Drive
Washburn Road	North/West	Old West Road
Washington Road	North	Feeder Dam Road
Washington Road	South	Merritt Road
Washington Road	South/East and North/West	Jacobie Road
West Road	North and South	Fuller Road
West Road	North/West	Ryder Avenue
West Road	South	Feeder Dam Road
William Street	North/East	Fort Edward Road
Willow Street	East	Gansevoort Road
Willow Street	East and West	Douglas Avenue
Willow Street	East and West	Woodside Avenue
Willow Street	West	Donna Avenue
Windy Lane	West	Marine Drive
Woodland Drive	South/East	Spier Falls Road
Woodlawn Avenue	East and West	Lincoln Avenue
Woodlawn Avenue	North	Greenway Road
Woodlawn Avenue	North/West	Route 9
Woodside Avenue	North	Spruce Street
Woodside Avenue	North and South	Willow Street
Woodside Avenue	South	Pine Road
Wynnefield Drive	South/East (both ends)	Washington Road

§ 136-36. Schedule VII: Yield Intersections.

In accordance with the provisions of § 136-10, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
	(Reserved)	

§ 136-37. Schedule VIII: Trucks Over Certain Weights Excluded.

In accordance with the provisions of § 136-11, trucks in excess of the weights indicated are hereby excluded from the following streets or parts of streets, except for the pickup and delivery of materials on such streets:

Name of Street	Weight limit (tons)	Location
	(Reserved)	

§ 136-38. Schedule IX: Parking Prohibited at All Times.

[Amended 3-11-1997 by L.L. No. 3-1997; 4-7-1997 by L.L. No. 4-1997]

In accordance with the provisions of § 136-14, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Fawn Road	East	From Route 9 to Spier Falls Road
Fortsville Road	Both	From Route 9 to a point 600 feet south thereof
Jan Avenue	Both	Entire length
Mountain Road	West	Entire length
Old Saratoga Road	Both	Within 600 feet of the Moreau Lake State Park entrance
Tanglewood Drive	West	From the southwest corner of Tanglewood Elementary School property 3,800 feet to Dogwood Drive

§ 136-39. Schedule X: No Stopping.

In accordance with the provisions of § 136-15, no person shall stop a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Old Saratoga Road	Both	Within 600 feet of the Moreau Lake State Park entrance

§ 136-40. Schedule XI: No Standing.

In accordance with the provisions of § 136-16, no person shall stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Old Saratoga Road	Both	Within 600 feet of the Moreau Lake State Park entrance

§ 136-41. Schedule XII: Parking Prohibited Certain Hours.

In accordance with the provisions of § 136-17, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Merritt Road [Amended 1-13-1998 by L.L. No. 1-1998]	Both	7:30 a.m. to 3:30 p.m./Mon. through Fri. when school is in session at the Senior High School	From Elmwood Drive to a point in Merritt Road, marking the intersection with the westerly line of Maplewood Parkway on the north, and a point in the southerly side of Merritt Road, marking the intersection of the southerly line of Merritt Road with a line extended southerly from the westerly line of Maplewood Parkway

Parcel Identification	Area	Hours/Days	Location
Tax Map Parcel No. 49.59-2-32 [Added 1-13-1998 by L.L. No. 1-1998]	All	7:30 a.m. to 3:30 p.m./Mon. through Friday when school is in session at Senior High School	Northerly side of Merritt Road (parcel of 60 feet by 160 feet owned by the Town of Moreau

§ 136-42. Schedule XIII: No Stopping Certain Hours.

In accordance with the provisions of § 136-18, no person shall stop a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 136-43. Schedule XIV: No Standing Certain Hours.

In accordance with the provisions of § 136-19, no person shall stand a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 136-44. Schedule XV: Time Limit Parking.

In accordance with the provisions of § 136-20, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

Name of Street	Side	Time Limit; Hours/Days	Location
(Reserved)			

§ 136-45. Schedule XVI: Angle Parking.

In accordance with the provisions of § 136-21, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees)	Location
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Name of Street	Side	Angle (degrees)	Location
(Reserved)			

§ 136-46. Schedule XVII: Loading Zones.

In accordance with the provisions of § 136-22, the following described locations are hereby designated as loading zones:

Name of Street	Side	Location
(Reserved)		

§ 136-47. Schedule XVIII: Roads and Streets — Prohibited Vehicles.

[Added 9-4-2003 by L.L. No. 4-2003]

No person, firm or corporation shall drive or operate or permit to be driven or operated any prohibited vehicle, as defined in § 136-11.1 hereof, into, on, along or through the following roads or streets or parts thereof:

Name of Street	Direction of Travel	Between Intersections of
Bluebird Road	Both	Route 9 and Fort Edward Road

CHAPTER 139. VEHICLES, OFF-ROAD RECREATIONAL

§ 139-1. Purpose.

§ 139-2. Definitions.

§ 139-3. Restrictions.

§ 139-4. Exceptions.

§ 139-5. Penalties for offenses.

§ 139-6. Confiscation of vehicles.

§ 139-7. Enforcement.

CHAPTER 139. VEHICLES, OFF-ROAD RECREATIONAL

[HISTORY: Adopted by the Town Board of the Town of Moreau 6-11-1985 as LL No. 1-1985. Section 139-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Parks and recreation — See Ch. 102.

Abandoned vehicles — See Ch. 134.

Vehicles and traffic — See Ch. 136.

§ 139-1. Purpose.

The purpose of this chapter is to protect the public health, welfare and safety by regulating the operation of off-road recreational vehicles within the Town of Moreau in a manner which will minimize detrimental effects of such use on the environment and prevent accidents to pedestrian travelers and other users of property in the Town of Moreau.

§ 139-2. Definitions.

As used herein, the following words shall have the meanings established below:

MUNICIPAL PROPERTY

Real property owned, leased or used by the Town of Moreau. Village of South Glens Falls, South Glens Falls Central School District, County of Saratoga or any local government agency.

OFF-ROAD RECREATIONAL VEHICLES

Every unenclosed limited-use motor vehicle having a seat or saddle for the use of the rider and designed to travel with two, three or four wheels in contact with the ground (excluding a tractor), whether known as a "motorcycle," "all-terrain vehicle," "minibike," "trail bike" or by any other name, whether or not said vehicle is, in fact, registered for operation on the public highways.

§ 139-3. Restrictions.

A. It shall be unlawful for any person to drive or operate any off-road recreational vehicle on private lands or municipal property within the Town of Moreau without written permission of the owners or occupants of said private lands or written permission of the authorities having control of said municipal property. Said written permission must be in the possession of the persons operating the off-road recreational vehicle and must be presented, upon demand, to any peace officer or police officer so demanding.

B. It shall be unlawful to operate any off-road recreational vehicle within the Town of Moreau in such a manner as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and tranquility of other persons.

C. It shall be unlawful to operate any off-road recreational vehicle in a careless, reckless or negligent manner so as to endanger, or be likely to endanger, the safety or property of any persons, including the operator of said vehicles.

D. It shall be unlawful to operate any off-road recreational vehicle at a rate of speed greater than reasonable and prudent.

E. It shall be unlawful to operate any off-road recreational vehicle within 500 feet of any dwelling other than the dwelling house of the operator.

§ 139-4. Exceptions.

A. This chapter shall not apply in those instances where a duly licensed operator of a duly registered vehicle is operating same upon the public highway or its approaches.

B. This chapter shall not apply to police or emergency vehicles.

§ 139-5. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Unless otherwise provided in § 2289 of the Vehicle and Traffic Law, a failure to comply with the provisions of this chapter shall be deemed a violation, and the violator shall be subject to a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both.

§ 139-6. Confiscation of vehicles.

A. Any enforcement officer of the Town of Moreau and any peace officer or police officer having jurisdiction within the Town of Moreau who shall encounter any person operating an off-road recreational vehicle in violation of this chapter shall remove said vehicle to a place designated by the Saratoga County Sheriff. The owner or duly designated agent of the owner of such vehicle may regain same upon payment of expenses and charges necessarily and actually incurred by the removal of said vehicle.

B. In the case of a second or subsequent violation, the court may order confiscation of said vehicle in lieu of any fine and/or imprisonment. Any vehicle which is confiscated pursuant to this section will be sold at public auction according to the appropriate procedures and law affecting public auctions by municipalities.

§ 139-7. Enforcement.

The Saratoga County Sheriffs Department and New York State Police shall enforce the provisions of this chapter, and the town may appoint such other enforcement officers as may be necessary.

CHAPTER 145. WATER

ARTICLE I. Fenimore Water District Rules

- § 145-1. Appointment of Superintendent; duties.
- § 145-2. Duties of Town Clerk.
- § 145-3. Claims and charges.
- § 145-4. Standard meters.
- § 145-5. Permit required for use of water; application.
- § 145-6. Attachments and connections restricted; persons authorized to perform.
- § 145-7. Application for connection; bond.
- § 145-8. Tapping of mains or pipes restricted.
- § 145-9. Permission required for street openings.
- § 145-10. Safety precaution for street openings.
- § 145-11. Installation of materials.
- § 145-12. Changes in ground elevation.
- § 145-13. Responsibility of consumer.
- § 145-14. Stop- or waste cock to be provided.
- § 145-15. Notice to discontinue service.
- § 145-16. New connections.
- § 145-17. Inspection and testing of meters.
- § 145-18. Hydrants.
- § 145-19. Effect of discontinuance of service.
- § 145-20. Charges for service.
- § 145-21. Payment of bills.
- § 145-22. Unpaid charges.
- § 145-23. Application for discontinuance of service.
- § 145-24. Multiple use of meter.
- § 145-25. Use of water in building construction.
- § 145-26. Use of water in other construction.
- § 145-27. Use of service connection.
- § 145-28. Effect of noncompliance.
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- § 145-30. Construal of terms.
- § 145-31. Location of fixtures; work performed by district.
- § 145-32. Steam boilers and hot-water tanks.
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- § 145-34. Nonliability of district.
- § 145-35. Size of pipes and fittings.
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ARTICLE II. Water District No. 2 Rules

- § 145-38. Appointment of Superintendent duties.
- § 145-39. Duties of Town Clerk.
- § 145-40. Claims and charges.
- § 145-41. Standard meters.
- § 145-42. Permit required for use of water; application.
- § 145-43. Attachments and connections restricted; persons authorized to perform.
- § 145-44. Application for connection; bond.
- § 145-45. Tapping of mains or pipes restricted.
- § 145-46. Permission required for street openings.
- § 145-47. Safety precaution for street openings.
- § 145-48. Installation of materials.
- § 145-49. Changes in ground elevation.
- § 145-50. Responsibility of consumer.
- § 145-51. Stop- or waste cock to be provided.
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- § 145-53. New connections.
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- § 145-55. Hydrants.
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§ 145-215. Stop and waste valve to be provided.

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§ 145-398. (Reserved).

§ 145-399. (Reserved).

§ 145-400. (Reserved).

ARTICLE VI. Water District No. 6 Rules and Regulations

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§ 145-432. Amendments.

§ 145-433. Severability.

§ 145-434. When effective.

CHAPTER 145. WATER

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

GENERAL REFERENCES

Mobile homes and mobile home parks — See Ch. 96.

Sewers — See Ch. 115.

Subdivision of land — See Ch. 124.

Swimming pools — See Ch. 127.

ARTICLE I. Fenimore Water District Rules

[Adopted 12-11-1973 as Ch. 35 of the 1973 Code]

§ 145-1. Appointment of Superintendent; duties.

There shall be appointed for the Fenimore Water District, in the same manner and for such terms and on such basis as the Town Board may determine, a Superintendent of Water Supply, who, on behalf of the Town Board, shall have general supervision of the operation of the water system in said district, shall issue all permits required hereby, and shall read the meters at least once every six months and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-2. Duties of Town Clerk.

It shall be the duty of the Town Clerk of said Town to promptly bill and collect the water rents and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-3. Claims and charges.

Claims and charges against the district shall be audited and paid in the same manner as Town charges.

§ 145-4. Standard meters.

Permanent water service shall be rendered by meter only. In order that there may be a uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be approved by the Board and shall be procured from the district.

§ 145-5. Permit required for use of water; application.

A. No person or corporation shall use the water supplied by the district for any purpose whatsoever without having first obtained a permit upon written application therefor, after having first paid the charges pertaining to the introduction of water to the premises.

B. All applications for introduction of water to any premises or for the use of water shall be made upon a blank furnished by the district for such purpose and shall be signed by the owner or his, her or its duly authorized agent. Such application shall contain a statement of all uses for which water is desired, and a use of water for any purpose other than one mentioned in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time, and a permit may be granted therefor.

§ 145-6. Attachments and connections restricted; persons authorized to perform.

A. No person shall make any attachment to or connection with any of the pipes or mains of the district nor make any repairs, additions or alterations to the service pipes, except on the consumer's side of the meters, unless he is an employee of the district or a person or corporation authorized so to do by the Town Board.

B. A list of persons authorized as provided in Subsection A above shall be on file in the office of the district.

§ 145-7. Application for connection; bond.

A. Any person or corporation may make application to the Town Board for the purposes set forth in § 145-6A.

B. Except in the case of work done wholly within the owner's property, such application shall be accompanied by a bond in the sum of \$1,000, with one or more sureties acceptable to the Board, conditioned that he, she or it will comply with this Article, will pay to the district all fees, penalties or other charges required hereby in consequence of the work undertaken and that he, she or it will restore openings made in streets, roads, lanes and other public places and pavement thereon and therein to the same standard of condition as before the work started and keep and maintain the same in such condition for a period of one year after the work has been completed and, in case of failure so to do, will pay to the proper authority in the premises the cost of putting the same in such condition. The Town Board may, in its discretion, grant or deny such application. Such permission, so given, may be revoked by the Town Board at any time.

§ 145-8. Tapping of mains or pipes restricted.

No person shall tap any main or distributing pipe or make or interfere with any connection with the water system unless under the direction of and in the presence of the Superintendent or unless he is an employee of the district or unless specific permission in each case is given by the district, nor shall any person make any alterations or additions in and about water pipes, other than on the consumer's side of the meter, unless a written permit shall have been given by the district upon written application therefor.

§ 145-9. Permission required for street openings.

No street or public place shall be opened by any person for the purpose of making a connection with the mains or for the laying of water pipes or fixtures unless permission shall have been granted by the authority having jurisdiction therein.

§ 145-10. Safety precaution for street openings.

Whenever any street or public place shall have been opened for the purpose of making a connection with the mains or for the laying of water pipes or fixtures, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night.

§ 145-11. Installation of materials.

Service pipes shall be laid at least five feet below the surface of the ground at all points. The curb cock shall be installed 20 feet from the center of the road. The meter shall be installed within the building to be served as close as practicable to the point where the service pipe enters, unless otherwise directed or permitted by the district, and shall be set with the inlet and outlet in a horizontal line with the register on top and shall be so located as to be readily accessible at all times for reading, inspection or repair. A stop valve shall be provided within the building on the inlet side of the meter. Provision shall be made to prevent hot water from reaching the meter. No red or white lead or joint compound shall be used on joints between the main and the meter. No fee or other fitting through which water can be taken will be permitted on the service pipe between the main and the meter. Meters may be set outside of buildings in underground pits only by special permission of the district, and in such cases the construction of the pit and the method of setting the meter shall conform to the directions which will be furnished by the district for each specific instance.

§ 145-12. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the consumer shall promptly lower or raise his service pipe and curb box to conform to the new ground elevation. In case the consumer fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed, and a charge of \$10 will be made to cover the labor and expense by the District resulting from the consumer's failure so to do.

§ 145-13. Responsibility of consumer.

Service pipes and meters and the appurtenances thereto shall be kept in good repair and protected from the frost by the consumer at his own expense.

§ 145-14. Stop- or waste cock to be provided.

A stop- or waste cock shall be provided within the building so located that all piping on the consumer's side of the meter can be drained whenever necessary.

§ 145-15. Notice to discontinue service.

In case a house or other building is to be closed or become vacant, notice thereof should be given the district in order that the meter may be read and the curb cock closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the District Superintendent,

together with the additional sum of \$10 to cover the labor and expense to the district, shall be added to the next bill and paid in like manner as regular water charges.

§ 145-16. New connections.

Where a new connection is made with street mains and where new extensions or attachments are made in unoccupied houses, the curb cock shall be closed by the person making the connection, extension or attachment. Notice of the completion of the work shall be given the district, and the curb cock shall not again be opened until the work has been inspected and approved by the district and the meter read. Pipes and connections between the main and the meter shall not be covered until so inspected and approved.

§ 145-17. Inspection and testing of meters.

A. Where a water meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out of order or in need of repair, notice thereof shall be given the district. Another meter then will be loaned and installed during the time required for testing and repair. Where repairs are found necessary, the same shall be made by the district and the cost thereof borne by the consumer. When, in the opinion of the Superintendent of the district, a meter becomes unsuitable for further use, it shall be replaced by another at the consumer's expense.

B. No charge shall be made for the inspection and testing of meters found to be out of order when such have been duly reported; otherwise, a charge of \$4 per meter shall be made to the consumer, in addition to the cost of repairing such meter.

§ 145-18. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the district without permit from the district therefor, except that hydrants may be opened by or on the order of any member of a Fire Department or any Fire Commissioner within the district in case of fire for the purpose of attaching thereto fire hose and equipment, where a contract for the purpose has been entered into with the Fire District.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given the district.

C. No tools or implements shall be used to open hydrants except such as are furnished by the district or by a Fire Department operating within the district.

§ 145-19. Effect of discontinuance of service.

Where water has been turned off by direction of the district, it shall not be again turned on without the permission of the district.

§ 145-20. Charges for service.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The following charges for water service are hereby established:

A. The minimum charges and schedule of rates shall be on a six-month basis and shall be subject to the currently effective water contract with the Village of South Glens Falls.

§ 145-21. Payment of bills.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Bills for water service shall become due and payable to the district, and such payment shall be paid to the Town Clerk at his office semiannually on or before the first day of March and September for the semiannual periods respectively ending on the first day of March and September. If such bills are not paid within 30 days thereafter, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with the penalty and the sum of \$10 to cover the expense of discontinuance and restoration of service, is paid.

§ 145-22. Unpaid charges.

A. Water rents and charges and penalties thereon shall be a lien upon the real property upon which the water is used, and on or before the day when, under the Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Board a statement showing all water rents and charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such rents, charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Town Board but may thereafter be paid to the Supervisor until such time as a statement of such unpaid water rents, charges and penalties is submitted to the Board of Supervisors for the purpose of levying the same as a tax against the property affected.

§ 145-23. Application for discontinuance of service.

Notice in writing delivered to the district office at least 10 days before the semiannual billing date shall be required in all cases of applications for the discontinuance of water service; otherwise the consumer shall be liable for the minimum charge for the following half year.

§ 145-24. Multiple use of meter.

Each dwelling or building, or parts thereof, having unrelated occupancy or distinctive use shall, at the option of the district, have a separate meter. Where water is supplied through a single meter for more than one such occupancy or distinctive use, the minimum charge shall be the regular charge for such meter multiplied by the number of such occupants or distinctive uses, and, in order to determine the charge to be made for water used where there is more than one such occupancy or use served by a single meter, the total amount of water delivered as registered by the meter shall be divided by the number of such occupancies or distinctive uses, and the result shall be deemed to be the amount of water delivered for each such occupancy or distinctive use and shall be charged for as if the quantity of water furnished each such occupancy or use was through a separate meter.

§ 145-25. Use of water in building construction.

A. When water is required for use in connection with building construction, application shall be made to the district therefor. Where the owner of the premises is not the applicant, deposit of such sum as the Superintendent of the district shall deem sufficient to pay for water to be used and charges attendant thereon shall be paid in advance to the district. Where, after installation and commencement of the use of water, in the opinion of the Superintendent, more water is used or will be used than is covered by the deposit, he may then require a further deposit, in default of which he may discontinue service when the amount of water charges and other district charges equals the amount of the deposit. After completion of the work, upon claim duly made therefor to the Town Board, any surplus of the deposit over and above the amount of the water charges and other expenses attendant shall be refunded to the applicant. Charges for this purpose shall be the same as provided herein for permanent service, except that if the meter is returned to the district in good and serviceable condition, the cost thereof to the applicant will be refunded.

B. Installations, unless otherwise permitted by the district, shall conform to the rules and regulations herein provided for permanent service.

§ 145-26. Use of water in other construction.

A. Persons or corporations desiring to use water for construction purposes, other than mentioned in § 145-25, shall make application to the district therefor, setting forth the name and address of the applicant, the object and purpose of the use of water and the quantity estimated to be needed and shall give such other information as the Superintendent shall require. If such application is granted, the supply of water shall be furnished in such manner as the district shall allow, and the water rates shall be as in these rules established, except that there shall be no minimum charge. A meter shall be furnished by the district for the use of which a reasonable charge will be made by the district. Where water for such purpose is taken from a hydrant, provision shall be made for the protection of the meter and for quick disconnection in case such hydrant or hydrants are needed to extinguish any fire. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

B. No such application shall be granted unless a bond, in such sum as the Superintendent shall deem sufficient, approved as to sureties and form by a majority of the members of the Town Board, shall be delivered to the district to indemnify it for any damage which may be suffered by it to its water system, gate boxes, meters, valves or fire hydrants by reason of the construction contemplated.

C. No such application shall be granted unless a bond shall be delivered to the district, approved as to amount, sureties a form by a majority of the members of the Town Board, indemnifying and saving harmless the district and the Town of Moreau from damages to property or damages resulting from the death of any person or injuries suffered by any person by reason of the construction work done for which water is used.

D. The provisions of § 145-25, insofar as it provides for the deposit of money to secure payment of water charges and insofar as it provides for reimbursement of surplus deposit, shall apply to the use of water for the purposes contemplated by this section, except that no deposit shall be required of the state or any municipal corporation, or any district, bureau or department thereof, where the work is being done by its own employees and where the purpose for which the water is used has been duly authorized, in which event bills for water charges shall be rendered at such times as the Superintendent shall deem advisable.

E. The bond, under this section, shall not be required where the water is being furnished to the Town of Moreau or its Highway Department for work being done by its employees.

§ 145-27. Use of service connection.

Except with the permission of the district, water for construction purposes shall not be taken from any service connect on used for any other purpose, whether or not on the same premises or from any main or hydrant.

§ 145-28. Effect of noncompliance.

Whenever any of the provisions of this Article are violated, the water supply may, in the discretion of the Superintendent, be shut off and the meter removed.

§ 145-29. Right of entry.

The Superintendent of the district or his authorized agents shall have full power to enter the premises of any consumer, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water.

§ 145-30. Construal of terms.

A. Wherever it is referred to herein that permission be granted by or that an application be made to or that an act be done by or that an act be approved by the district, it shall mean the Superintendent of Water Supply of the district.

§ 145-31. Location of fixtures; work performed by district.

A. The corporation cock, curb cock and box and service pipe from the street main to a point between the outside sidewalk line and the curblin shall be located as designated by the Superintendent of Water Supply for the district. All shall be furnished and installed by the district, if not already existing, upon application to the district by the property owner, made in accordance with the sections of this Article as apply to the application for water tap or new service.

B. A charge shall be made by the district to the property owner for which the service connection is being provided for the above-mentioned work, in an amount which shall be established by the district and which may be varied from time to time. Before the connection is made, the applicant for such service connection shall pay the district the full amount of this service connection charge.

C. It is the responsibility of the property owner to provide and pay for all work done and material furnished in the completion of the service connection line from the curb cock to the meter placed on the service line. The service pipes and fittings and the meter settings shall be of a make, size and pattern determined by the Town

Board, with the installation of all of these items to be made under this Article and under the direction of the Superintendent.

§ 145-32. Steam boilers and hot-water tanks.

In all places where steam boilers or hot-water tanks are supplied with water from the water system, the owner or consumer must see that the plumber places a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. The district shall not be liable for any damage resulting from the sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the water system.

§ 145-33. Limitation of water supply; discontinuance.

The district reserves the right to limit the amount of water furnished to any consumer, should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use; or said district may entirely shut off the water supply used for any manufacturing purposes or for furnishing power or for lawn sprinkling at any time, by giving reasonable notice of such intended action, or in the case of making or constructing new work or in making repairs or in an emergency. The right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.

§ 145-34. Nonliability of district.

The district shall not be liable for any damage or loss of any name or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-35. Size of pipes and fittings.

Service pipes and fittings, corporation cocks, curb cocks, curb boxes, meters and meter settings shall conform to such standards and shall be of such make and type as the Town Board shall adopt and shall be of such size as the Superintendent deems proper. Service pipes for the street main to the meter, less than two inches in diameter, shall be of pure, seamless soft-tempered copper tubing with bronze fittings. Tubing shall be of the following thickness:

Nominal Pipe Size	Outside Diameter of Tubing	Gauge (B.W.G.)
3/4 inch	7/8 inch	16
1 inch	1 1/8 inch	16
1 1/4 inch	1 3/8 inch	16
1 1/2 inch	1 5/8 inch	15

§ 145-36. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Any person who violates any provision of this Article shall, upon conviction thereof, be subject to a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.

§ 145-37. Amendments.

The right is reserved to change and amend this Article, to make special rates, variations and contracts in all proper cases or to turn off the water supply without notice in the case of extensions, repairs or other necessity, without liability for damages for lack of water or for any damage which may result from the turning off of the water supply.

ARTICLE II. Water District No. 2 Rules

[Adopted 12-11-1973 as Ch. 36 of the 1973 Code]

§ 145-38. Appointment of Superintendent duties.

There shall be appointed for Water District No. 2 Town of Moreau, in the same manner and for such terms and on such basis as the Town Board may determine, a Superintendent of Water Supply, who, on behalf of the Town Board, shall have general supervision of the operation of the water system in said district, shall issue all permits required hereby and shall read all the meters at least once every six months and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-39. Duties of Town Clerk.

It shall be the duty of the Town Clerk of said town to promptly bill and collect the water rents and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-40. Claims and charges.

Claims and charges against the district shall be audited and paid in the same manner as town charges.

§ 145-41. Standard meters.

Permanent water service shall be rendered by meter only. In order that there may be a uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be approved by the Board and shall be procured from the district.

§ 145-42. Permit required for use of water; application.

A. No person or corporation shall use the water supplied by the district for any purpose whatsoever without having first obtained a permit upon written application therefor, after having first paid the charges pertaining to the introduction of water to the premises.

B. All applications for introduction of water to any premises or for the use of water shall be made upon a blank furnished by the district for such purpose and shall be signed by the owner or his, her or its duly authorized agent. Such application shall contain a statement of all uses for which water is desired, and a use of water for any purpose other than one mentioned in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time, and a permit may be granted therefor.

§ 145-43. Attachments and connections restricted; persons authorized to perform.

A. No person shall make any attachment to or connection with any of the pipes or mains of the district nor make any repairs, additions or alterations to the service pipes, except on the consumer's side of the meters, unless he is an employee of the district or a person or corporation authorized so to do by the Town Board.

B. A list of persons authorized as provided in Subsection A above file in the office of the district.

§ 145-44. Application for connection; bond.

A. Any person or corporation may make application to the Town Board for the purposes set forth in § 145-43A.

B. Except in the case of work done wholly within the owner's property, such application shall be accompanied by a bond in the sum of \$1,000, with one or more sureties acceptable to the Board, conditioned that he, she or it will comply with this Article and will pay to the district all fees, penalties or other charges required hereby in consequence of the work undertaken and that he, she or it will restore openings made in streets, roads, lanes and other public places and pavement thereon and therein to the same standard of condition as before the work started and keep and maintain the same in such condition for a period of one year after the work has been completed and, in case of failure so to do, will pay to the proper authority in the premises the cost of putting the same in such condition. The Town Board may, in its discretion, grant or deny such application. Such permission, so given, may be revoked by the Town Board at any time.

§ 145-45. Tapping of mains or pipes restricted.

No person shall tap any main or distributing pipe or make or interfere with any connection with the water system unless under the direction of and in the presence of the Superintendent or unless he is an employee of the district or unless specific permission in each case is given by the district, nor shall any person make any alterations or additions in and about water pipes, other than on the consumer's side of the meter, unless a written permit shall have been given by the district upon written application therefor.

§ 145-46. Permission required for street openings.

No street or public place shall be opened by any person for the purpose of making a connection with the mains or for the laying of water pipes or fixtures unless permission shall have been granted by the authority having jurisdiction therein:

§ 145-47. Safety precaution for street openings.

Whenever any street or public place shall have been opened for the purpose of making a connection with the mains or for the laying of water pipes or fixtures, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night.

§ 145-48. Installation of materials.

Service pipes shall be laid at least five feet below the surface of the ground at all points. The curb cock shall be installed 20 feet from the center of the road. The meter shall be installed within the building to be served as close as practicable to the point where the service pipe enters, unless otherwise directed or permitted by the district, and shall be set with the inlet and outlet in a horizontal line with the register on top and shall be so located as to be readily accessible at all times for reading, inspection or repair. A stop valve shall be provided within the building on the inlet side of the meter. Provision shall be made to prevent hot water from reaching the meter. No red or white lead or joint compound shall be used on joints between the main and the meter. No tee or other fitting through which water can be taken will be permitted on the service pipe between the main and the meter. Meters may be set outside of buildings in underground pits only by special permission of the district, and in such cases the construction of the pit and the method of setting the meter shall conform to the directions which will be furnished by the district for each specific instance.

§ 145-49. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the consumer shall promptly lower or raise his service pipe and curb box to conform to the new ground elevation. In case the consumer fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed, and a charge of \$10 will be made to cover the labor and expense by the district resulting from the consumer's failure so to do.

§ 145-50. Responsibility of consumer.

Service pipes and meters and the appurtenances thereto shall be kept in good repair and protected from the frost by the consumer at his own expense.

§ 145-51. Stop- or waste cock to be provided.

A stop- or waste cock shall be provided within the building so located that all piping on the consumer's side of the meter can be drained whenever necessary.

§ 145-52. Notice to discontinue service.

In case a house or other building is to be closed or become vacant, notice thereof should be given the district in order that the meter may be read and the curb cock closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the District Superintendent, together with the additional sum of \$10 to cover the labor and expense to the district, shall be added to the next bill and be paid in like manner as regular water charges.

§ 145-53. New connections.

Where a new connection is made with street mains and where new extensions or attachments are made in unoccupied houses, the curb cock shall be closed by the person making the connection, extension or attachment. Notice of the completion of the work shall be given the district, and the curb cock shall not again be opened until the work has been inspected and approved by the district and the meter read. Pipes and connections between the main and the meter shall not be covered until so inspected and approved.

§ 145-54. Inspection and testing of meters.

A. Where a water meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out of order or in need of repair, notice thereof shall be given the district. Another meter will be loaned and installed during the time required for testing and repair. Where repairs are found necessary, the same shall be made by the district and the cost thereof borne by the consumer. When, in the opinion of the Superintendent of the district, a meter becomes unsuitable for further use, it shall be replaced by another at the consumer's expense.

B. No charge shall be made for the inspection and testing of meters found to be out of order when such have been duly reported; otherwise, a charge of \$4 per meter shall be made to the consumer, in addition to the cost of repairing such meter.

§ 145-55. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the district without permit from the district therefor, except that hydrants may be opened by or on order of any member of a Fire Department or any Fire Commissioner within the district in case of fire for the purpose of attaching thereto fire hose and equipment, where a contract for the purpose has been entered into with the Fire District. In no event shall water be removed from any hydrant at a rate of flow in excess of 150 gallons per minute.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given the district.

C. No tools or implements shall be used to open hydrants except such as are furnished by the district or by a Fire Department operating within the district.

§ 145-56. Effect of discontinuance of service.

Where water has been turned off by direction of the district, it shall not be again turned on without the permission of the district.

§ 145-57. Charges for service.

[Amended 7-27-1990 by L.L. No. 4-1990; 2-11-1992 by L.L. No. 1-1992; 7-9-1996 by L.L. No. 1-1996; 2-8-2000 by L.L. No. 1-2000]

The following charges for water service are hereby established:

A. The minimum charges and schedule of rates shall be on a six-month basis and are as follows:

(1) From zero to 10,000 gallons: \$32, minimum charge.

(2) For more than 10,001 gallons: \$3.20 per 1,000 gallons.

§ 145-58. Payment of bills.

[Amended 7-27-1990 by L.L. No. 4-1990]

Bills for water service shall become due and payable to the district, and such payment shall be paid to the Town Clerk at his office semiannually on or before the first day of April and October for the semiannual periods

respectively ending on the first day of April and October. If such bills are not paid within 30 days thereafter, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with the penalty and the sum of \$10 to cover the expense of discontinuance and restoration of service, is paid.

§ 145-59. Unpaid charges.

A. Water rents and charges and penalties thereon shall be a lien upon the real property upon which the water is used, and on or before the day when, under the Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Board a statement showing all water rents and charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such rents, charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Town Board but may thereafter be paid to the Supervisor until such time as a statement of such unpaid water rents, charges and penalties is submitted to the Board of Supervisors for the purpose of levying the same as a tax against the property affected.

§ 145-60. Application for discontinuance of service.

Notice in writing, delivered to the district office at least 10 days before the semiannual billing date, shall be required in all cases of applications for the discontinuance of water service; otherwise the consumer shall be liable for the minimum charge for the following half year.

§ 145-61. Multiple use of meter.

Each dwelling or building, or parts thereof, having unrelated occupancy or distinctive use shall, at the option of the district, have a separate meter. Where water is supplied through a single meter for more than one such occupancy or distinctive use, the minimum charge shall be the regular charge for such meter multiplied by the number of such occupants or distinctive uses, and, in order to determine the charge to be made for water used where there is more than one such occupancy or use served by a single meter, the total amount of water delivered as registered by the meter shall be divided by the number of such occupancies or distinctive uses, and the result shall be deemed to be the amount of water delivered for each such occupancy or distinctive use and shall be charged for as if the quantity of water furnished each such occupancy or use was through a separate meter.

§ 145-62. Use of water in building construction.

A. When water is required for use in connection with building construction, application shall be made to the district therefor. Where the owner of the premises is not the applicant, deposit of such sum as the Superintendent of the district shall deem sufficient to pay for water to be used and charges attendant thereon shall be paid in advance to the district. Where, after installation and commencement of the use of water, in the opinion of the Superintendent, more water is used or will be used than is covered by the deposit, he may then require a further deposit, in default of which he may discontinue service when the amount of water charges and other district charges equals the amount of the deposit. After completion of the work, upon claim duly made therefor to the Town Board, any surplus of the deposit over and above the amount of the water charges and other expenses attendant thereon shall be refunded to the applicant. Charges for this purpose shall be the same as provided herein for permanent service, except that if the meter is returned to the district in good and serviceable condition, the cost thereof to the applicant will be refunded.

B. Installation, unless otherwise permitted by the district, shall conform to the rules and regulations herein provided for permanent service.

§ 145-63. Use of water in other construction.

A. Persons or corporations desiring to use water for construction purposes, other than mentioned in § 145-62, shall make application to the district therefor, setting forth the name and address of the applicant, the object and purpose of the use of water and the quantity estimated to be needed and shall give such other information as the Superintendent shall require. If such application is granted, the supply of water shall be furnished in such manner as the district shall allow, and the water rates shall be as in these rules established, except that there shall be no minimum charge. A meter shall be furnished by the district for the use of which a reasonable charge

will be made by the district. Where water for such purpose is taken from a hydrant, provision shall be made for the protection of the meter and for quick disconnection in case such hydrant or hydrants are needed to extinguish any fire. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. No such application shall be granted unless a bond, in such sum as the Superintendent shall deem sufficient, approved as to sureties and form by a majority of the members of the Town Board, shall be delivered to the district to indemnify it for any damage which may be suffered by it to its water system, gate boxes, meters, valves or fire hydrants by reason of the construction contemplated.

C. No such application shall be granted unless a bond shall be delivered to the district, approved as to amount, sureties and form by a majority of the members of the Town Board, indemnifying and saving harmless the district and the Town of Moreau from damages to property or damages resulting from the death of any person or injuries suffered by any person by reason of the construction work done for which water is used.

D. The provisions of § 145-62, insofar as it provides for the deposit of money to secure payment of water charges and insofar as it provides for reimbursement of surplus deposit, shall apply to the use of water for the purposes contemplated by this section, except that no deposit shall be required of the state or any municipal corporation, or any district, bureau or department thereof, where the work is done by its own employees and where the purpose for which the water is used has been duly authorized, in which event bills for water charges shall be rendered at such times as the Superintendent shall deem advisable.

E. The bond, under this section, shall not be required where the water is being furnished to the Town of Moreau or its Highway Department for work being done by its employees.

§ 145-64. Use of service connection.

Except with the permission of the district, water for construction purposes shall not be taken from any service connection used for any other purpose, whether or not on the same premises or from any main or hydrant.

§ 145-65. Effect of noncompliance.

Whenever any of the provisions of this Article are violated, the water supply may, in the discretion of the Superintendent, be shut off and the meter removed.

§ 145-66. Right of entry.

The Superintendent of the District or his authorized agents shall have full power to enter the premises of any consumer, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water.

§ 145-67. Construal of terms.

A. Wherever it is referred to herein that permission be granted by or that an application be made to or that an act be done by or that an act be approved by the district, it shall mean the Superintendent of Water Supply of the district.

§ 145-68. Location of fixtures, work performed by district.

A. The corporation cock, curb cock and box and service pipe from the street main to a point between the outside sidewalk line and the curblin shall be located as designated by the Superintendent of Water Supply for the district. All shall be furnished and installed by the district, if not already existing, upon application to the district by the property owner made in accordance with the sections of this Article as apply to the application for water tap or new service.

B. A charge shall be made by the District to the property owner for which the service connection is being provided for the above-mentioned work in an amount which shall be established by the district and which may be varied from time to time. Before the connection is made, the applicant for such service connection shall pay the district the full amount of this service connection charge.

C. It is the responsibility of the property owner to provide and pay for all work done and material furnished in the completion of the service connection line from the curb cock to the meter placed on the service line. The service pipes and fittings and the meter settings shall be of a make, size and pattern determined by the Town Board, with the installation of all of these items to be made under this Article and under the direction of the Superintendent.

§ 145-69. Steam boilers and hot-water tanks.

In all places where steam boilers or hot-water tanks are supplied with water from the water system, the owner or consumer must see that the plumber places a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. The district shall not be liable for any damage resulting from the sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the water system.

§ 145-70. Limitation of water supply; discontinuance.

The district reserves the right to limit the amount of water furnished to any consumer, should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use, or said district may entirely shut off the water supply used for any manufacturing purposes or for furnishing power or for lawn sprinkling at any time, by giving reasonable notice of such intended action, or in the case of making or constructing new work or in making repairs or in an emergency. The right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.

§ 145-71. Nonliability of district.

The district shall not be liable for any damage or loss of any name or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-72. Size of pipes and fittings.

Service pipes and fittings, corporation cocks, curb cocks, curb boxes, meters and meter settings shall conform to such standards and shall be of such make and type as the Town Board shall adopt and shall be of such size as the Superintendent deems proper. Service pipes for the street main to the meter, less than two inches in diameter, shall be of pure, seamless soft-tempered copper tubing with bronze fittings. Tubing shall be of the following thickness:

Nominal Pipe Size	Outside Diameter of Tubing	Gauge (B.W.G.)
3/4 inch	7/8 inch	16
1 inch	1 1/8 inch	16
1 1/4 inch	1 3/8 inch	16
1 1/2 inch	1 5/8 inch	15

§ 145-73. Construction or blasting near gas mains.

Section 1918 of the Penal Law of the State of New York provides that no construction or excavation shall be done within 100 feet of any existing street, highway or public place in which there is a gas main, unless seventy-two-hour advance notice of such work shall have been given in writing to the person, corporation or municipality engaged in the distribution of gas in such territory. The law further provides that no blasting shall be done within 200 feet of such street, highway or public place in which there are gas distribution mains unless the aforementioned written seventy-two-hour advance notice is given. The applicant for new water service shall, therefore, ascertain for himself if there are any gas mains in any street or highway within 100 feet of his excavation or within 200 feet of any proposed blasting and shall provide written, seventy-two-hour advance notice in accordance with the preceding.

§ 145-74. Cross-connections prohibited.

No dwelling receiving water from the district shall have a private water system (well, spring, etc.) connected into piping carrying district water. Water from a private supply must be run in separate piping with no physical connections between this piping and piping carrying district water. The intent of this regulation is to prohibit the possibility of water from any source other than the district supply getting into the district waterlines.

§ 145-75. Installations in subdivisions.

For all installations of waterlines and/or services and appurtenances in areas not included within existing highways or streets, such as for developments where roads are being prepared and offered for acceptance as public roads, the following provisions shall apply:

A. Connection shall be made to the district water system at a point designated by the Superintendent of Water Supply.

B. Pipe, valves and hydrants shall be installed in accordance with a plan approved by the Town Board.

C. Service connections shall be made with copper tubing, Type K, three-fourths inch minimum size, with corporation cock, curb stop and curb box to be of a make, type and size as approved by the Superintendent of Water Supply.

D. Furnishing of materials and installation of all waterlines, valves, hydrants and services shall be in a manner satisfactory to the Superintendent of Water Supply.

E. All costs of materials and installations of water mains, valves, hydrants and services shall be borne by the developer.

F. As a condition of obtaining service, all water mains, valves and hydrants, plus water services to the limits of existing public highways or to the outer limits of a fifty-foot area proposed for ultimate dedication as public highways, shall be deeded to the district.

G. Notwithstanding the provisions of this section, the provisions of the Town Subdivision Regulations Editor's Note: See Ch. 124, Subdivision of Land. shall apply to all water systems.

[Added 7-27-1990 by L.L. No. 4-1990]

§ 145-76. Penalties for offenses.

[Amended 7-27-1990 by L.L. No. 4-1990]

Any person violating any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.

§ 145-77. Amendments.

The right is reserved to change and amend this article, to make special rates, variations and contracts in all proper cases or to turn off the water supply without notice in the case of extensions, repairs or other necessity, without liability for damages for lack of water or for any damage which may result from the turning off of the water supply.

§ 145-78. (Reserved)

§ 145-79. (Reserved)

§ 145-80. (Reserved)

§ 145-81. (Reserved)

§ 145-82. (Reserved)

§ 145-83. (Reserved)

§ 145-84. (Reserved)

§ 145-85. (Reserved)

§ 145-86. (Reserved)

§ 145-87. (Reserved)

§ 145-88. (Reserved)

§ 145-89. (Reserved)

§ 145-90. (Reserved)

§ 145-91. (Reserved)

§ 145-92. (Reserved)

§ 145-93. (Reserved)

§ 145-94. (Reserved)

§ 145-95. (Reserved)

§ 145-96. (Reserved)

§ 145-97. (Reserved)

§ 145-98. (Reserved)

§ 145-99. (Reserved)

§ 145-100. (Reserved)

ARTICLE III. Water District No. 3 Rules

[Adopted 6-9-1998 by L.L. No. 6-1998]

§ 145-101. Word usage, definitions and abbreviations.

For the purposes of this article, the word usage, definitions and abbreviations of terms are as follows:

ARTICLE

The rules and regulations for Water District No. 3, Chapter 145 of the Code of the Town of Moreau.

ASTM

American Society for Testing and Materials.

CROSS-CONNECTION CONTROL DEVICE

A mechanical device installed within the piping which prevents the reverse flow of water from the facility receiving water service to the district's water system. All plans and specifications related to cross-connection control must be approved by the Water Superintendent and the New York State Department of Health.

DISTRICT

Water District No. 3.

INSPECTOR

The person or firm designated by the Water Superintendent to observe the installation of the water system to determine if the labor performed and the materials furnished are in compliance with the

approved design plans and specifications. The inspector shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the contractor's responsibility.

METER or WATER METER

A device used in connection with measuring the quantity of water transmitted from the district.

NYSDOH

New York State Department of Health.

OSHA

Occupational Safety and Health Administration, United States Department of Labor.

OWNER, AGENT, COMPANY, CONSUMER, CONTRACTOR, CUSTOMER, PROPERTY OWNER and USER

Entity receiving water service and the party financially responsible for payment of service.

PRIVATE PROPERTY

Lands located within the designated subdivision lot boundary as shown on the Moreau Industrial Park Subdivision Maps.

RECORD DRAWINGS

Drawings depicting the location and related details and condition of improvements such as water mains, services, valves, meters and appurtenances made in the connection of water service to premises.

RIGHT-OF-WAY

The street right-of-way as shown on the Moreau Industrial Park Subdivision Maps.

SUPERINTENDENT or WATER SUPERINTENDENT

Water Superintendent of the district or the Deputy Water Superintendent.

TOWN

The Town of Moreau; also when referring to individuals (i.e., Town Clerk, Town Supervisor, Town Board), it shall be the Town of Moreau.

§ 145-102. Appointment of Superintendent; duties.

There shall be appointed for Water District No. 3, in the same manner and for such terms and on such basis as the Town Board may determine, a Water Superintendent and a Deputy Superintendent who, on behalf of the Town Board, shall have responsibility for the general supervision of the operation of the water system in said District, shall issue all permits required hereby and shall read the meters at intervals as determined by the Town Board and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-103. Duties of Town Clerk.

It shall be the duty of the Town Clerk to promptly bill and collect the water service charges and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-104. Claims and charges.

Claims and charges against the district shall be audited and paid by the district in the same manner as town charges.

§ 145-105. Standard meters.

Permanent water service shall be rendered by meter only. In order that there may be a uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be approved by the Water Superintendent. Meters are to be purchased, installed and maintained by the owner.

§ 145-106. Permit required for use of water; application.

A. No person or corporation shall use the water supplied by the district for any purpose whatsoever without having first obtained a permit upon written application therefor, after having paid the charges pertaining to the introduction of water to the premises. The permit is nontransferable and shall not be assigned.

B. All applications for introduction of water to any premises or for the use of water shall be made upon an application form furnished by the Water Superintendent for such purpose and shall be signed by the owner or his, her or its duly authorized agent. Such application shall contain a statement of all uses for which water is requested, including fire protection if applicable. Use of water for any purpose other than those listed in the

application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time and a permit may be granted therefor.

C. All applications shall include an engineer's report describing the nature of the proposed facility and identifying any and all substances used or associated with the facility and processes including intended use for fire protection. The engineer's report shall include schematic drawings of the service and plumbing configuration. Said report will be used for the purpose of determination of the cross-connection control devices which may be necessary to protect the public water supply from contamination as required by the New York State Department of Health.

D. The permit shall indicate the anticipated average daily water usage. The actual average daily usage shall not exceed 10% of the amount indicated on the permit. Water consumption in excess of the 10% overage may result in termination of service and will require the issuance of an amended permit.

§ 145-107. Attachments and connections restricted to persons authorized to perform.

A. No person shall make any attachment to or connection with any of the pipes or mains of the district nor make any repairs, additions or alterations to the service pipes, except on the owner's side of the meter, unless he is an employee of the district or a person or corporation authorized to do so by the Water Superintendent.

B. A list of persons authorized as provided in Subsection A above shall be on file in the office of the Town Clerk.

§ 145-108. Application for connection; bond.

A. Any person or corporation may make application to the Water Superintendent for the purposes set forth in § 145-107A.

B. Except in the case of work done wholly on the owner's property on the owners side of the meter, such application shall be accompanied by a bond the sum of which is to be determined by the Town Board, with one or more sureties acceptable to the Board, conditioned that he, she or it will comply with this article, will pay to the district all fees, penalties or other charges required hereby in consequence of the work undertaken and that he, she or it will restore openings made in streets, roads, lanes and other public places and pavement thereon and therein to the same standard of condition as before the work started and keep and maintain the same in such condition for a period of one year after the work has been completed and, in case of failure so to do, will pay to the proper authority the cost of putting the same in such condition. The bond shall also include the amount necessary to reimburse the district for inspection fees as required by § 145-129. The Water Superintendent may grant or deny such application. Such permission, so given, may be revoked by the Town Board at any time.

§ 145-109. Tapping of mains or pipes restricted.

No person shall tap any main or distributing pipe or make or interfere with any connection with the water system unless under the direction of and in the presence of the Water Superintendent or unless he is an employee of the district or unless specific permission in each case is given in writing by the Water Superintendent, nor shall any person make any alterations or additions in and about water pipes, other than on the owner's side of the meter, unless a permit shall have been given by the Water Superintendent upon written application therefor.

§ 145-110. Permission required for street openings.

No street shall be opened by any person for the purpose of making a connection with the mains or for the laying of water pipes or fixtures unless a permit has been issued by the Highway Superintendent.

§ 145-111. Safety precaution for street openings.

Whenever any street has been opened for the purpose of making a connection with the mains or for the laying of water pipes or fixtures, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night. All such related work shall be completed in full compliance with all OSHA and other applicable safety codes and regulations.

§ 145-112. Insurance; indemnification.

A. Before contractors shall be permitted to work on the Water District No. 3 system, certificates of insurance covering the work will be required in the following amounts:

(1) Combined bodily injury and property damage liability: \$1,000,000, each occurrence; \$2,000,000 aggregate.

(2) Explosion/collapse/underground: aggregate limit applies per project.

B. The Town of Moreau Town Board and the water district shall be named as additionally insured on the permittee's policy.

C. Should any of the policies be canceled before the expiration date thereof, the issuing company will mail 45 days' written notice to the Town Board by certified mail.

D. To the fullest extent permitted by law, and to the extent claims, damages, losses or expenses are not covered by the contractor's commercial liability insurance, the contractor shall indemnify and hold harmless the town and the water district and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligation of indemnity which would otherwise exist as to a party or person described in this subsection.

§ 145-113. Installation of materials.

The top of service pipes measuring three inches in diameter or less shall be laid at least six feet below the surface of the ground at all points. The top of service pipes measuring greater than three inches in diameter shall be laid at least five feet below the surface of the ground at all points. The curb cock shall be installed as close as possible to the division line between the right-of-way and the private property or at an alternate location as shown on the drawings for the service connection and approved by the Water Superintendent. The meter shall be installed within the building to be served as close as practicable to the point where the service pipe enters, unless otherwise directed or permitted by the Water Superintendent, and shall be set with the inlet and outlet in a horizontal line with the register on top and shall be so located as to be readily accessible at all times for reading, inspection or repair. Remote readers are to be installed on all water meters. Remote readers are to be located outside of the building in a location to accommodate unobstructed access as approved by the Water Superintendent. A stop valve, and/or cross-connection control device as required, shall be provided within the building as required by the NYSDOH. No red or white lead or joint compound shall be used on joints between the main and the meter. No tee or other fitting through which water can be taken will be permitted on the service pipe between the main and the meter. Meters may be set outside of buildings in underground pits only by special permission of the Water Superintendent, and in such cases the construction of the pit and the method of setting the meter shall conform to the plans approved by the Water Superintendent for each specific instance.

§ 145-114. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the owner shall promptly notify the Water Superintendent to determine corrective measures. In case the owner fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed, and a charge to be determined by the Water Superintendent will be made to cover the labor and expense by the district resulting from the owner's failure so to do.

§ 145-115. Responsibility of owner.

The maintenance and repair of all service pipes, including the pipes located between the street main and the street right-of-way, and meters and the appurtenances thereto shall be the responsibility of owner of the premises

receiving water service and shall be kept in good repair. (NOTE: The service pipe located between the street main and the street right-of-way is to be and remain under the ownership of the district.)

§ 145-116. Stop or waste cock to be provided.

A stop or waste cock shall be provided within the building so located that all piping on the owner's side of the meter can be drained by the owner whenever necessary.

§ 145-117. Notice to discontinue service.

In case a building is to be closed or become vacant, notice thereof should be given to the Water Superintendent in order that the meter may be read and the curb cock closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the Water Superintendent, together with the additional sum to be determined by the Town Board to cover the labor and expense to the district, shall be added to the next bill and paid in like manner as regular water charges.

§ 145-118. Inspection and testing of meters.

A. Where a meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out-of-order or in need of repair, notice thereof shall be given the Water Superintendent. The owner will be required to install a temporary meter while the permanent meter is being repaired. Where repairs are found necessary, the same shall be made by the owner and the cost thereof, including the cost of testing, shall be borne by the owner. Before reinstallation of a repaired meter, the same shall be certified accurate by a New York State approved testing facility. When, in the determination of the Water Superintendent, a meter becomes unsuitable for further use, it shall be replaced by another at the owner's expense.

§ 145-119. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the district without a written permit from the Water Superintendent. In case of fire the hydrants may be opened by or on the order of any member of the Fire Department within the district for the purpose of attaching thereto fire hose and equipment.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given the Water Superintendent.

C. No tools or implements shall be used to open hydrants except such as are furnished by the Water Superintendent or by the Fire Department operating within the district.

§ 145-120. Effect of discontinuance of service.

Where water has been turned off by direction of the Water Superintendent, it shall not be again turned on without the permission of the Water Superintendent.

§ 145-121. Charges for service.

The minimum charges, schedule of rates and billing periods shall be established and amended as necessary by resolution of the Town Board.

§ 145-122. Payment of bills.

Bills for water service shall become due and payable to the district, and such payment shall be paid to the Town Clerk at the Town Clerk's office on or before the due date of said bill. If such bill is not paid on or before the due date, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 30 days thereafter, a late payment charge to be computed at the rate of 1 1/2% per month, compounded monthly, will be applied to the unpaid balance. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with all penalties and an additional sum to be determined by the Town Board to cover the expense of discontinuance and restoration of service, is paid.

§ 145-123. Unpaid charges.

A. Water service charges and penalties thereon shall be a lien upon the real property upon which the water is used, and on or before the day when, under the Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Supervisor a statement showing all water service charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such water service charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Saratoga County Real Property Tax Department for the purpose of levying the same as a tax against the property affected.

§ 145-124. Application for discontinuance of service.

Notice, in writing, delivered to the Water Superintendent's office at least 10 days before the normally scheduled billing date shall be required in all cases of applications for the discontinuance of water service, otherwise the owner shall be liable for the minimum charge for the following billing period.

§ 145-125. Use of water in building construction.

A. When water is required for use in connection with building construction, application shall be made to the Water Superintendent therefor. A deposit shall be made to the Town Clerk, of such sum as the Water Superintendent shall deem sufficient to pay for water to be used and charges attendant thereto. The Water Superintendent may require the applicant to install a temporary metering device to measure the quantity of water used for such purpose. Where, after installation and commencement of the use of water, in the determination of the Water Superintendent, more water is used or will be used than is covered by the deposit, he may then require a further deposit, in default of which he may discontinue service when the amount of water charges and other District charges equals the amount of the deposit. After completion of the work, upon claim duly made therefor to the Town Board, any surplus of the deposit over and above the amount of the water charges and other expenses attendant thereon shall be refunded to the applicant. Charges for this purpose shall be the same as provided herein for permanent service.

B. Installations, unless otherwise permitted by the district, shall conform to the rules and regulations herein provided for permanent service. Proper cross-connection control devices as approved by the Water Superintendent and the New York State Department of Health will be required for all such installations.

§ 145-126. Use of service connection.

Except with the permission of the Water Superintendent, water for construction purposes shall not be taken from any service connection used for any other purpose, whether or not on the same premises or from any main or hydrant.

§ 145-127. Effect of noncompliance.

Whenever any of the provisions of this article are violated, the water supply may, at the discretion of the Water Superintendent, be shut off and the meter removed.

§ 145-128. Right of entry.

The Water Superintendent or his authorized agents shall have full power to enter the premises of any customer, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water. Authorized officers, and employees of the supplier of water to the district, shall at all times have access to inspect pipes, connections or other appurtenances connected with the furnishing of such water.

§ 145-129. Location of fixtures; testing; inspection; record drawings.

A. The corporation cock, curb cock and box and service pipe from the street main to a point between the street main and the private property shall be located as designated by the Water Superintendent and as shown on the

approved service connection drawings. All shall be furnished and installed by a person or corporation authorized to do so as provided by § 145-107.

B. A charge shall be made by the Water Superintendent to the property owner for which the service connection is being provided to reimburse the district for inspection of the above mentioned work and shall include inspection of the portion of the service line located on private property between the main and the meter. The inspector shall be designated by the Water Superintendent and employed by the district. The cost to be reimbursed to the district shall also include the preparation of certified record drawings completed by the inspector, depicting the exact location of the service and associated appurtenances and testing. All required testing shall be performed by the contractor and witnessed by the inspector.

C. It is the responsibility of the owner to provide and pay for all work done and material furnished in the completion of the service connection line from the street main to the meter placed on the service line. The service pipes and fittings and the meter settings shall be of a make, size and pattern determined by the Water Superintendent, with the installation of all of these items to be made under this article and under the direction of the Water Superintendent or his designated representative.

§ 145-130. Steam boilers and hot-water tanks.

In all places where steam boilers, hot-water tanks or other appurtenances are supplied with water from the water system, the owner must provide for the installation of a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. The District shall not be liable for any damage resulting from the sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the water system.

§ 145-131. Limitation of water supply; discontinuance.

The district reserves the right to limit the amount of water furnished to any customer, should the supplier of the source of water determine it necessary to restrict use or if circumstances warrant such action. The right is reserved to shut off the water service to any customer, without notice, for as long a period as may be necessary.

§ 145-132. Nonliability of district.

The District shall not be liable for any damage or loss of any type or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-133. Size of pipes and fittings.

Service pipes and fittings, corporation cocks, curb cocks, curb boxes, meters and meter settings shall conform to such standards and shall be of such make and type as the Town Board shall adopt and shall be of such size as shown on the plans and drawings and as the Water Superintendent deems proper.

§ 145-134. Penalties for offenses.

Any person or corporation that violates any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or imprisonment for a term not to exceed 15 days, or both.

§ 145-135. Amendments.

The right is reserved to change and amend these rules and regulations, to make special rates, variations and contracts in all proper cases or to turn off the water supply without notice in the case of extensions, repairs or other necessity, without liability for damages for lack of water or for any damage which may result from the turning off of the water supply.

§ 145-136. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 145-137. When effective.

This article shall become effective upon filing with the Secretary of State.

§ 145-138. (Reserved)

§ 145-139. (Reserved)

§ 145-140. (Reserved)

§ 145-141. (Reserved)

§ 145-142. (Reserved)

§ 145-143. (Reserved)

§ 145-144. (Reserved)

§ 145-145. (Reserved)

§ 145-146. (Reserved)

§ 145-147. (Reserved)

§ 145-148. (Reserved)

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§ 145-195. (Reserved)

§ 145-196. (Reserved)

§ 145-197. (Reserved)

§ 145-198. (Reserved)

§ 145-199. (Reserved)

§ 145-200. (Reserved)

ARTICLE IV. Water District No. 4 Rules and Regulations

[Adopted 5-8-2001 by L.L. No. 1-2001]

§ 145-201. Word usage, definitions and abbreviations.

For the purposes of this article, word usage, definitions and abbreviations of terms are as follows:

ASTM

American Society for Testing and Materials.

CROSS-CONNECTION CONTROL DEVICE

Mechanical device installed within the piping which prevents the reverse flow of water from the facility receiving service to the District's system. Plans and specifications related to cross-connection control must be approved by the Superintendent and the New York State Department of Health.

DISTRICT

Water District No. 4, as defined in the map, plan and report dated November 2000, and including Area 1 and Area 2 as defined in the map and the description annexed hereto and incorporated herein. Area 1 is the area of contamination and Area 2 is the area of potential contamination as defined in the "Stipulation and Order of Settlement, U.S. Federal Court Case No. 88-CV-934."

INSPECTOR

Person or firm designated by the Superintendent to observe the installation of the water system to determine if the labor performed and the materials furnished are in compliance with the approved design plans and specifications. The inspector shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the contractor's responsibility.

METER

Device used in connection with measuring the quantity of water transmitted from the District.

NYSDOH

New York State Department of Health.

OSHA

Occupational Safety and Health Administration, U.S. Department of Labor.

OWNER, AGENT, COMPANY, CONSUMER, CONTRACTOR, CUSTOMER, DEVELOPER, PROPERTY OWNER and USER

Entity receiving water service and the party financially responsible for payment of service.

PERSON

Any individual, corporation, partnership, association, trustee, the state and/or any agency or instrumentality thereof.

RIGHT-OF-WAY

A thoroughfare, however designated, permanently established for passage of persons, vehicles and/or utilities.

SOUTH GLENS FALLS FIRE COMPANY, INC

A corporation duly organized pursuant to the laws of the State of New York and engaged by the town to provide and furnish fire protection.

SUPERINTENDENT

Water Superintendent of the District.

SYSTEM

Materials and equipment comprising the water distribution network of the District, including, but not limited to, main piping, service piping, valves, hydrants, meters and other appurtenances.

TOWN

Town of Moreau; also, when referring to individuals, i.e., Town Clerk, Town Supervisor, Town Board, it shall be "Town of Moreau."

§ 145-202. Appointment of Superintendent; duties.

There shall be appointed for Water District No. 4, in the same manner and for such terms and on such basis as the Town Board may determine, a Water Superintendent and a Deputy Water Superintendent, who, on behalf of the Town Board, shall have responsibility for the general supervision of the operation of the water system in said District, shall issue all permits required hereby and shall read the meters at intervals as determined by the Town Board and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-203. Duties of Town Clerk.

It shall be the duty of the Town Clerk to promptly bill and collect the water service charges and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-204. Claims and charges.

Claims and charges against the District shall be audited and paid by the Town Board in the same manner as town charges.

§ 145-205. Standard meters.

Permanent water service shall be rendered by meter only. In order that there may be a uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be recommended by the Superintendent and approved by the Town Board. Meters are to be purchased from the town, installed and maintained by the owner.

§ 145-206. Permit and application.

A. No person shall connect to the system for any purpose without having first obtained a permit, upon written application therefor, and after having paid the charges pertaining to the introduction of water to the premises. The permit is nontransferable and shall not be assigned.

B. All applications for introduction of water to any premises or for use of water shall be made upon an application form furnished by the Superintendent for such purpose and shall be signed by the owner. Such application shall contain a statement of all uses for which water is requested, including fire protection if applicable. Use of water for any purpose other than those listed in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time and a permit may be granted therefor.

§ 145-207. Restrictions, groundwater use, Area 1 and Area 2.

A. Use of groundwater for any purpose in Area 1 is prohibited:

(1) The boundary of Area 1 in Water District No. 4 is defined on the map and in the description annexed hereto and incorporated herein.

(2) It shall be unlawful for any person to use a well, well water or groundwater in Area 1 for any purpose whatsoever.

(3) A double check valve assembly (DVCA), or other device approved by the Superintendent, must be properly installed on the owner's side of the meter prior to any connection to the system. This configuration is necessary to prevent any possible transference of contamination from the owner's plumbing to the system. Note: All new service connections to the system within Area 1 must have a cross-connection control device installed. All preexisting connections to public water systems within Area 1 must install a cross-connection control device as soon as practicable but not later than 24 months after the effective date of this article.

(4) Any person who violates the water prohibition in Area 1 shall, upon conviction thereof, be subject to a fine of up to \$500 per violation. Each day for which a violation continues shall be considered a separate violation.

B. Prohibitions on certain uses of ground water in Area 2 of Water District No. 4:

(1) The boundary of Area 2 of Water District No. 4 is defined on the map and in the description annexed hereto and incorporated herein.

(2) It shall be unlawful for any person to use a well, well water or groundwater in or from Area 2 for drinking, bathing or cooking or for ingestion or human consumption.

(3) A double check valve assembly (DVCA), or other device approved by the Superintendent, must be properly installed on the owner's side of the meter prior to any connection to the system. This configuration is necessary to prevent any possible transference of contamination from the owner's plumbing to the system.

(4) Any person who violates the water prohibition in Area 2 shall, upon conviction thereof, be subject to a fine of up to \$500 per violation. Each day for which a violation continues shall be considered a separate violation.

§ 145-208. Attachments and connections restricted to persons authorized to perform.

No person shall make any attachment to or connection with the system nor make any repairs, additions or alterations to the system, except on the owner's side of the meter, unless he is an employee of the District or authorized to do so by the Superintendent.

§ 145-209. Permission required for street openings.

No street shall be opened by any person for any purpose unless a permit to do so has been issued by the Highway Superintendent.

§ 145-210. Safety precaution for street openings.

Whenever any street has been opened for the purpose of working on the water system, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night. All such work shall be completed in compliance with all OSHA and other applicable safety codes and regulations.

§ 145-211. Insurance/indemnification.

A. Before contractors shall be permitted to work on the system, certificates of insurance covering the work must be submitted in amounts established by resolution of the Town Board.

B. The Town Board and the District shall be named as additionally insured on the permittees' policy.

C. The contractor shall provide to the owner a certificate of insurance indicating that the coverages requested will not be changed, canceled or non-renewed without 30 days' written notice by certified mail.

D. To the fullest extent permitted by law, and to the extent claims, damages, losses or expenses are not covered by the contractor's commercial liability insurance, the contractor shall indemnify and hold harmless the town and the District and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this subsection.

§ 145-212. Installation of materials.

Installation of materials shall be as required by the most recently approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-213. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the owner shall promptly notify the Superintendent so that corrective measures may be determined. In case the owner fails or neglects to make such alterations promptly, the supply of water may be shut off until the alterations are completed, and a charge to be determined by the Superintendent will be made to cover the labor and expense by the District resulting from the owner's failure to do so.

§ 145-214. Responsibility of owner.

The maintenance and repair of all service pipes, including the pipes from the street main and to the edge of the street right-of-way, and meters and the appurtenances thereto shall be the responsibility of the owner of the premises receiving water service and shall be kept in good repair.

Note: The service pipe located between the street main and the edge of the street right-of-way is to be and remain under the ownership of the District.

§ 145-215. Stop and waste valve to be provided.

A ball-style stop and waste valve shall be provided within all buildings, so located that all piping on the owner's side of the meter can be drained by the owner whenever necessary.

§ 145-216. Notice to discontinue service.

In case a building is to be closed or become vacant, notice thereof should be given to the Superintendent in order that the meter may be read and the curb valve closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the Superintendent, together with an additional sum to be determined by the Town Board to cover the labor and expense to the District, shall be added to the next bill and paid in like manner as regular water charges.

§ 145-217. Inspection and testing of meters.

A. Where a meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out-of-order or in need of repair, notice thereof shall be given by the owner to the Superintendent. Another meter will be loaned by the District to the owner, for installation by the owner, for the time required for testing and repair. Where repairs are found necessary, the same shall be made by the District and the cost thereof borne by the owner. When, in the opinion of the Superintendent, a meter becomes unsuitable for further use, it shall be replaced by another at the owner's expense.

B. No charge shall be made for the inspection and testing of meters found to be out-of-order when such have been duly reported; otherwise a fee, as established by resolution of the Town Board, shall be made to the owner, in addition to the cost of repairing such meter.

§ 145-218. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the District without a written permit from the Superintendent. In case of fire the hydrants may be opened by or on the order of any member of the South Glens Falls Fire Company, Inc. within the District for the purpose of attaching thereto fire hose and equipment.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given to the Superintendent.

C. No tools or implements shall be used to open hydrants except such as are furnished by the Superintendent or by the South Glens Falls Fire Company, Inc. operating within the District.

§ 145-219. Effect of discontinuance of service.

Where water service has been terminated at the direction of the Superintendent, service shall not be reinstated without the written permission of the Superintendent.

§ 145-220. Charges for service.

The minimum charges, schedule of rates and billing periods shall be established, and amended as necessary, by resolution of the Town Board.

§ 145-221. Payment of bills.

Bills for water service shall become due and payable to the District, and such payment shall be paid to the Town Clerk at the Town Clerk's office on or before the due date of said bill. If such bill is not paid on or before the due date, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with all penalties and an additional sum to be determined by the Town Board to cover the expense of discontinuance and restoration of service, is paid.

§ 145-222. Unpaid charges.

A. Water service charges, and penalties thereon, shall be a lien upon the real property upon which the water is used, and on or before the day when, under Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Supervisor a statement showing all water service charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such water service charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Saratoga County Real Property Tax Department for the purpose of levying the same as a tax against the property affected.

§ 145-223. Application for discontinuance of service.

Notice, in writing, delivered to the Superintendent's office at least 10 days before the normally scheduled billing date, shall be required in all cases of applications for the discontinuance of water service, otherwise the owner shall be liable for the minimum charge for the following billing period.

§ 145-224. Use of service connection.

Except with the permission of the Superintendent, water for construction purposes shall not be taken from any main or hydrant.

§ 145-225. Effect of noncompliance.

Whenever any of the provisions of this article are violated, the water supply may, at the discretion of the Superintendent, be shut off and the meter removed.

§ 145-226. Right of entry.

The Superintendent or his authorized agents shall have full power to enter the premises of any customer, upon notice, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water.

§ 145-227. Location of fixtures, testing and inspection.

A. The corporation valve, curb valve and box and service pipe from the street main to a point between the street main and the private property shall be located as designated by the Superintendent. All shall be furnished and installed by a person authorized to do so, as provided by § 145-208, upon application to the Superintendent by the property owner, made in accordance with the sections of this article as apply to the application for a water tap or new service.

B. A charge shall be made by the Superintendent to the property owner for which the service connection is being provided for the above mentioned work and shall include inspection of the portion of the service line located on private property between the main and the meter. The fee for this work shall be set by resolution of the Town Board. Before the connection is made, the applicant for such service connection shall pay the District the full amount of this service connection charge.

C. It is the responsibility of the owner to provide and pay for all work and material furnished in the completion of the service connection line from the street main to the meter placed on the service line, all work to conform to the latest approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-228. Steam boilers and hot-water tanks.

Where steam boilers, hot-water tanks or other appurtenances are supplied with water from the system, the owner must provide for the installation of a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. The District shall not be liable for any damage resulting from the sudden shutting off of the supply of water to any boiler or other fixture deriving its supply from the water system.

§ 145-229. Limitation of water supply, discontinuance.

A. The District reserves the right to limit the amount of water furnished to any customer, should the supplier of the source of water determine it necessary to restrict use or if circumstances warrant such action.

B. The right is reserved to shut off the water service to any customer, without notice, for as long a period as may be necessary.

§ 145-230. Nonliability of District.

The District shall not be liable for any damage or loss of any type or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-231. Penalties for offenses.

Any person or corporation that violates any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed \$500 or imprisonment for a term not to exceed 15 days, or both.

§ 145-232. Amendments.

The right is reserved to change and amend these rules and regulations.

§ 145-233. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 145-234. When effective.

This article shall become effective upon filing with the Secretary of State.

§ 145-235. (Reserved)

§ 145-236. (Reserved)

§ 145-237. (Reserved)

§ 145-238. (Reserved)

§ 145-239. (Reserved)

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§ 145-295. (Reserved)

§ 145-296. (Reserved)

§ 145-297. (Reserved)

§ 145-298. (Reserved)

§ 145-299. (Reserved)

§ 145-300. (Reserved)

ARTICLE V. Water District No. 5 Rules and Regulations

[Adopted 7-9-2002 by L.L. No. 5-2002]

§ 145-301. Word usage, definitions and abbreviations.

For the purpose of this article, word usage, definitions and abbreviations of terms are as follows:

CROSS-CONNECTION CONTROL DEVICE

Mechanical device installed within the piping which prevents the reverse flow of water from the facility receiving service to the District's system. Plans and specifications related to cross-connection control must be approved by the Superintendent and the New York State Department of Health (NYSDOH) as appropriate.

DISTRICT

Water District No. 5 as defined in the map, plan and report of said District and as approved by the Town Board of the Town of Moreau on May 14, 2002.

INSPECTOR

Person or firm designated by the Superintendent to observe the installation of the water system to determine if the labor performed and the materials furnished are in compliance with the approved design plans and specifications. The inspector shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the contractor's responsibility.

METER

Device used in connection with measuring the quantity of water transmitted from the District.

NYSDOH

New York State Department of Health.

OSHA

Occupational Safety and Health Administration, U.S. Department of Labor.

OWNER, AGENT, COMPANY, CONSUMER, CONTRACTOR, CUSTOMER, DEVELOPER, PROPERTY OWNER and/or USER

Entity receiving water service and the party financially responsible for payment of service.

PERSON

Any individual, corporation, partnership, association, trustee, the state and/or any agency or instrumentality thereof.

RIGHT-OF-WAY

A thoroughfare, however designated, permanently established for passage of persons, vehicles and/or utilities.

SOUTH GLENS FALLS FIRE COMPANY, INC

A corporation duly organized pursuant to the laws of the State of New York and engaged by the Town of Moreau to provide and furnish fire protection.

SUPERINTENDENT

Water Superintendent of the District.

SYSTEM

Materials and equipment comprising the water distribution network of the District, including, but not limited to, main piping, service piping, valves, hydrants, meters and other appurtenances.

TOWN

Town of Moreau; also, when referring to individuals, i.e., Town Clerk, Town Supervisor, Town Board, it shall be "Town of Moreau."

§ 145-302. Appointment of Superintendent; duties.

There shall be appointed for Water District No. 5, in the same manner and for such terms and on such basis as the Town Board may determine, a Water Superintendent and a Deputy Water Superintendent, who, on behalf of the Town Board, shall have responsibility for the general supervision of the operation of the water system in said District, shall issue all permits required hereby and shall read or cause to have read the meters at intervals as determined by the Town Board and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-303. Duties of Town Clerk.

It shall be the duty of the Town Clerk to promptly bill and collect the water service charges and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-304. Claims and charges.

Claims and charges against the District shall be audited and paid by the Town Board in the same manner as Town charges.

§ 145-305. Standard meters.

Water service shall be rendered by meter only. In order that there may be uniformity in make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be recommended by the Superintendent and approved by the Town Board. Meters with outside readers are to be purchased from the Town, installed and maintained by the owner.

§ 145-306. Permit and application.

A. No person shall connect to the system for any purpose without having first obtained a permit, upon written application therefor, and after having paid the charges pertaining to the introduction of water to the premises. The permit is nontransferable and shall not be assigned.

B. All applications for introduction of water to any premises or for use of water shall be made upon a form furnished by the Superintendent for such purpose and shall be signed by the owner. Such application shall contain a statement of all uses for which water is requested, including fire protection if applicable. Use of water

for any purpose other than those this listed in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time and a permit may be granted therefor.

§ 145-307. Double check valve required.

Cross-connection between the municipal water system and private water source is prohibited. Therefore, a double check valve assembly (DVCA), or other device approved by the Superintendent, must be properly installed on the owner's side of the meter prior to any connection to the system. This configuration is necessary to prevent any possible transference of contamination from the owner's plumbing to the water system.

§ 145-308. Attachments and connections restricted to persons authorized to perform.

No person shall make any attachment to or connection with the system nor make any repairs, additions or alterations to the system, except on the owner's side of the meter, unless he is an employee of the District or authorized to do so by the Superintendent.

§ 145-309. Permission required for street openings.

No street shall be opened by any person for any purpose unless a permit to do so has been issued by the Highway Superintendent.

§ 145-310. Safety precautions for street openings.

Whenever any street has been opened for the purpose of working on the water system, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night. All such work shall be completed in compliance with all OSHA and other applicable safety codes and regulations.

§ 145-311. Insurance/Indemnification.

A. Before contractors shall be permitted to work on the system, certificates of insurance covering the work must be submitted in amounts established by resolution of the Town Board.

B. The Town Board and the District shall be named as additionally insured on permittees' policies.

C. The contractor shall provide to the Town a certificate of insurance indicating that the coverages requested will not be changed, canceled or non-renewed without 30 days' written notice by certified mail.

D. To the fullest extent permitted by law, and to the extent claims, damages, losses or expenses are not covered by the contractor's commercial liability insurance, the contractor shall indemnify and hold harmless the Town and the District and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor or anyone directly or indirectly employed by him or her or anyone for whose acts he or she may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this subsection.

§ 145-312. Installation of materials.

Installation of materials shall be as required by the most recently approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-313. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the owner shall promptly notify the Superintendent so that corrective measures may be determined. In case the owner fails or neglects to make such alterations promptly, the supply of water may be shut off until the alterations are completed, and a charge to be determined by the Superintendent will be made to cover the labor and expense by the District resulting from the owner's failure to do so.

§ 145-314. Responsibility of owner.

A. The maintenance and repair of all service pipes, including the pipes from the street main to the edge of the street right-of-way, and meters and the appurtenances thereto shall be the responsibility of the owner of the premises receiving water service and shall be kept in good repair.

B. Note: The service pipe located between the street main and the edge of the street right-of-way is to be and remain under the ownership of the District.

§ 145-315. Ball-style valve to be provided.

A ball-style valve shall be provided within all buildings.

§ 145-316. Notice to discontinue service.

In case a building is to be closed or become vacant, notice thereof should be given to the Superintendent in order that the meter may be read and the curb valve closed. Where such notice is not given and pipes burst from freezing or other cause, the amount of water lost by reason thereof, as estimated by the Superintendent, together with an additional sum to be determined by the Town Board to cover the labor and expense to the District, shall be added to the next bill and paid in like manner as regular water charges.

§ 145-317. Inspection and testing of meters.

A. Where a meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out-of-order or in need of repair, notice thereof shall be given by the owner to the Superintendent. Where repairs are found necessary, the same shall be made by the District and the cost thereof borne by the owner. When, in the opinion of the Superintendent, a meter becomes unsuitable for further use, it shall be replaced by another at the owner's expense.

B. The owner shall pay all attendant costs for the inspection and testing, repairing and/or replacement of meters found to be out-of-order.

§ 145-318. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the District without a written permit from the Superintendent. In case of fire the hydrant may be opened by or on the order of any member of the South Glens Falls Fire Company, Inc. within the District for the purpose of attaching thereto fire hose and equipment.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given to the Superintendent.

C. No tools or implements shall be used to open hydrants except such as are furnished by the Superintendent or by the South Glens Falls Fire Company, Inc. operating within the District.

§ 145-319. Effects of discontinuance of service.

Where water service has been terminated at the direction of the Superintendent, service shall not be reinstated without the written permission of the Superintendent.

§ 145-320. Charges for service.

The minimum charges, schedule of rates and billing periods shall be established and amended as necessary by resolution of the Town Board.

§ 145-321. Payment of bills.

Bills for water service shall become due and payable to the District, and such payment shall be paid to the Town Clerk at the Town Clerk's office on or before the due date of said bill. If such bill is not paid on or before the due date, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with all penalties and an additional sum to be determined by the Town Board to cover the expense of discontinuance and restoration of service, is paid.

§ 145-322. Unpaid charges.

A. Water service charges and penalties thereon shall be a lien upon the real property upon which the water is used, and on or before the day when, under Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Supervisor a statement showing all water service charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such water service charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Saratoga County Real Property Tax Department for the purpose of levying the same as a tax against the property affected.

§ 145-323. Application for discontinuance of service.

Notice, in writing, delivered to the Superintendent's office at least 10 days before the normally scheduled billing date, shall be required in all cases of applications for the discontinuance of water service, otherwise the owner shall be liable for the minimum charge for the following billing period.

§ 145-324. Use of service connection.

Except with the permission of the Superintendent, water for construction purposes shall not be taken from any main or hydrant.

§ 145-325. Effect of noncompliance.

Whenever any of the provisions of this article are violated, the water supply may, at the discretion of the Superintendent, be shut off and the meter removed.

§ 145-326. Right of entry.

The Superintendent or his authorized agent shall have full power to enter the premises of any customer, upon notice, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water.

§ 145-327. Location of fixtures, testing and inspection.

A. The corporation valve, curb valve and box and service pipe from the street main to a point between the street main and the private property shall be located as designated by the Superintendent. All shall be furnished and installed by a person authorized to do so, as provided by § 145-308, upon application to the Superintendent by the property owner, made in accordance with the sections of this article as apply to the application for a water tap or new service.

B. A charge shall be made by the Superintendent to the property owner for which the service connection is being provided for the above mentioned work and shall include inspection of the portion of the service line located on private property between the main and the meter. The fee for this work shall be set by resolution of the Town Board. Before the connection is made, the applicant for such service connection shall pay the District the full amount of this service connection charge.

C. It is the responsibility of the owner to provide and pay for all work and materials furnished in the completion of the service connection line from the street main to the meter placed on the service line, all work to conform to the latest approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-328. Steam boilers and hot-water tanks.

Where steam boilers, hot-water tanks or other appurtenances are supplied with water from the system, the owner must provide for the installation of a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. The District shall not be liable for any damage resulting from the sudden shutting off of the supply of water to any boiler or other fixture deriving its supply from the water system.

§ 145-329. Limitation of water supply, discontinuance.

A. The District reserves the right to limit the amount of water furnished to any customer, should the supplier of the source of water determine it necessary to restrict use or if circumstances warrant such action.

B. The right is reserved to shut off the water service to any customer, without notice, for as long a period as may be necessary.

§ 145-330. Nonliability of District.

The District and the Town shall not be liable for any damage or loss of any type or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-331. Penalties for offenses.

Any person that violates any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed \$500 per day or imprisonment for a term not to exceed 15 days, or both. Each day for which a violation continues shall constitute a separate violation.

§ 145-332. Amendments.

The right is reserved to change and amend these rules and regulations.

§ 145-333. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 145-334. When effective.

This article shall become effective upon filing with the Secretary of State.

§ 145-335. (Reserved).

§ 145-336. (Reserved).

§ 145-337. (Reserved).

§ 145-338. (Reserved).

§ 145-339. (Reserved).

§ 145-340. (Reserved).

§ 145-341. (Reserved).

§ 145-342. (Reserved).

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§ 145-369. (Reserved).

§ 145-370. (Reserved).

§ 145-371. (Reserved).

§ 145-372. (Reserved).

§ 145-373. (Reserved).

§ 145-374. (Reserved).

§ 145-375. (Reserved).

§ 145-376. (Reserved).

§ 145-377. (Reserved).

§ 145-378. (Reserved).

§ 145-379. (Reserved).

§ 145-380. (Reserved).

§ 145-381. (Reserved).

§ 145-382. (Reserved).

§ 145-383. (Reserved).

§ 145-384. (Reserved).

§ 145-385. (Reserved).

§ 145-386. (Reserved).

§ 145-387. (Reserved).

§ 145-388. (Reserved).

§ 145-389. (Reserved).

§ 145-390. (Reserved).

§ 145-391. (Reserved).

§ 145-392. (Reserved).

§ 145-393. (Reserved).

§ 145-394. (Reserved).

§ 145-395. (Reserved).

§ 145-396. (Reserved).

§ 145-397. (Reserved).

§ 145-398. (Reserved).

§ 145-399. (Reserved).

§ 145-400. (Reserved).

ARTICLE VI. Water District No. 6 Rules and Regulations

[Adopted 7-24-2007 by L.L. No. 1-2007]

§ 145-401. Word usage, definitions and abbreviations.

For the purpose of this article, word usage, definitions and abbreviations of terms are as follows:

CROSS-CONNECTION CONTROL DEVICE

Mechanical device installed within the piping which prevents the reverse flow of water from the facility receiving service to the District's system. Plans and specifications related to cross-connection control must be approved by the Superintendent and the New York State Department of Health (NYSDOH) as appropriate.

DISTRICT

Water District No. 6 as defined in the map, plan and report of said District and as approved and established by the Town Board of the Town of Moreau on October 13, 2004.

INSPECTOR

Person or firm designated by the Superintendent to observe the installation of the water system to determine if the labor performed and the materials furnished are in compliance with the approved design plans and specifications. The inspector shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the contractor's responsibility.

METER

Device used in connection with measuring the quantity of water transmitted from the District.

NYSDOH

New York State Department of Health.

OSHA

Occupational Safety and Health Administration, U.S. Department of Labor.

OWNER, AGENT, COMPANY, CONSUMER, CONTRACTOR, CUSTOMER, DEVELOPER, PROPERTY OWNER and/or USER

Entity receiving water service and the party financially responsible for payment of service.

PERSON

Any individual, corporation, partnership, association, trustee, the state and/or any agency or instrumentality thereof.

RIGHT-OF-WAY

A thoroughfare, however designated, permanently established for passage of persons, vehicles and/or utilities.

SOUTH GLENS FALLS FIRE COMPANY, INC

A corporation duly organized pursuant to the laws of the State of New York and engaged by the Town of Moreau to provide and furnish fire protection.

SUPERINTENDENT

Water Superintendent of the District.

SYSTEM

Materials and equipment comprising the water distribution network of the District, including, but not limited to, main piping, service piping, valves, hydrants, meters and other appurtenances.

TOWN

Town of Moreau; also, when referring to individuals, i.e., Town Clerk, Town Supervisor, Town Board, it shall be "Town of Moreau."

§ 145-402. Appointment of Superintendent; duties.

There shall be appointed for Water District No. 6, in the same manner and for such terms and on such basis as the Town Board may determine, a Water Superintendent and a Deputy Water Superintendent, who, on behalf of the Town Board, shall have responsibility for the general supervision of the operation of the water system in said District, shall issue all permits required hereby and shall read or cause to have read the meters at intervals as determined by the Town Board and immediately make report of such readings by filing the same with the Town Clerk.

§ 145-403. Duties of Town Clerk.

It shall be the duty of the Town Clerk to promptly bill and collect the water service charges and report the same to the Town Board at each regular monthly meeting thereof.

§ 145-404. Claims and charges.

Claims and charges against the District shall be audited and paid by the Town Board in the same manner as Town charges.

§ 145-405. Standard meters.

Water service shall be rendered by meter only. In order that there may be uniformity in make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as from time to time may be recommended by the Superintendent and approved by the Town Board. Meters with outside readers are to be purchased from the Town, installed and maintained by the owner.

§ 145-406. Permit and application.

A. No person shall connect to the system for any purpose without having first obtained a permit, upon written application therefor, and after having paid the charges pertaining to the introduction of water to the premises. The permit is nontransferable and shall not be assigned.

B. All applications for introduction of water to any premises or for use of water shall be made upon a form furnished by the Superintendent for such purpose and shall be signed by the owner. Such application shall contain a statement of all uses for which water is requested, including fire protection if applicable. Use of water for any purpose other than those listed in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time and a permit may be granted therefor.

§ 145-407. Double check valve required.

Cross-connection between the municipal water system and private water source is prohibited. Therefore, a double check valve assembly (DVCA), or other device approved by the Superintendent, must be properly installed on the owner's side of the meter prior to any connection to the system. This configuration is necessary to prevent any possible transference of contamination from the owner's plumbing to the water system.

§ 145-408. Attachments and connections restricted to persons authorized to perform.

No person shall make any attachment to or connection with the system nor make any repairs, additions or alterations to the system, except on the owner's side of the meter, unless he is an employee of the District or authorized to do so by the Superintendent.

§ 145-409. Permission required for street openings.

No street shall be opened by any person for any purpose unless a permit to do so has been issued by the Highway Superintendent.

§ 145-410. Safety precautions for street openings.

Whenever any street has been opened for the purpose of working on the water system, the applicant shall have proper regard for public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night. All such work shall be completed in compliance with all OSHA and other applicable safety codes and regulations.

§ 145-411. Insurance/indemnification.

A. Before contractors shall be permitted to work on the system, certificates of insurance covering the work must be submitted in amounts established by resolution of the Town Board.

B. The Town Board and the District shall be named as additionally insured on permittees' policies.

C. The contractor shall provide to the Town a certificate of insurance indicating that the coverages requested will not be changed, canceled or nonrenewed without 30 days' written notice by certified mail.

D. To the fullest extent permitted by law, and to the extent claims, damages, losses or expenses are not covered by the contractor's commercial liability insurance, the contractor shall indemnify and hold harmless the Town and the District and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor or anyone directly or indirectly employed by him or her or anyone for whose acts he or she may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this subsection.

§ 145-412. Installation of materials.

Installation of materials shall be as required by the most recently approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-413. Changes in ground elevation.

In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the owner shall promptly notify the Superintendent so that corrective measures may be determined. In case the owner fails or neglects to make such alterations promptly, the supply of water may be shut off until the alterations are completed, and a charge to be determined by the Superintendent will be made to cover the labor and expense by the District resulting from the owner's failure to do so.

§ 145-414. Responsibility of owner.

A. The access, maintenance and repair of all service pipes, including the pipes from the street main to the edge of the street, right-of-way, and meters and the appurtenances thereto shall be in accordance with the terms and conditions of a validly executed access agreement between the Town and the property owner. In the absence of a validly executed access agreement, the owner of the property shall be responsible for the maintenance and repair of all service pipes.

B. The service pipe located between the street main and the edge of the street right-of-way is to remain under the ownership of the District.

§ 145-415. Ball-style valve to be provided.

A ball-style valve shall be provided within all buildings.

§ 145-416. Notice to discontinue service.

In case a building is to be closed or become vacant, notice thereof should be given to the Superintendent in order that the meter may be read and the curb valve closed. Where such notice is not given and pipes burst from freezing or other cause, the amount of water lost by reason thereof, as estimated by the Superintendent, together with an additional sum to be determined by the Town Board to cover the labor and expense to the District, shall be added to the next bill and paid in like manner as regular water charges.

§ 145-417. Inspection and testing of meters.

Where a meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out-of-order or in need of repair, notice thereof shall be given by the owner to the Superintendent. Where repairs are found necessary, the same shall be made by the District and the cost thereof borne by the owner. When, in the opinion of the Superintendent, a meter becomes unsuitable for further use, it shall be replaced by another at the owner's expense.

§ 145-418. Hydrants.

A. No person shall open, interfere with or draw water from any fire hydrant in the District without a written permit from the Superintendent. In case of fire, the hydrant may be opened by or on the order of any member of the South Glens Falls Fire Company, Inc., within the District for the purpose of attaching thereto fire hose and equipment.

B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given to the Superintendent.

C. No tools or implements shall be used to open hydrants except such as are furnished by the Superintendent or by the South Glens Falls Fire Company, Inc., operating within the District.

§ 145-419. Effects of discontinuance of service.

Where water service has been terminated at the direction of the Superintendent, service shall not be reinstated without the written permission of the Superintendent.

§ 145-420. Charges for service.

A. The minimum charges, schedule of rates and billing periods shall be established and amended as necessary by resolution of the Town Board.

B. In addition to the foregoing, beginning August 1, 2007, a connection fee, in an amount established by resolution of the Town Board and amended as necessary, shall be charged for any property that has not, prior to August 1, 2007, become connected to the water distribution network, unless, prior to that date, the owner of the property has executed a written access agreement authorizing the Town to connect the property, has not revoked or rescinded the access agreement, and the property has been connected to the water distribution network.

§ 145-420.1. Mobile home parks.

This provision applies to only those mobile home parks or trailer parks where the District has provided a main meter for the property and the District is billing the owner/operator of the park pursuant to the provisions herein, and the owner/operator of the park is assessing and collecting water usage fees for each individual mobile home unit or trailer unit.

A. The mobile home park or trailer park owner/operator or agent thereof shall not assess, charge or collect any water usage fees against any owner or tenant of any mobile home or trailer that are in excess of the actual metered water usage of the individual unit or in excess of the rate per 1,000 gallons of usage charged by the District. Charges assessed by the owner/operator or any agent thereof against any individual unit, owner or tenant or service fees, administrative fees or any other charges or any amendments thereto shall require the prior approval of the District.

§ 145-421. Payment of bills.

Bills for water service shall become due and payable to the District, and such payment shall be paid to the Town Clerk at the Town Clerk's office on or before the due date of said bill. If such bill is not paid on or before the due date, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for a period of 60 days from the due date, water service shall be discontinued until such bill, together with all penalties and an additional sum to be determined by the Town Board to cover the expense of discontinuance and restoration of service, is paid.

§ 145-422. Unpaid charges.

A. Water service charges and penalties thereon shall be a lien upon the real property upon which the water is used, and on or before the day when, under Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Supervisor a statement showing all water service charges, with penalties thereon, unpaid for more than 60 days, which statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable to each.

B. Such water service charges and penalties shall not be collected by the Town Clerk after the filing of such statement with the Saratoga County Real Property Tax Department for the purpose of levying the same as a tax against the property affected.

§ 145-423. Use of service connection.

Except with the permission of the Superintendent, water for construction purposes shall not be taken from any main or hydrant.

§ 145-424. Disconnection prohibited.

After a property is connected to the water distribution network, it shall be unlawful for any person to disconnect the property from the water district distribution network.

§ 145-425. Effect of noncompliance.

Whenever any of the provisions of this article are violated, the water supply may, at the discretion of the Superintendent, be shut off and the meter removed.

§ 145-426. Right of entry.

The Superintendent or his authorized agent shall have full power to enter the premises of any customer, upon notice, at all reasonable hours, to read the meter or to examine the fixtures, plumbing and manner of using water.

§ 145-427. Location of fixtures, testing and inspection.

Applies to all properties except where an executed access agreement between the property owner and the Town is in place and the property has been connected to the water distribution system prior to August 1, 2007:

A. The corporation valve, curb valve and box and service pipe from the street main to a point between the street main and the private property shall be located as designated by the Superintendent. All shall be furnished and installed by a person authorized to do so, as provided by § 145-408, upon application to the Superintendent by the property owner, made in accordance with the sections of this article as they apply to the application for a water tap or new service.

B. A charge shall be made by the Superintendent to the property owner for which the service connection is being provided for the above-mentioned work and shall include an inspection of the portion of the service line located on private property between the main and the meter. The fee for this work shall be set by resolution of the Town Board. Before the connection is made, the applicant for such service connection shall pay the District the full amount of this service connection charge.

C. It is the responsibility of the owner to provide and pay for all work and materials furnished in the completion of the service connection line from the street main to the meter placed on the service line, all work to conform to the latest approved edition of the Town of Moreau Water Department Design and Construction Standards.

§ 145-428. Steam boilers and hot-water tanks.

Where steam boilers, hot-water tanks or other appurtenances are supplied with water from the system, the owner must provide for the installation of a suitable safety valve, vacuum valve, RPZ or other proper device to prevent damage from collapse or explosion when the water is shut off. The District shall not be liable for any damage resulting from the sudden shutting off of the supply of water to any boiler or other fixture deriving its supply from the water system.

§ 145-429. Limitation of water supply; discontinuance.

A. The District reserves the right to limit the amount of water furnished to any customer, should the supplier of the source of water determine it necessary to restrict use or if circumstances warrant such action.

B. The right is reserved to shut off the water service to any customer, without notice, for as long a period as may be necessary.

§ 145-430. Nonliability of District.

The District and the Town shall not be liable for any damage or loss of any type or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.

§ 145-431. Penalties for offenses.

Any person that violates any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed \$500 per day or imprisonment for a term not to exceed 15 days, or both. Each day for which a violation continues shall constitute a separate violation.

§ 145-432. Amendments.

The right is reserved to change and amend these rules and regulations.

§ 145-433. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 145-434. When effective.

This article shall become effective upon filing with the Secretary of State.

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149k Schedule of Regulations C-2 Districts
149l Schedule of Regulations M-1 Districts
149m Schedule of Regulations M-1A Districts
149n Schedule of Regulations M-2 Districts

CHAPTER 149. ZONING

[HISTORY: Adopted by the Town Board of the Town of Moreau 1-27-1989 by L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Public entertainment — See Ch. 65.
Fences — See Ch. 70.
Fire prevention and building construction — See Ch. 74.
Flood damage prevention — See Ch. 78.
Freshwater wetlands — See Ch. 82.
Junkyards — See Ch. 87.
Landfills — See Ch. 91.
Mobile homes and mobile home parks — See Ch. 96.
Sand, gravel and mining — See Ch. 113.
Signs — See Ch. 117.

Subdivision of land — See Ch. 124.
Swimming pools — See Ch. 127.
Abandoned vehicles — See Ch. 134.

ARTICLE I. General Provisions

§ 149-1. Title.

This chapter shall be known and cited as the "Zoning Law of the Town of Moreau." The Town of Moreau is hereinafter referred to as the "Town."

§ 149-2. Authority.

Enactment of this chapter by the Town is pursuant to Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law of the State of New York.

§ 149-3. Purpose.

A. The intent of this chapter is to promote the health, safety and general welfare of the community and protect the property values by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yard, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, agriculture, residence and other purposes, to the extent permissible within the proper exercise of power delegated by the Town Law.

B. It is the further purpose and objective of this chapter to ensure optimum overall conservation, protection, development and use of the scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Town.

ARTICLE II. Word Usage and Definitions

§ 149-4. Word usage.

A. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number and the plural, the singular.

B. The word "shall" is mandatory; the word "may" is permissive.

C. The word "lot" shall include the words "plot," "piece" and "parcel"; the word "building" includes all other structures of every kind, regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

D. The word "person" includes a corporation as well as an individual.

§ 149-5. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

ABANDON

To cease, for more than two years, 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 change from a nonconforming use to a conforming use.

ACCESSORY BUILDING OR USE

A building or use which is clearly incidental and subordinate to and serves the principal use or building and is located on the same lot with such principal use or building.

AGRICULTURE

The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, aquaculture, horticulture, floriculture, viticulture and animal and poultry husbandry, including the sale of products grown or raised directly on such land and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds and including the necessary accessory

structures for parking, treating, storage or production, including any barn, stable or other building or structure directly and customarily associated with agricultural use.

AIRPORT

Any area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALTERATION

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

ALTERATION, STRUCTURAL

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

ANTENNA

A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio, television, cellular, paging, personal communications services and microwave communications.

[Added 4-7-1998 by L.L. No. 4-1998]

APARTMENT HOUSE

A building arranged, intended and designed to be occupied by three or more families living independently of each other. See "dwelling, multiple-family."

AREA, BUILDING

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

AREA, FLOOR

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 the walls separating two buildings. All roofed areas except unheated porches, terraces, cellars, basements and enclosed off-street parking areas shall be included in the calculation of floor area.

AREA, LOT

The total area within the lot lines, excluding external streets.

AUTOMOBILE WRECKING YARD

The use of any area or portion of any lot or plot, whether inside or outside a building, for the temporary storage of automobiles awaiting dismantling or the dismantled parts of automobiles or for the dismantling, cutting, demolition and burning of automobiles.

AUTOMOTIVE REPAIR

The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, body and fender work, welding, painting and steam cleaning of vehicles.

AUTOMOTIVE REPAIR SHOP

Any area of land, including any structure or structures thereon, that is or are used or designated to be used for automotive repair.

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 considered 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 ESTABLISHMENT

A private dwelling in which at least one and not more than five rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such occupant and in which no public restaurant is maintained.

BUFFER ZONE

An undeveloped land area separating certain zones or uses from one another. Parking or storage of vehicles or objects associated with the use of the property, including patron's vehicles, is not permitted. Buffer zones shall be landscaped or inhabited with natural foliage.

BUILDING

Any structure intended for the housing, shelter or enclosure of persons, animals or property.

BUILDING COVERAGE, PERCENT OF

The percent of building coverage of any lot shall be equal to 100 times the ratio of the total ground floor area of all principal and accessory surfaces divided by the total lot area on which such buildings or structures are located.

BUILDING HEIGHT

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.

BUILDING LINES

The "building front line" shall mean the line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unclosed, but does not include steps. Side and rear "building lines" shall be determined in a comparative manner. All yard setback requirements are measured to the "building line."

BUILDING, PRINCIPAL

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

CAMPGROUND, CAMPSITE OR RECREATIONAL VEHICLE PARK

A property providing four or more sites for the parking of occupied travel or pop-up trailers, motor homes, truck campers, the erection of tents and all buildings and facilities pertaining thereto.

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 in determining the permissible number of stories.

CLUB or LODGE

A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for a social, educational or recreational activity, but not primarily for profit, or to render a service which is customarily carried on as a business.

CLUSTER DEVELOPMENT

A planned development in which lots are plotted with less than the minimum lot size and dimension requirements, but which have access to common open space which is a part of the overall development plan approved by the Planning Board as per § 281 of the Town Law.

COMMERCIAL USE

Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale.

COMMON FACILITIES

Complementary structures and/or improvements located on a common area space appropriate for the benefit and enjoyment of the space by the public or members of the controlling association or condominium.

COMMON OPEN SPACE

An area of land within a site designated for residential development and designed, intended and reserved for the use of the 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.

CONDOMINIUM

A multifamily project of one-family dwelling units which may consist of one, a part or more than one building, including one building per dwelling unit, wherein the real property title and ownership are vested in an owner who has an undivided interest with others in the common usage areas and facilities which serve the development. A "condominium" which effects a division of land into sites [i.e., involves more than one building] shall be reviewed as a subdivision.

COVERAGE

That percentage of the plot or lot area covered by the combined area of all buildings or structures on the lot.

DAY-CARE FACILITY

A place, person, association, corporation, institution or agency which provides day care for children placed there by parents, guardians or others responsible for their care. The name, description or form of the entity that operates a "day-care facility" shall not affect its status as a "day-care facility." "Day-care facilities" include, but are not limited to, the following:

A. **DAY-CARE CENTER** — Group care for three or more children away from their own homes for more than three hours and less than 24 hours per day per child, provided with or without compensation. "Day-care centers" must have a permit (license) issued by the New York State Department of Social Services.

B. **FAMILY DAY-CARE HOME** — Group care provided for three but not more than six children away from their own home for less than 24 hours per day in a family home operated for such purposes, with or without compensation, for more than five hours per week. A permit issued by the New York State Department of Social Services or a certificate issued by an authorized child-caring agency is required.

C. **GROUP FAMILY DAY-CARE HOME** — Care provided for not more than 14 children away from their homes for more than three hours but less than 24 hours per day in a "group family day-care home" which

is operated for compensation or otherwise. A permit issued by the New York State Department of Social Services is required.

DENSITY

The number of principal dwelling units per area of land.

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.

DOG KENNEL COMMERCIAL

Any premises on which dogs or cats are maintained, boarded, bred or cared for in return for remuneration, or are kept for the purpose of sale.

DRIVE-IN SERVICE ESTABLISHMENT

A commercial establishment where business is transacted between the establishment and the person in a parked automotive vehicle.

DRIVE-IN THEATER

See "theater, outdoor."

DUMP

A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DUPLEX

See "dwelling, two-family."

DWELLING

A building designed or used as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "multiple-family dwelling," "two-family dwelling," "dwelling unit" or "dwelling group" shall not be deemed to include an automobile court, rooming house or tourist home.

DWELLING, MULTIPLE-FAMILY

A building or portion thereof containing three or more dwelling units and designed for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY

A detached building containing one dwelling unit, designed for occupancy by one family.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units, designed for occupancy by two families.

DWELLING UNIT

A room or group of rooms providing complete housekeeping facilities for one family and occupied by a single family unit.

FACADE

The face or front of a building facing the major principal street.

FAMILY

One or more persons who live together as a single housekeeping unit and maintain a common household, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel. A family may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption and may also include domestic servants and gratuitous guests.

FARM

Any parcel of land containing at least five acres which is used for gain in the raising of agricultural or aquacultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It includes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FCC

Federal Communications Commission.

[Added 4-7-1998 by L.L. No. 4-1998]

FENCE

A structure or partition erected for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous lots, but shall not include a building or growing plants or trees.

FLOOD

A temporary rise in stream flow or stage that results in significant adverse effects in the immediate vicinity.

FLOODWAY CHANNEL

A passage 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

See "area, floor."

FUELING STATION

Any area of land, including structures thereon, that is used or designated to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing or otherwise cleaning of such motor vehicles.

FUNERAL HOME

A structure used by a licensed mortician for burial preparation, funeral and related services.

GARAGE, PARKING

A garage, either public or private, used for the storage and parking of motor vehicles, not exceeding three stories in height.

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 or that no space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for gain and which is used for the storage, repair, rental, greasing, washing, servicing, dispensing of fuel, adjustment or equipping of automobiles or other motor vehicles.

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 exterior 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 the calculation of floor areas.

HOME OCCUPATIONS

[Amended 6-13-1989 by L.L. No. 2-1989]

An accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a sign or nameplate attached to the building, which sign or nameplate shall not exceed three square feet in size.

A. A "home occupation" includes but is not limited to: artists studio, dressmaking, professional offices of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same, teaching with musical instruction limited to a single pupil at one time, barbershops and beauty parlors, real estate offices and similar businesses. A "home occupation" shall be allowed one employee.

B. In addition, "home occupation" shall be interpreted to include the sale of stock-in-trade or commodities directly related to the permitted home occupation by the resident thereof for sale to the general public.

HOMEOWNERS' ASSOCIATION

A contract agreed to by owners of homes in an area that provides regulations for the operation and maintenance of commonly owned facilities and/or open space.

HOSPITAL

A building used for the diagnosis, treatment or other care of human ailments.

HOSPITAL, ANIMAL or VETERINARY CLINIC

An establishment for the temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment.

HOTEL, INN, TOURIST CABIN, AUTO COURT or MOTEL

An establishment which provides overnight sleeping accommodations for 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 and laundromat services located in the premises.

HUNTING/FISHING CAMP AND CABIN

A principal building with a minimum of 500 square feet of gross floor area used seasonally, which does not have winterized plumbing and heating facilities.

JUNKYARD

A lot, land or structure or part thereof used for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material and for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

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 a multiple-family apartment development or hotel, inn, tourist cabin, auto court or motel.

LINE, STREET; RIGHT-OF-WAY LINE

The dividing line between the street and the lot.

LODGING HOUSE; BOARDINGHOUSE; ROOMING HOUSE

A building in which at least four but not more than 10 sleeping rooms are offered for rent and in which no table board is furnished.

LOT

A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT AREA

See "area, lot."

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street shall be considered a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°. A "corner 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, 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 Town Assessor.

LOT, THROUGH

An interior lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH

The distance between the side lot lines at the required minimum front yard depth (building setback line) measured along a line parallel to a line connecting the end points of the front lot line and running parallel to the adjacent street right-of-way, except that a two-lot division of land fronting on a public street or road, not involving any new streets or roads and not adversely affecting the development of the remainder of the parcel or adjoining property, may establish the building setback line at a greater distance from the adjacent street right-of-way.

[Amended 6-14-1994 by L.L. No. 3-1994]

MANUFACTURING, HEAVY

Any industrial process whereby the nature, size or shape of articles or raw materials is changed into a product which generally could be stockpiled in outdoor storage areas and would require shipping by rail or heavy truck.

MANUFACTURING, LIGHT

Any industrial process whereby the nature, size or shape of articles is changed into a product which generally shall be a finished product which ordinarily would not be stockpiled in an outdoor storage area.

MAXIMUM BUILDING COVERAGE

The maximum percentage of the lot area that may be covered by the combined area of all buildings or structures on the lot.

MAXIMUM BUILDING HEIGHT

The maximum height to which a building or structure may be constructed. It shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to barns' silos, monuments, transmission towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.

MEAN HIGH-WATER MARK

The average annual high-water level of a body of water.

MINIMUM YARD DIMENSIONS

Apply to buildings and roofed porches, except for rear yards, where accessory buildings may be placed no closer than 10 feet from the rear lot line.

MINING

The excavation of sand, gravel, clay, topsoil, rock, stone or other natural material deposits.

MOBILE HOME

A dwelling unit manufactured in one or more sections on an integral metal frame, designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems and designed to be transported after fabrication on wheels or on flatbed or other trailers arriving at the site where it is to be occupied as a dwelling.

MULTIPLE-FAMILY DWELLINGS

Any apartment, townhouse, condominium or similar building, including the conversion of an existing single-family dwelling, designed for occupancy in separate dwelling units therein by more than two families.

MUNICIPAL BUILDING

A building or structure used for public governmental purposes such as town offices and courtrooms.

NONCONFORMING LOT

Any lot lawfully on record on the effective date of this chapter which does not meet the minimum lot area and/or lot width or depth requirements of this chapter for the zoning district in which such lot is situated.

NONCONFORMING STRUCTURE

Any structure which is lawfully in existence within a given zoning district on the effective date of this chapter but which is not in conformance with the dimensional regulations for that zoning district.

NONCONFORMING USE

Any use which is lawfully in existence within a given zoning district on the effective date of this chapter.

NURSING OR CONVALESCENT HOME

A building other than a hospital where persons, as patients, are lodged and furnished with meals and nursing care for hire.

OFFICE BUILDING

A building comprised of more than 50% of the gross floor area used for office space, as compared with "home occupation," where offices are considered as a secondary or incidental use.

OPEN SPACE

Land not covered by buildings, pavement, open storage, mining operations or any other use that visually obscures the natural or improved landscape, except for recreation facilities.

OWNER

The titleholder of record of real property or, if deceased, his/her estate.

PARKING SPACE

An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet, exclusive of passageways and driveways thereto.

PERMEABLE

Ground surface through which water can percolate in a natural manner. Said ground surface could be undisturbed natural terrain or a landscaped area with generally unpaved surfaces. Foliage increases the permeability of the ground surface.

PERMITTED USE

Any use requiring no special permit or variance by the Board of Appeals or site plan review by the Planning Board before a building permit is granted by the Zoning Administrator, subject to all other applicable provisions of this chapter.

PERSON

Any individual, corporation, partnership, association, trustee, the state and all political subdivisions of the state or any agency or instrumentality thereof.

PLOT

A map, plan or layout of the town or a section or subdivision thereof, indicating the location and boundaries of individual properties and streets.

PRINCIPAL BUILDING

A single-family dwelling; a mobile home; a tourist cabin or similar structure for rent or hire involving an excess of 300 square feet of floor space; each unit of a duplex or multiple-family dwelling; a commercial or industrial use structure in excess of 300 square feet, except for a commercial use structure which involves the retail sale or distribution of goods, services or commodities, of which each 11,000 square feet of floor space, or portion thereof, of such commercial use structures constitute a principal building; or a structure containing a commercial use which is also used as a single-family dwelling. In addition, each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure and each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space will constitute 1/10 of a principal building. In addition, all agricultural use structures and single-family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families will together constitute and count as a single principal building.

PROFESSIONAL OFFICE

One used by a duly licensed architect, attorney, dentist, engineer, insurance broker, optometrist, physician or surgeon, real estate broker or surveyor or similarly licensed profession.

PUBLIC OR SEMIPUBLIC BUILDING

Any component building of a college, school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center or similar facility or a municipal building.

PUBLIC PARKS AND PLAYGROUNDS

A lot or parcel 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.

PUBLIC RIGHT-OF-WAY

A parcel of land in public ownership open to the public for vehicular or pedestrian access.

PUBLIC UTILITY STRUCTURE, MAJOR (except telecommunications towers)

Any electric power transmission or distribution line with associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to provide initial telephone service for new structures; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation generating facility or maintenance building; and any water or sewage pipes or conduits, including any water storage tanks designed to service 50 or more principal buildings. Any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article V, VII or VIII of the Public Service Law or other utility receiving prior approval by the Public Service Commission having jurisdiction over such uses under such Articles or other provisions.

[Amended 10-14-1997 by L.L. No. 9-1997]

PUBLIC UTILITY USE

[Amended 10-14-1997 by L.L. No. 9-1997]

The following public utilities which are subject to the jurisdiction of the Public Service Commission pursuant to Article I, § 5, of the Public Service Law, as follows:

- A. Gas (natural or manufactured or mixture of both) and electricity for heat or power.
- B. Telephone lines.
- C. Telegraph lines.
- D. Water and sewer systems for domestic, commercial or public uses.
- E. Cellular radio or telephone communication.

QUARRY; SANDPIT; GRAVEL PIT; TOPSOIL STRIPPING

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, clay, rock or topsoil for sale, as an industrial or commercial operation and exclusive of the process of grading a lot preparatory to the construction of a building.

RECREATION USE

A use of land or building for athletics, picnic grounds and similar uses, but for the purposes of this chapter shall not include the use of pinball machines, video games or other such uses involving any mechanical device for private gain, except, however, food, soda, candy and cigarette dispensing devices.

ROADSIDE STAND

A structure for the display and sale of agricultural products.

SATELLITE DISH RECEIVER ANTENNA

A dish-shaped antenna designed to receive television or other signals from satellites.

SCHOOL

An educational institution housing a curriculum, a physical plant consisting of adequate facilities and a qualified staff to carry out its objectives.

SETBACK

The shortest horizontal separation distance from the property line, or, in the case of shoreline property, from the mean high-water mark, to the closest building line of the structure.

SHOPPING CENTER

An attached building in a row or group with each building separated from adjoining buildings 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.

SHORELINE

The high-water mark at which land adjoins the waters of lakes, ponds, rivers and streams within the town.

SIGN

Refer to the Sign Ordinance of the Town of Moreau, § 117-3.

SINGLE-FAMILY DWELLING

Any detached building containing one dwelling unit, not including a mobile home, designed for occupancy by one family.

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 and the ceiling next above it.

STREET

A public or private way which affords the principal means of access to abutting properties. The term "street" includes the terms "avenue," "place," "way," "drive," "lane," "boulevard," "highway," "road" and any other thoroughfare.

STRUCTURE

Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on or in the ground, other than public utility poles, wires and related equipment.

SWIMMING POOL

Refer to Chapter 127, Swimming Pools, § 127-2.

TELECOMMUNICATION

The transmission and reception of audio, video, digital data and other information or signals by wire, radio, light or other electronic or electromagnetic system.

[Added 4-7-1998 by L.L. No. 4-1998]

TELECOMMUNICATIONS TOWER

Any structure greater than 30 feet above grade, including one or more antenna or other appurtenance attached thereto that is intended for transmitting and/or receiving radio, television, telephone or microwave communications, but excluding those used exclusively either for fire, police, ambulance or other emergency dispatch communications or exclusively for private radio or television reception and private citizen's band, not for hire, amateur radio and other similar communications.

[Added 10-14-1997 by L.L. No. 9-1997]

THEATER, OUTDOOR

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 HOME

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation, but such use is secondary to the occupancy of the dwelling by a family.

TOWNHOUSE

An attached house in a row or group, with each house separated from adjoining houses by a common wall or walls; may also be called a "row house."

TRAVEL TRAILER

A vehicle designed for overnight lodging or camping purposes, designed for being towed by a motor vehicle.

UNFINISHED BUILDING

A building shall be deemed "unfinished" if it does not have a permanent roof, completely enclosed outside walls with the finished materials installed, all glazing in place and, if the building is to be used for human occupancy, a permanent heating system with chimney, if required, ready for operation, permanent electric service and water and sewage system installed.

USE

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, ACCESSORY

See "accessory building or use."

USE, PERMITTED

A use which may be lawfully established.

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.

WETLANDS MAP

A final freshwater wetland map promulgated by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 24-0301, Subdivision 5, of the Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law), or such a map that has been amended or adjusted pursuant to Section 664.7 of Part 6 of the New York Codes, Rules and Regulations, on which are indicated the approximate location of the actual boundaries of wetlands.

WETLANDS

Any lands and waters which meet the definition provided in § 24-0107, Subdivision 1, of the Freshwater Wetlands Act, (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law) and have an area of at least 12.4 acres, or, if smaller, have unusual local importance as determined by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 24-0301, Subdivision 1, of the Act.

YARD, FRONT

The space within and extending the full width of the lot from the front lot line and to the part of the principal building which is nearest to such front lot line.

YARD, REAR

The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such rear lot line.

YARD, SIDE

The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

ZONING ENFORCEMENT OFFICER

The Building Inspector and/or Code Enforcement Officer of the Town of Moreau, or a duly appointed representative thereof.

ARTICLE III. Establishment of Districts

§ 149-6. Enumeration of districts.

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

- R-1 One-Family Residential Districts
- R-2 One- and Two-Family Residential Districts
- R-3 Agriculture, One- and Two-Family Residential Districts
- R-4 Agriculture, One- and Two-Family Residential Districts
- R-5 Agriculture, One- and Two-Family Residential Districts
- UR Multifamily Dwelling, One- and Two-Family Residential Districts
- C-1 General Commercial Districts
- CC-1 Commercial and Communications District
- [Added 4-7-1998 by L.L. No. 4-1998]**
- C-2 Neighborhood Commercial Districts
- C-3 Residential and Professional Districts
- M-1 General Manufacturing and Industrial Districts
- M-2 Light Manufacturing and Industrial Districts
- RP Resource Protection Districts

PUD Planned Unit Development Districts

W Wetlands Overlay Districts

§ 149-7. Zoning Map.

The boundaries for each zoning district listed as part of this chapter are shown on the map entitled "Zoning Map of the Town of Moreau," adopted and certified by the Town Clerk of the Town of Moreau, which accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter and which is hereinafter known as the "Town Zoning Map." Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

§ 149-8. 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 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 lines of maps filed in the Saratoga County Clerk's office for residential developments, such lot lines shall be construed to be said boundaries.

C. Where district boundaries are so indicated that they approximately follow the boundaries of Agricultural District No. 1 of the Town of Moreau, such district boundaries shall be construed to be said boundaries.

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

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

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

G. The boundary of the RP District encompassing Spier Falls Mountain north of Spier Falls Road shall be the five-hundred-foot contour, United States Geological Survey datum, unless otherwise shown.

H. The boundary of the W Overlay District shall be the boundaries of wetlands as officially designated by the New York State Department of Environmental Conservation.

I. Whenever any street or other public way is vacated in the manner authorized by law, the district adjoining each side of such street or public way shall automatically be extended to the center of the former right-of-way and all the area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

J. In the event that none of the above rules are applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

ARTICLE IV. Applicability; Use Regulations

§ 149-9. Applicability.

Except as hereinafter provided, no land shall be used or occupied, and no building, structure or part thereof shall be erected, moved or altered except in conformity with all provisions contained in this chapter relating to the zoning district in which the land, water, site, structure or use is located or proposed to be located and with all other regulations specified herein.

§ 149-10. Space and construction regulations.

Except as herein provided, no building or structure shall be hereafter erected, moved or altered to exceed the maximum permitted height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which such building or structure is located.

§ 149-11. Yard and open space requirements.

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

§ 149-12. Issuance of building permit.

Before the construction or alteration of any building or structure or any part of either, the owner or lessee thereof, or the agent of such owner or lessee, or the architect or builder employed by such owner or lessee, in connection with the proposed construction or alteration, shall obtain a building permit as specified in Article XI of this chapter, signifying that the building or structure and proposed use thereof complies with the provisions of this chapter and the Building Code of the Town of Moreau. Editor's Note: See Ch. 74, Fire Prevention and Building Construction. The building permit shall be displayed prominently at the site of the construction or alteration.

§ 149-13. Issuance of certificate of occupancy.

No land shall be changed in use and no building or structure hereafter erected, altered or extended or changed in use until a certificate of occupancy has been issued, as specified in Article XI of this chapter, signifying that such use or change in use complies with the provisions of this chapter.

§ 149-14. Schedule of regulations.

The regulations limiting the use of buildings and land and the bulk and arrangement of buildings are set forth in the attached schedules for each of the districts established by Article III of this chapter. Such schedules are hereby adopted and declared to be a part of this chapter; such schedules are hereinafter referred to as "schedules" and may be amended in the same manner as any other part of this chapter. Wherever in such schedule there appear the words "same as in (symbol of district)," such words shall be construed to include the specific limitations as set forth in the same column for the district thus referred to, unless other limitations are shown in the schedule. Otherwise, all limitations as to use, percentage of area, permissible height, required yards and minimum sizes thereof and other requirements shall be those set forth in such schedule which, for each district named, shall be read across the schedule from left to right. Editor's Note: The schedules are included at the end of this chapter.

§ 149-15. One-Family Residential Districts (R-1).

A. Purpose. R-1 Districts are established single-family residential neighborhoods where the character is single-family detached residences on standardized lots. This character will be strictly reinforced and preserved throughout the R-1 Zone.

B. Use regulations. Permitted, accessory and special permit uses in R-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in R-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-16. One- and Two-Family Residential Districts (R-2).

A. Purpose. R-2 Districts are generally suburban in character and are dominated by single-family detached residences. They are located adjacent to the most heavily built-up areas of town and are generally suitable for residential development.

B. Use regulations. Permitted, accessory and special permit uses in R-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in R-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-17. Agriculture, One- and Two-Family Residential Districts (R-3).

A. Purpose. R-3 Districts encompass outlying areas of town which are best suited for agriculture and residential development on large lots, due either to limiting soil conditions or existing community character.

B. Use regulations. Permitted, accessory and special permit uses in R-3 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in R-3 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-18. Agriculture, One- and Two-Family Residential Districts (R-4).

A. Purpose. The R-4 District encompasses areas of unique natural resources and scenic beauty. Development in this district is limited to sparse densities to preserve and enhance the rural and open space character of the town.

B. Use regulations. Permitted, accessory and special permit uses in R-4 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in R-4 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-19. Agriculture, One- and Two-Family Residential Districts (R-5).

A. Purpose. The R-5 District encompasses the bulk of active agricultural land in the town. The purpose of this district is to promote, enhance and protect agriculture by limiting development.

B. Use regulations. Permitted, accessory and special permit uses in R-5 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in R-5 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-20. Multifamily Dwelling, One- and Two-Family Residential Districts (UR).

A. Purpose. The UR District is designed to provide for the demand for high-density, multifamily housing in areas located near existing services. Because of limiting soils conditions, multifamily development will only be allowed with the provision of public water and sewer services.

B. Use regulations. Permitted, accessory and special permit uses in UR Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in UR Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-21. General Commercial Districts (C-1).

A. Purpose. The C-1 Districts are those areas where intense commercial development exists or is anticipated. Site plan review is required for all uses in order to create coherent and safe traffic patterns, efficient loading and unloading, an aesthetically pleasing shopping environment and safe pedestrian circulation.

B. Use regulations. Permitted, accessory and special permit uses in C-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in C-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-21.1. Commercial and Communications Districts (CC-1).

[Added 4-7-1998 by L.L. No. 4-1998]

A. Purpose. The CC-1 Districts are those areas where telecommunications towers and related equipment are allowed by special use permit only. Site plan review is required for all uses.

B. Use regulations. Permitted, accessory and special permit uses in CC-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in CC-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-22. Neighborhood Commercial Districts (C-2).

A. Purpose. The C-2 Districts are designed to enable residents of the town's outlying areas to obtain staples, necessities and other goods from small-scale neighborhood-oriented shopping areas without traveling to major commercial centers.

B. Use regulations. Permitted, accessory and special permit uses in C-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in C-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-23. Residential and Professional Districts (C-3).

A. Purpose. The C-3 District is designed to allow productive use of established single-family residences along the major Route 9 corridor without infringing on the character of the neighborhood.

B. Use regulations. Permitted, accessory and special permit uses in C-3 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in C-3 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-24. General Manufacturing and Industrial Districts (M-1).

A. Purpose. The M-1 District provides for the maintenance and expansion of heavy industry and large-scale manufacturing without competition from other uses. Site plan review is required for all uses in the M-1 District.

B. Use regulations. Permitted, accessory and special permit uses in M-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in M-1 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-25. Light Manufacturing and Industrial Districts (M-2).

A. Purpose. The M-2 District provides for the establishment of light manufacturing, industry or storage uses or offices without competition from competing uses. It is located adjacent to Route 9 and Exit 17 of the Northway to allow convenient access to industry to receive and disperse materials. Site plan review is required for all uses in the M-2 District.

B. Use regulations. Permitted, accessory and special permit uses in M-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in M-2 Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-26. Resource Protection Districts (RP).

A. Purpose. The RP Districts encompass areas that have serious physical limitations or unique characteristics that warrant restricting development to very low densities.

B. Use regulations. Permitted, accessory and special permit uses in RP Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

C. Area, yard and coverage regulations. Bulk regulations in RP Districts shall be as set forth in the Schedule of Regulations included at the end of this chapter.

§ 149-27. Planned Unit Development Districts (PUD).

A. Intent.

(1) It is the intent of this Planned Unit Development District (PUD) section to provide flexible land use and design regulations to provide for the rezoning of land to residential, commercial and industrial development zones, either jointly or separately in conformance with provisions and standards which ensure compatibility among all the land uses, foster innovation in site planning and development and encourage sound design practices. Provision is included for planned unit developments to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. This section specifically encourages innovation in residential development so that the growing demand 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 section recognizes that, while the standard zoning function and the subdivision function are appropriate for the regulation of the land use in areas of neighborhoods which are already substantially developed, these controls represent a type of preregulation, regulatory right and uniformity which may be inimical to the techniques of land development contained in the planned unit development concept. Further, this section recognizes that a rigid set of space requirements, along with bulk and use specifications, would frustrate the application of this concept. Thus, where planned unit development techniques are deemed appropriate through the rezoning of land to a Planned Unit Development District by the Town Board, the set of use and dimensional specifications elsewhere in the chapter are herein replaced with an approval process in which an approved plan becomes the basis for continuing land use controls.

(3) While the provisions for a PUD constitute a section of this Zoning Law, they do not apply to a specific area until established by a resolution of the Town Board. Planned unit developments are allowed in all zones except the R-1, RP and W Districts.

(4) In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of adjoining properties.

B. Objectives. In order to carry out the intent of this section, a planned unit development shall achieve the following objectives:

(1) A maximum choice in the types of environment, occupancy tenure (e.g., individual ownership, condominium, leasing) of housing or sizes and community facilities available to existing and potential town residents at all economic levels.

(2) More usable open space and recreation areas.

(3) More convenience in location of industrial, commercial and service areas.

(4) The preservation of trees, outstanding natural topographic and geologic features and the 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 services, and thereby lower housing costs.

(7) A development pattern in harmony with the objectives of the Master Plan.

(8) A more desirable environment than would be possible through the strict application of other sections of this chapter.

C. General requirements.

(1) Ownership. 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.

(2) District standards. The standards for Planned Unit Development Districts are to provide the Planning Board and the Town Board with a means of evaluating applications for the districts, considering the provisions and general intent of this chapter. The Town Board may modify these standards based on a review of written justification for such modification provided by the applicant.

(a) Residential standards.

[1] Permitted uses shall be a variety of uses, such as but not limited to:

[a] One-family dwelling (attached and detached); two-family dwelling.

[b] Multiple-family dwelling.

[c] Professional residence/office.

[d] Religious institution.

[e] School.

[f] Community center.

[g] Membership clubhouse.

[h] Public outdoor recreation.

[2] Area, yard, coverage and supplementary regulations shall be as follows:

[a] District area: a minimum of 10 acres.

[b] Nonresidential density: 40,000 square feet of land for each 10,000 square feet of building.

[c] Density for a detached one-family dwelling: two units per net acre.

[d] Density for a two-family dwelling: two units per net acre.

[e] For a one-family dwelling (attached Townhouse or multifamily dwelling), innovative uses of land will be considered, but a density of more than eight dwellings per net acre will require exceptional justification.

[f] In computing the total net acreage of a planned unit development site, deduct all acreage considered unable to be developed due to a steep slope (25% or greater), wetlands and watercourses, all acreage to be dedicated as common or public open space or recreational lands and 20% of the total site for the provision of streets and other public facilities. Innovative approaches may receive special consideration.

[g] For minimum yard requirements, no specific setback minimum is required. Acceptability of the plan will depend upon adequacy of space, accessibility to emergency equipment, visual impact, use of fences, plantings, etc., in terms of the purpose of the proposal. No building shall be closer than 25 feet to a public street.

[h] Maximum building coverage of any single lot or the district as a whole: 30%.

[i] Maximum height of a structure: in keeping with the maximum height guidelines established in Article IV, §§ 149-15 through 149-26.

[j] For required off-street parking and loading spaces, see Article VII, §§ 149-47 and 149-48.

[k] Common open space: An area in addition to required lot area, equal to 15% of the gross development area, may ordinarily be developed and maintained. Such space may be developed for recreational activities appropriate to the nature of the project. Exceptional cases and tradeoffs in terms of nearby facilities may be considered.

[Amended 12-26-2006 by L.L. No. 3-2006]

[l] For provisions regarding signs and displays, see Chapter 117, Signs.

[m] Landscaping: Adequate landscaping should be provided to reduce the visual impact of off-street parking areas and to provide a logical transition between the PUD District and surrounding areas.

(b) Commercial standards.

[1] Permitted uses shall be uses such as but not limited to the following. A use not listed may be permitted after review and approval by the Town Board.

[a] Retail stores; restaurants.

[b] Business offices.

[c] Hotels; motels.

[d] Religious institutions.

[e] Community centers and government buildings.

- [f] Indoor recreation.
- [g] Personal services.
- [h] Enclosed accessory uses.
- [i] Parking.

[2] Area, yard coverage and supplementary regulations shall be as follows:

- [a] District area: a minimum of 10 acres.
- [b] Minimum district width: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.
- [c] Minimum district depth: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.
- [d] Minimum front yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.
- [e] Minimum rear yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.
- [f] Minimum side yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.
- [g] Minimum coverage of any single lot, or the district as a whole: 40%.
- [h] Maximum height of structure: in keeping with the maximum height guidelines established in Article IV, §§ 149-15 through 149-26.
- [i] For required off-street parking and loading spaces, see Article VII, §§ 149-47 and 149-48.
- [j] For provisions regarding signs and displays, see Chapter 117, Signs.
- [k] Landscaping: Adequate landscaping should be provided to reduce the visual impact of off-street parking areas and to provide a logical transition between the PUD District and surrounding areas.

(c) Industrial standards.

[1] Permitted uses shall be as follows:

- [a] Light manufacturing industries.
- [b] Offices.
- [c] Warehouses.
- [d] Public utilities.
- [e] Enclosed service and repair.
- [f] Enclosed accessory uses.

[g] Parking.

[2] Area, yard, coverage and supplementary regulations shall be as follows:

[a] District area: a minimum of 10 acres.

[b] For lot area, width, depth, front yard, rear yard and side yard, no specific minimum acres or distances are required. An application will be judged on design as it provides satisfactory visual effect, safety, access and its impact on neighboring land use.

[c] Maximum coverage of any single lot, or the district as a whole: 40%.

[d] Maximum height of structure: 35 feet.

[e] For required off-street parking and loading spaces, see Article VII, §§ 149-47 and 149-48.

[f] For provisions regarding signs and displays, see Chapter 117, Signs.

[g] Landscaping: Adequate landscaping should be provided to reduce the visual impact of off-street parking areas and to provide a logical transition between the PUD District and surrounding areas.

(d) Recreation standards.

[1] Permitted uses shall be uses such as but not limited to the following:

[a] Golf courses.

[b] Ski area, cross-country ski and/or snowmobile trails.

[c] Parks.

[d] Zoos and botanical gardens.

[e] Game preserves and hunting courses.

[f] Golf driving ranges and putting courses.

[g] Marina.

[h] Campgrounds.

[i] Other outdoor recreational uses.

[j] All uses customarily accessory to such permitted uses.

[2] Area, yard, coverage and supplementary regulations shall be as follows:

[a] District area: a minimum of 10 acres.

[b] Minimum district width: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.

[c] Minimum district depth: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.

[d] Minimum front yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.

[e] Minimum rear yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.

[f] Minimum side yard: No specific minimums are established. Each project will be judged in terms of design, access, safety, visual impact and impact on neighboring residential uses.

[g] Maximum coverage of any single lot, or the district as a whole: as deemed appropriate by the Town Board on a case-by-case basis.

[h] Maximum height of structure: in keeping with the maximum guidelines established in Article IV, §§ 149-15 through 149-26.

[i] For required off-street parking and loading spaces: see Article VII, §§ 149-47 and 149-48.

[j] For provisions regarding signs and displays, see Chapter 117, Signs.

[k] Landscaping: Adequate landscaping should be provided to reduce the visual impact of off-street parking areas and to provide a logical transition between the PUD District and surrounding areas.

D. Exceptions to district standards. In determining whether exceptions to district standards should be allowed, particularly as regards the intensity of land use, the Town Board shall consider the following factors:

- (1) The need for the proposed land use in the proposed location.
- (2) The availability and adequacy of water service.
- (3) The availability and adequacy of sewer service.
- (4) The availability and adequacy of transportation systems, including the impact on the road network.
- (5) The pedestrian circulation and open space in relation to structures.
- (6) The character of the neighborhood in which the PUD is being proposed, including the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- (7) The height and bulk of buildings and their relation to other structures in the vicinity.
- (8) Potential impacts on local government services.
- (9) Potential impacts on environmental resources, including wetlands, surface water, floodplains and plant and wildlife communities.
- (10) The general ability of the land to support the development, including such factors as slope, depth to bedrock, depth to water table and soil type.
- (11) Other factors as may be deemed appropriate by the Town Board.

E. Common property in the planned unit development Common property in a planned unit development is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. Common property shall comprise a minimum of 15% of any PUD. The ownership of such common property may be public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, services and parking

areas and recreational and open space areas. In the computation and determination of common property areas, lands shall be of such location and configuration that they shall adequately serve and be accessible to all building sites within the PUD and comprise lands that are suitable for open space use. Streets and parking areas shall not be included when computing the amount of common property.

F. Applications and zoning approvals. Whenever any planned unit development is proposed, before any permit for the erection of a permanent building in such planned unit development shall be granted and before any subdivision plat or any part thereof may be filed in the office of the Saratoga County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned unit development in accordance with the following procedures:

(1) Application for sketch plan approval.

(a) In order to allow the town authorities and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit a sketch plan of his proposal to the Town Board. The Town Board, at its next regularly scheduled meeting, shall refer the sketch plan to the Planning Board for review and recommendation. The date of Planning Board receipt of the sketch plan shall be the next regular meeting of the Planning Board. The sketch plan shall be to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:

[1] The location of the various uses and their areas.

[2] The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.

[3] Delineation of the various residential areas, indicating for each such area its general extent, size and composition in terms of the total number of dwelling units, approximate percentage allocation by dwelling-unit type (i.e., single-family detached, duplex, townhouse, garden apartments or high-rise) and a 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 and a calculation of total permeable area.

[4] The interior open space system. Only usable land shall be considered for such purposes.

[5] The overall drainage system.

[6] 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. If grades are less than 3%, the topographic map may be at ten-foot contour intervals.

[7] Principal ties to the community at large with respect to transportation, water supply and sewage disposal.

[8] 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.

[9] A location map showing uses and ownership of abutting lands.

[10] A long-form environmental assessment form.

(b) In addition, the following documentation shall accompany the sketch plan:

[1] Evidence of how the developer's particular mix of land uses meets existing community demands.

[2] A general statement as to how common open space is to be owned and maintained.

[3] 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.

[4] Evidence of the applicant's physical and financial competence to carry out the plan and his awareness of the scope of such a project.

(c) After receipt of all required information, as determined by the Planning Board, the Planning Board shall hold a public hearing in accordance with the requirements of Article XI, § 149-74 of this chapter, and shall render either a favorable or an unfavorable report to the Town Board within 60 days of the closing of the public hearing.

(d) In reviewing the sketch plan, the Planning Board may call upon the County Planning Department and any other public or private consultants that the Board feels are necessary to provide a sound review of the proposal.

(e) 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 this report:

[1] That the proposal meets the intent and objectives of planned unit development, as expressed in Subsections A and B of this section.

[2] That the proposal meets all the general requirements in Subsection C of this section.

[3] That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals 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.

[4] That there are adequate services and utilities available or proposed to be made available in the construction of the development.

(f) 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.

(g) 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.

(2) Application for planned unit development districting.

(a) 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 unit development districting for the applicant's plan, in accordance with the procedures established under §§ 264 and 265 of the Town Law or other applicable law, said public hearing to be conducted within 45 days of the receipt of the favorable report or the decision on appeal from an unfavorable report.

(b) The Town Board shall refer the application to the Saratoga County Planning Board for its analysis and recommendations, and the Town Board shall also refer the application to the Highway Superintendent.

[1] The Town Board shall give the Saratoga County Planning Board at least 30 days to render its report, and within 30 days following receipt of the report from the County Planning Board, the Town Board shall render its decision on the application.

[2] The Highway Superintendent shall submit a report to the Town Board within 30 days of the referral, duly noting the feasibility and adequacy of those design elements under his sphere of interest. This report need only concern itself with general conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design elements as will be required in the later site plan review stage. The Highway Superintendent may also state in his report any other conditions or problems that must be overcome before consideration of acceptance of his part.

(3) Zoning for planned unit development.

(a) If the Town Board grants the planned unit development districting, the Zoning Map shall be so noted. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, firehouses and libraries, protection of natural and/or historic sites and other physical or social demands. The Town Board shall state at this time its findings with respect to the land use intensity or dwelling intensity as called for in Subsection C of this section.

(b) Planned unit development districting shall be conditional upon the following:

[1] Securing a final site plan approval in accordance with the procedure set forth in Article VI, Site Plan Review.

[2] Securing final subdivision approval in accordance with the Town of Moreau Subdivision Regulations. Editor's Note: See Ch. 124, Subdivision of Land.

[3] Compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the Planned Unit Development District.

(c) Changes in use within a Planned Unit Development District may be subject to further site plan approval by the Planning Board, if such a condition is specifically set by the Town Board at the time of granting the planned unit development districting.

G. Installation of improvements or performance bond required. No building permits shall be issued for construction within a Planned Unit Development District until improvements are installed or a performance bond is posted in accordance with the same procedures as provided in the Subdivision Regulations of the Town of Moreau. Other such requirements may also be established by the Town Board.

H. Parks, open spaces and natural features; land dedication/recreation fees.

[Added 12-26-2006 by L.L. No. 3-2006]

(1) Purpose. The purpose of this paragraph is to establish and provide for an equitable and effective development standard for securing adequate land and funding for parks, playgrounds and open space recreation areas in the Town of Moreau.

(2) Recreation fees.

(a) The Town Board shall require, as a condition of approval of a planned unit development or any amendment thereto that includes dwelling units, the payment of recreation fees for each dwelling unit in such amount to be set by the Town Board. The recreation fees per dwelling unit shall be established and amended by resolution of the Town Board. Such fees shall be paid to the Town at the time of final planned unit development approval, and no such planned unit development shall be approved by the Town Board until such payment is made. Such payments shall be held by the Town of Moreau in a special fund for acquisition and development of recreation land. All money in this fund is to be used only for:

[1] The purchase of land that is suitable for new or enlarged parks, playgrounds or open spaces and located so as to serve the inhabitants of the Town's residential neighborhoods.

[2] The improvement of new or existing park, playground and open space lands which serve the Town's residential neighborhoods.

(b) In any case, the Town Board shall be satisfied that required recreation land will be maintained and will not be used for other than recreation purposes.

(3) Land dedication in lieu of fees.

(a) In cases where the Town Board finds that due to the size, shape or location of the planned unit development, land dedication for a park, playground or other recreational purpose is preferable to the payment of a recreation fee, the Town Board may waive the fee and require as a condition of approval the dedication of land for recreational purposes.

(b) The owner/developer shall then file with the Town Board a plan detailing the sites for the development of a park, playground or other recreational facility. Recreation space shall be provided by the owner/developer on the basis of at least 1,000 square feet per dwelling unit, but in no case shall the amount be more than 10% of the total area of the planned unit development. Such area or areas may be dedicated to the Town by the owner/developer if the Town Board approves such dedication. All lands designated on the plan as park, playground or other recreation areas not in Town ownership shall be subject to such conditions as the Town Board may establish, such as hours of operation, access to the general public, use and maintenance of such lands as deemed necessary to assure the preservation of such land for its intended purpose. Such conditions shall be shown on the final site plan prior to approval and filing. The Town Board shall consider the following in determining the suitability of the served land for recreational purposes:

[1] The size and shape of the reserved land.

[2] Whether the land is usable land, which for purposes of these regulations shall be taken to mean land that is relatively level and dry.

[3] The location of the reserved land, i.e., whether the land is:

[a] Located in an area which is heavily populated.

[b] Near other recreation areas.

[c] Near other recreation areas providing the same type of recreation.

[d] In a location which will provide a safe and accessible recreation area for Town residents.

(4) Nothing in this section will be construed as prohibiting an owner/developer from reserving land for recreation purposes in addition to the requirements of this section.

(5) The Town Board shall not at any time authorize the waiver of both the fee and land dedication in lieu thereof requirements.

§ 149-28. Wetlands Overlay Districts (W).

A. Intent. The Town of Moreau contains within its Town limits several areas of wetlands, which, due to their unique characteristics, present important constraints to development. In addition, these wetlands provide flood control, water quality, recreational, aesthetic and open space benefits to the Town. Accordingly, to provide for the proper use of these wetlands, a Wetlands Overlay District is hereby established. All underlying districts shall be indicated on the Town Zoning Map.

B. Area description. The W District encompasses those lands and waters which meet the definition of "wetlands" provided in § 24-0107, Subdivision 1, of the Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law) and have an area of at least 12.4 acres or, if smaller, have unusual local importance as determined by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 24-0301, Subdivision 1, of the Act. Such areas are generally shown on the maps entitled "Final Freshwater Wetlands Maps — Saratoga County," prepared by the New York State Department of Environmental Conservation pursuant to § 24-0301, Subdivision 5, of the Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law). The precise boundaries of such wetlands may be determined by field inspection by the New York State Department of Environmental Conservation.

C. Use, space and area restrictions. The use, space and area restrictions for the W District are identical to those for the Resource Protection District (see § 149-26), with the exception that quarrying, mining and sand and gravel extraction are not allowed.

ARTICLE V. Special Use Permits

§ 149-29. General provisions.

[Amended 4-7-1998 by L.L. No. 4-1998]

A. After due public notice and hearing and after taking into consideration the public health, safety and general welfare and subject to appropriate conditions and safeguards, the Board of Appeals may issue special permits for any of the uses for which this chapter requires the obtaining of such permit or for the extension of a building or use which existed at the time of passage of this chapter into a contiguous more restrictive district for a distance not exceeding 50 feet, but not for any other use or purpose.

B. After due public notice and hearing and after taking into consideration the public health, safety and general welfare and subject to appropriate conditions and safeguards, the Planning Board may issue special permits for telecommunication towers and related facilities or for collocation upon existing towers or tall structures as provided in § 149-50.1 hereof.

§ 149-30. Application requirements.

When applying for a special use permit, the applicant shall provide the Zoning Board of Appeals with a completely documentary description of the proposed use, including maps, plans and an explanation indicating why the proposed use would be in the public interest. After review of the application, the Board of Appeals may request such additional information as it deems necessary to fully and adequately review the proposed use. Such information may include, but not be limited to:

- A. Topographic and boundary surveys.
- B. Soils test and information.
- C. Utility plans.
- D. Location of watercourses, wetlands and floodplains.
- E. Grading and drainage plan.
- F. Location, use and height of all buildings.
- G. Location, design and construction materials of all parking and truck-loading areas, with access and egress drives thereto.
- H. Provisions for pedestrian access.
- I. Location of outdoor storage, if any.

J. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.

K. Description of the method of sewage disposal and location, design and construction materials of such facilities.

L. Description of the method of securing public water and location, design and construction materials of such facilities.

M. Location of fire and other emergency zones, including the location of fire hydrants.

N. Location, design and construction materials of all energy distribution facilities, including electrical, gas or solar energy.

O. Location, size and design and construction materials of all proposed signage.

P. Location and proposed development of all buffer areas, including indication of existing vegetative cover.

Q. Location and design of outdoor lighting facilities.

R. Designation of the amount of building area proposed for retail sales or similar commercial activity.

S. General landscaping plan and planting schedule.

T. Other elements integral to the proposed development, as considered necessary by the Zoning Board, including identification of any state or county permits required for the project's execution.

§ 149-31. Time limit for action.

After receipt of all required information, as determined by the Zoning Board, the Zoning Board shall hold a public hearing and render a decision on the application within 60 days after the hearing is closed.

§ 149-32. Review standards.

A. In reviewing a special permit, the Zoning Board shall find that the following conditions are met before issuing a special permit:

(1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts or reduce property values.

(2) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site, layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

B. In applying these standards, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections and the general character and intensity of development of the neighborhoods.

C. The Board may apply such conditions and safeguards to the permit as are appropriate to protect the public health, welfare, ecology and safety. The Board may also provide that any special permit granted hereunder shall be limited in time to not less than three years, which permits could be renewed upon application to the Board of Appeals upon a showing that no adverse conditions had occurred.

D. An appellant granted a special permit shall be given 90 days in which to diligently begin to put into effect the use permitted by the granted permit, although the Board of Appeals can increase this period from 90 days up to one year at its discretion.

§ 149-33. Home occupations.

A. When applying for a special permit for the conduct of a home occupation, the application shall be made to the Zoning Board of Appeals, accompanied by a completely documented description of the proposed use, including maps, plans and an explanation indicating why the proposed use would be in the public interest. After due public notice and hearing, the Board of Appeals may issue a special permit for a home occupation in accordance with the provisions of this chapter, provided that:

- (1) Such usage will not endanger the health, safety, morals or general welfare of the neighborhood or adversely affect the environment.
- (2) Off-street parking spaces are adequate to handle expected attendance.
- (3) The neighborhood character and surrounding property values are not endangered.
- (4) Such use thereof will not cause undue traffic congestion or create a traffic hazard.

B. In granting such special permit for a home occupation, the Board may specify appropriate conditions in order to protect the public health, safety, ecology and welfare, and, to ensure a continuity of such protection, the Board may provide that any special permit granted hereunder shall be limited in time to not less than three years, which permit could be renewed upon application to the Board of Appeals upon a showing that no adverse conditions had occurred.

§ 149-34. Referral to Planning Board.

The Zoning Board may, at its discretion, refer an application for a special use permit to the Planning Board for an advisory review. The applicant must submit a site plan in triplicate meeting the submittal requirements for a preliminary site plan contained in Article V to the Planning Board, except that the Planning Board may waive any portion of the surrounding requirements as it may see fit. The Planning Board shall render an advisory opinion with a statement of its reasons and any suggested modifications to the Zoning Board of Appeals within 30 days of receiving the referral from the Zoning Board of Appeals, which shall consider such opinion in its deliberations. Failure on the part of the Planning Board to render an opinion shall constitute an unfavorable referral.

ARTICLE VI. Site Plan Review

§ 149-35. General provisions.

A. The Planning Board is hereby authorized to review, approve, approve with modification or disapprove all site plans as required by Article IV of this chapter.

B. The purposes of such site plan review and approval procedures are to:

- (1) Ensure adequate adherence and conformance to the various provisions of this chapter.
- (2) Ensure that uses of land so affected by these provisions meet designs, functions and criteria established by this chapter that will result in development that will protect the health, safety and general welfare of town residents and are consistent with the Subdivision Regulations of the town. Editor's Note: See Ch. 124, Subdivision of Land.

C. An application for site plan review shall be filed with the Building Department upon a form prescribed by the Planning Board. The requisite number of copies of the application to be filed shall be established by the Building Department.

[Added 4-7-1998 by L.L. No. 4-1998]

D. Fees.

[Added 2-10-2004 by L.L. No. 2-2004]

(1) The application for site plan approval shall be accompanied by a fee listed on the current Schedule of Fees for the Town of Moreau posted in the office of the Town Clerk.

(2) In addition to the fee listed on the Schedule of Fees, the Planning Board may charge a fee to applicants/developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of the legal and technical assistance to the Planning Board.

§ 149-36. Applicability.

[Amended 4-7-1998 by L.L. No. 4-1998]

The provisions of this article shall apply to all uses involving the use of land or construction of buildings in the C-1, CC-1 and C-2 Districts as well as all Town-owned property within that portion of the R-2 District south of Nolan Road, west to the Hudson River, south to Butler Road and to the east boundary of the R-2 District and to all uses in the M-1 and M-2 Districts and to all multifamily uses in the UR District and to the review of site plans for PUD'S.

§ 149-37. Contents of preliminary site plan application.

A. The Planning Board may require the submittal of the following information to assist in its review:

(1) Maps.

(a) Map of the applicant's entire lot, plot or parcel of land at the scale of one inch equals 50 feet, unless the Planning Board determines a different scale more appropriate.

(b) An area map showing all properties, subdivisions, streets, watercourses and easements which pass through the property or are known to abut the applicant's property.

(c) A topographic map showing contours at five-foot intervals.

(2) Such maps shall show the following:

(a) The name and address of the applicant, vendee, contract vendee or owner and title of drawing.

(b) North symbol, date and scale.

(c) The name, address, title and license number of the person or firm responsible for the preparation of the map.

(d) The entire parcel of property plotted to scale.

(e) Watercourses, if any, and direction of drainage flow.

(f) Location of planned use or uses; height, length and width of building or buildings; yard requirements; parking areas and interior road plan.

(g) Location of existing or proposed site improvements; the accurate placement of all drains, culverts, walls, fences, water and utilities; location and means of sewage disposal; location and size of proposed signs; placement of proposed lighting facilities; the area proposed for various uses for which building is planned; existing areas of vegetation and trees, including general description.

(h) An overlay showing areas of probable flooding, ponding or erosion or slopes in excess of 10%.

(3) Stormwater pollution prevention plan. A stormwater pollution prevention plan (SPPP) consistent with the requirements of Chapter 120 of the Code of the Town of Moreau shall be required for site plan approval. The SPPP shall meet the performance and design criteria and standards in Chapter 120. The approved site plan shall be consistent with the provisions of Chapter 120.

[Added 2-26-2008 by L.L. 1-2008]

B. Action required upon receipt of application. Upon receipt of the application and related documents, the Planning Board will notify the applicant, in writing, of the place, date and time of the meeting at which the application is to be considered and will request that the applicant or his representative be present to discuss said application.

§ 149-38. Criteria for review.

A. The Planning Board shall review, but such review is not limited to, the following:

- (1) Full compliance of the site plan with the regulations and provisions of this chapter, the plan of vehicular and pedestrian traffic flow and the impact of traffic generated on adjacent properties and roads.
- (2) Arrangement proposed for the parking of vehicles, including loading areas.
- (3) Location, arrangement, size, area, percent of coverage of parcel or lot, permeable areas, lighting and signs.
- (4) Proposed landscaping, noise-detering buffer zones, screening or buffer zones and open space for recreation or other purposes.
- (5) Adequate provisions and means for complete disposal of stormwater, sanitary wastes, water supply for fire protection and consumption, solid waste disposal and snow removal.
- (6) Impact and effect created by flooding, ponding or erosion as it applies to structures, roads, landscaping and any other improvements included in the site parcel.
- (7) All conditions to which adjacent properties might be subjected, such as but not limited to noise, glare, lights and odors.
- (8) Retention of existing trees to as great a degree as is possible.
- (9) Suitability of soils to support the proposed use.
- (10) Other items as may be deemed appropriate by the Planning Board.

B. The Planning Board is authorized to consult with appropriate town, county, state and federal personnel in connection with this Article.

§ 149-39. Modifications regarding required information.

A. The Planning Board may require, in addition to the matters contained in Article VI, § 149-38, additional provisions, conditions and information that, in its opinion, will permit better understanding of the site plan proposal and will protect the health, safety, welfare and morals of the residents of the town.

B. The Planning Board may allow the applicant to submit only those factors which it deems necessary for the review and approval of a specific and particular application.

§ 149-40. Action and report on preliminary site plan.

A. The Planning Board shall study the proposed preliminary site plan and conduct a ground survey if, in its opinion, such a survey is required. In addition, if deemed necessary, it shall consult with appropriate personnel as set forth in Article VI, § 149-38.

B. The Planning Board shall fix a time within 31 days from the date of application for site plan approval for a public hearing on the site plan, if such a hearing is deemed necessary by the Planning Board. In determining

whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project, its degree of complexity and the likelihood of its having adverse impacts.

C. The report of the Planning Board on the preliminary site plan shall be submitted, in writing, to the applicant and the Building Inspector and/or Code Enforcement Officer. Submission shall be within 45 days of the close of the public hearing or within 60 days of the receipt of a complete application if no public hearing is scheduled. Failure to act on the preliminary site plan within the prescribed time period shall constitute approval of the site plan.

§ 149-41. Contents of report.

A. The Planning Board report shall state whether or not the preliminary site plan meets:

- (1) The conditions set forth in this Article.
- (2) Requirements by other Articles of this chapter.
- (3) Other rules, regulations, codes and ordinances of the town.

B. If the Planning Board determines that the foregoing, namely Subsection A(1), (2) and (3), have been adequately fulfilled, then it shall grant the applicant final 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 and/or Code Enforcement Officer.

C. If the Planning Board determines that one or more of the statements set forth in Subsection A have not been fulfilled 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 and/or Code Enforcement Officer. A site plan receiving conditional approval shall always require the submission of a final site plan application, accompanied by the final site plan and related documents.

D. If the preliminary site plan is disapproved, the Planning Board's report shall contain the reasons for such disapproval. The Board may recommend further study of the plan and resubmission following revision or redesign.

§ 149-42. Submission of final site plan.

A. The applicant, having prepared a detailed final site plan in accordance with requirements established by the Planning Board and as set forth in Article VI, § 149-41, may forward or deliver it to the Building Inspector and/or Code Enforcement Officer for submission to the Planning Board for approval. If more than six months have elapsed since the time of the Planning Board's report on the preliminary site plan, or if the Planning Board finds that conditions have changed significantly in the interim period, the Planning Board may require resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

B. The final site plan shall conform to the preliminary site plan as approved and shall incorporate any changes or revisions required by the Planning Board. Complete compliance is the responsibility of the applicant.

§ 149-43. Action and report on final site plan.

A. After receipt of the final site plan and application for approval, the Planning Board shall render its report on said final site plan, in writing, to the applicant and Building Inspector and/or Code Enforcement Officer. The report on the final site plan shall be within 45 days of receipt of the final site plan and any related documents. An additional forty-five-day period for review may be allowed upon written notice to the applicant and Building Inspector and/or Code Enforcement Officer stating the reasons for such delay. Failure to act on the final site plan within the prescribed time period shall constitute approval.

B. If the Planning Board determines that the requirements established have received complete compliance by the applicant and that Article VI, § 149-41A(1), (2) and (3), have been fulfilled in every respect, it shall grant the applicant approval, endorse its approval on the final site plan and authorize its Chairman to affix his signature to the endorsement. Said final site plan, together with supporting facts for the approval action, shall be forwarded to the Building Inspector and/or Code Enforcement Officer.

C. If the Planning Board disapproves the application, it shall submit to the applicant and the Building Inspector and/or Code Enforcement Officer a report, in writing, stating the reason(s) for such disapproval.

§ 149-43.1. Parks, open spaces and natural features; land dedication/recreation fees.

[Added 12-26-2006 by L.L. No. 3-2006]

A. Purpose. The purpose of this section is to establish and provide for an equitable and effective development standard for securing adequate land and funding for parks, playgrounds and open space recreation areas in the Town of Moreau.

B. Recreation fees.

(1) The Planning Board shall require, as condition of approval of a final site plan that includes dwelling units, the payment of recreation fees for each dwelling unit in such amount to be set by the Town Board. The recreation fees per dwelling unit are established and amended by resolution of the Town Board. Such fees shall be paid to the Town at the time of final site plan approval, and no such final site plan shall be approved by the authorized officer of the Planning Board until such payment is made. Such payments shall be held by the Town of Moreau in a special fund for acquisition and development of recreation land. All money in this fund is to be used only for:

(a) The purchase of land that is suitable for new or enlarged parks, playgrounds or open spaces and located so as to serve the inhabitants of the Town's residential neighborhoods.

(b) The improvement of new or existing park, playground and open space lands which serve the Town's residential neighborhoods.

(2) In any case, the Planning Board shall be satisfied that required recreation land will be maintained and will not be used for other than recreation purposes.

C. Land dedication in lieu of fees.

(1) In cases where the Town Board finds that due to the size, shape or location of the final site plan, land dedication for a park, playground or other recreational purpose is preferable to the payment of a recreation fee, the Town Board may waive the fee and require as a condition of approval the dedication of land for recreational purposes.

(2) The owner/developer shall then file with the Town Board a plan detailing the sites for the development of a park, playground or other recreational facility. Recreation space shall be provided by the owner/developer on the basis of at least 1,000 square feet per dwelling unit, but in no case shall the amount be more than 10% of the total area of the final site plan. Such area or areas may be dedicated to the Town by the owner/developer if the Town Board approves such dedication. All lands designated on the final site plan as park, playground or other recreation areas not in Town ownership shall be subject to such conditions as the Planning Board may establish, such as hours of operation, access to the general public, use and maintenance of such lands as deemed necessary to assure the preservation of such land for its intended purpose. Such conditions shall be shown on the final site plan prior to approval and filing. The Planning Board shall consider the following in determining the suitability of the served land for recreational purposes:

(a) The size and shape of the reserved land.

(b) Whether the land is usable land, which for purposes of these regulations shall be taken to mean land that is relatively level and dry.

(c) The location of the reserved land, i.e., whether the land is:

[1] Located in an area which is heavily populated.

[2] Near other recreation areas.

[3] Near other recreation areas providing the same type of recreation.

[4] In a location which will provide a safe and accessible recreation area for Town residents.

D. Nothing in this section will be construed as prohibiting an owner/developer from reserving land for recreation purposes in addition to the requirements of this section.

E. The Planning Board shall not at any time authorize the waiver of both the fee and land dedication in lieu thereof requirements.

§ 149-44. Waiver of requirements.

The Planning Board may waive any of the requirements set forth in this article when, in its opinion, the project for which a building permit has been requested would not require a detailed site approval. Such a project might be in the category of repairs, remodeling, minor additions, accessory buildings, but not necessarily all accessory buildings, and similar constructions.

ARTICLE VII. Supplementary Regulations

§ 149-45. Natural production uses.

There may be allowed in any district except the R-1 and W Districts, upon special permit from the Zoning Board of Appeals with recommendations from the Planning Board and subject to such conditions and safeguards as deemed necessary by the Zoning Board of Appeals, the commercial excavation and sale of topsoil, sand, dirt, gravel, clay, shale or other natural mineral deposits or the quarrying of any kind of rock formation.

§ 149-46. Space regulations.

A. Existing small lots. Notwithstanding the limitations imposed by any other provisions of this chapter, the Board of Appeals may issue a special permit for the erection of a building on any lot separately owned or under contract of sale and containing, at the time of the passage of this chapter, an area or a width smaller than that required for a permitted use. The minimum side yard requirements are reduced in proportion to the reduction of lot width over the specified minimum lot width for the district. This provision applies only where such lot is not adjacent to other property owned by the applicant.

B. Reduced lot area. No lot shall be so reduced in area that any required open space will be smaller than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot area occurs, any building located on said lot shall not thereafter be used until such building is altered, reconstructed or relocated so as to comply with the area yard requirement applicable thereto.

C. Front yard depth. Notwithstanding the limitations imposed by any other provisions of this chapter, each building hereafter erected may have a front yard equal in depth to the average front yard depth of the building within 100 feet adjacent thereto on either or both sides, but no front yard shall be less than 40 feet [30 feet in the R-1] nor need any front yard have a greater depth than required by the district in which it is located. If there exists no building within 100 feet adjacent on one side, the minimum permissible depth shall be the average of the minimum depth for the district in which it is located and the front yard depth on the other adjacent side.

D. Reduction in rear yards. When a lot is less than the minimum area prescribed for the district in which it is located at the time of passage of this chapter or subsequent amendments thereto which may affect the area requirement of the particular lot, the rear yard may be reduced in proportion to the reduction in lot depth over the specified minimum lot depth for the district. However, no rear yard shall be less than 15 feet in depth, except that an accessory building may be placed no closer than 10 feet to the rear lot line.

E. Corner lot transition. On every corner lot there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street. For safety at intersections, corner lots shall not have any structures, plantings or other objects that obstruct the view of traffic on the intersecting street from motor vehicle operators.

§ 149-47. Off-street parking.

A. The following minimum motor vehicle parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building which, after the date when this chapter becomes effective, is erected, enlarged or altered for use for any of the following purposes. All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Board of Appeals may issue special permits for the parking spaces to be on any lot within 500 feet of the building if it determines that it is impractical to provide parking on the same lot with the building.

B. The Zoning Board of Appeals may require additional off-street parking and loading spaces for any use if the Board finds that the following required minimum spaces are not sufficient. The minimum required spaces are as follows:

- (1) Apartment house: a minimum of 1 1/2 parking spaces for each dwelling unit in the building or buildings.
- (2) Auditorium, stadium, theater or other place of public assemblage: a minimum of one parking space for each five seats provided for its patrons, based on maximum seating capacity.
- (3) Boarding home; tourist home; motel; hotel: a minimum of one parking space for each guest sleeping room.
- (4) Restaurant or other eating place: a minimum of one parking space for each five seats, except when it is in a building which provides parking space, in which case the number of places already provided may be taken to be available for the restaurant or other eating place.
- (5) Retail stores: a minimum of one parking space for each 100 square feet of gross store floor area.
- (6) Industrial or manufacturing establishments: a minimum of one parking space for each 400 square feet of gross area or for each three workers, whichever is greater.
- (7) Office building: a minimum of one parking space for each 300 square feet of gross office floor area.
- (8) Funeral home: a minimum of 15 parking spaces per viewing area, plus space for all employee and resident personnel cars.
- (9) Dwelling: a minimum of one parking space for each dwelling unit.
- (10) Physicians', dentists' or surgeons' offices: a minimum of four parking spaces for each physician, dentist or surgeon, plus spaces for all people employed in the building.
- (11) Church or place of worship: a minimum of one parking space for each five seating places in the main assembly room.
- (12) School: a minimum of two parking spaces for each elementary classroom and four parking spaces for each high school classroom. Where the school has an auditorium, the minimum requirement shall be one space per five seats or 60 square feet of seating area where fixed seating is not provided, whichever requirement is greater.
- (13) Public library or museum: a minimum of one parking space for each 200 square feet of gross public building area.
- (14) Club or lodge: a minimum of one parking space for each 100 square feet of gross building area.

§ 149-48. Off-street loading.

A. At least one off-street loading space shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described below. Space for off-street loading shall be in addition to space for off-street parking.

B. Each off-street loading space shall be subject to the following minimum requirements:

- (1) Each berth shall be not less than 12 feet wide, 40 feet long and 14 feet in height when covered.
- (2) Off-street loading space (or spaces) located within 50 feet of a residential property shall be shielded by a wall, fencing or other suitable materials which shall serve to screen noise and uncontrolled entrance.

§ 149-49. Hudson River shoreline regulations.

A. Setbacks. The minimum setback from the mean high-water mark of all principal buildings and accessory structures, other than docks or boathouses, shall be 100 feet in all zones.

B. Docks. For purposes of this section, a "dock" shall mean any structure, whether affixed or floating, placed in or upon the Hudson River and attached to the shoreline by any means and which provides a berth for watercraft and a means of pedestrian access to and from the shoreline. This shall include boathouses, piers, wharves, crib docks, stake docks, floating docks and all such similar structures. The following criteria shall apply to all docks:

- (1) No dock shall exceed eight feet in width.
- (2) No dock surface area shall exceed 700 square feet.
- (3) Any dock constructed or altered shall maintain a minimum ten-foot setback from adjacent property lines as projected in a straight line from the mean high-water mark to the nearest point of change in direction of said line of more than 2°, plus or minus, in each such adjacent property line.
- (4) A shoreline lot shall be allowed only one dock per 100 linear feet of shoreline frontage.

§ 149-50. Satellite dish antennas.

There may be allowed, upon special permit from the Zoning Board of Appeals, satellite dish antennas located in rear yards, not to exceed nine feet in diameter, securely mounted, with an overall height not to exceed 15 feet.

§ 149-50.1. Telecommunication towers; special use permits.

[Added 4-7-1998 by L.L. No. 4-1998]

A. Purpose. The purpose of these regulations is to promote the health, safety and general welfare of the residents of the Town of Moreau; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment and appropriate landscaping.

B. Applicability.

- (1) An application to the Planning Board for a special use permit pursuant to Article V of this chapter and this section to construct a telecommunication tower or to collocate on an existing telecommunication tower or tall structure shall be filed with the Building Department upon a form prescribed by the Planning Board. The requisite number of copies of the application shall be established by the Building Department.

(2) No telecommunication tower, except those approved prior to the effective date of this chapter, shall be used unless in conformity with these regulations. No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. Notwithstanding any provisions to the contrary, telecommunication towers or any tall structures which preexist the enactment of these regulations may be utilized for purposes of collocation of antennas upon issuance of a special use permit by the Planning Board.

(3) These regulations shall apply to all property within M-1, M-2 and CC-1 District as well as all town-owned property within that portion of the R-2 District south of Nolan Road, west to the Hudson River, south to Butler Road and to the east boundary of said R-2 District. Telecommunication towers shall be specifically excluded from all other zones.

(4) Applicants proposing to collocate on previously approved telecommunication towers or tall structures in an M-1, M-2 or CC-1 District or portion of the R-2 District described above shall require a special use permit in accordance with Article V of this chapter and this section.

(5) Applications for a building permit for new telecommunication towers shall comply with all federal aviation laws and regulations. A building permit for a new telecommunication tower will only be approved if the proposed tower meets all applicable federal aviation standards.

C. Shared use of existing tall structures. At all times, shared use of existing tall structures (for example water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be preferred to the construction of new towers. An applicant must demonstrate that collocation on an existing tall structure is impossible before construction of a new tower will be approved.

(1) An applicant proposing to share use of an existing tall structure shall, in addition to a special use permit application, submit:

(a) A site plan showing all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

(b) Written documentation of intent from the owner of the existing facility to allow shared use.

(c) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure and explaining what modifications, if any, will be required.

(d) A completed short environmental assessment form (EAF) and a complete visual EAF addendum.

(e) A copy of the applicant's FCC license.

(2) If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with this subsection, and if modifications indicated according to Subsection C(1)(c) above are deemed insignificant by the Planning Board, and after the Planning Board conducts a public hearing and complies with all State Environmental Quality Review Act (SEQRA) provisions, the Planning Board may grant approval without further review. However, the applicant shall be required to comply with Subsections S and I below. If the Planning Board determines that any modifications indicated according to Subsection C(1)(c) are significant, it may require further review according to Subsections E through R below.

D. New telecommunication towers.

(1) The Planning Board may consider issuing a special use permit for a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical.

(2) An applicant shall be required to present an adequate inventory and report and map of all existing tall structures and existing or approved towers within the proposed towers search ring or a five-mile radius from the proposed site, whichever is greater. The report shall outline opportunities for shared use of existing

facilities as an alternative to a proposed new tower. The report shall demonstrate good-faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. The applicant shall verify, in writing, compliance with this provision.

(3) The applicant must demonstrate that its proposed telecommunications facility cannot be accommodated on an existing site due to one or more of the following reasons, including:

(a) The planned equipment would exceed the structural capacity of existing and approved towers or other structures, considering existing and planned use for those facilities.

(b) The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented.

(c) Existing or approved towers or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.

(d) The property owner or owner of existing tower or other structure refuses to allow such collocation.

E. Future shared use of new towers. The applicant shall design a proposed new telecommunication tower to accommodate future demand for reception and transmission facilities. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunication providers in the future. This letter shall be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the approval. The letter shall commit the new tower owner and his/her successor in interest to:

(1) Respond within 30 days to a request for information from a potential shared-use applicant.

(2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.

(3) Allow shared use of the new tower if another telecommunications provider agrees, in writing, to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, measuring, monitoring and reporting requirements and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

F. Site plan review submission requirements for new telecommunication towers.

(1) An applicant shall be required to submit a site plan in accordance with Article VI of this chapter. In addition, the site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower(s), guy wires, anchors, antennas, parking and landscaping and fencing, and shall include grading plans for new facilities and roads.

(2) Supporting documentation. The applicant shall submit a completed long form EAF, a completed visual EAF and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its FCC license.

(3) All new tower applications shall be deemed Type I actions pursuant to SEQRA.

G. Lot size and setbacks.

(1) All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be set back on all sides from abutting parcels and street lines a distance equal to 50% of the tower height to substantially contain on site all ice-fall or debris from tower failure and preserve the privacy of any adjoining property. Notwithstanding the foregoing, the minimum setback shall be 100% of the tower height

when the tower is located on a parcel abutting residentially zoned or used property. All accessory structures shall comply with the minimum setback requirements in the underlying zoning district. The lease of a portion of a larger parcel shall be considered a single parcel for purposes of these regulations.

(2) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements or the minimum lot size of the applicable zone, whichever is greater. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived for good cause shown.

H. Visual impact assessment. An applicant for a new telecommunication tower is required to undertake a visual impact assessment which shall include:

(1) A "Zone of Visibility Map" in order to determine locations where the proposed tower may be seen.

(2) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside the town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key sites at a presubmission conference with the applicant.

(3) Assessment of alternative tower designs and color schemes, as described in Subsection I below.

(4) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

I. New tower design. Alternative designs shall be considered for new towers. The design of a proposed new tower shall comply with the following:

(1) Any new tower shall be designed to accommodate future shared use by other telecommunications providers.

(2) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact. The Planning Board may require the tower to be of camouflage design in order to "disappear" into the background.

(3) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law, rule and/or regulation. The Planning Board, at its discretion, may modify this requirement if the applicant can justify the need to exceed this height limitation, and the burden of proof shall be on the applicant.

(4) Permanent climbing pegs within 30 feet of the ground are prohibited.

(5) The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower. The cost of this shall be borne by the applicant.

(6) Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.

(7) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.

(8) No outside storage of vehicles, materials or waste is permitted on the site, except for the limited period when the facility is undergoing construction alteration or renovation.

J. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet above ground) shall take place prior to approval.

K. Screening. Deciduous or evergreen tree plantings and/or berms may be required to screen portions of the tower and accessory structures from nearby properties as well as from public sites known to include important views or vistas. Where a site abuts residential property or public property, including streets, screening shall be required.

L. Access. Adequate emergency and service access roads shall be provided. Maximum use of existing access roads is required. Access road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Access road grades shall closely follow natural contours to assure minimal visual disturbance and soil erosion potential. The Planning Board may impose such additional site control or mitigation measures as it determines appropriate.

M. Parking. Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the location and number of parking spaces.

N. Fencing. Notwithstanding any other provisions in the Town Code, the tower and all accessory structures shall be adequately enclosed by a fence at least eight feet in height and of a reasonable design but with limited visual impact. This provision may be waived by the Planning Board for good cause shown.

O. Removal. The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Building Department within 30 days of the discontinuance of use of the tower and committing the tower owner and property owner to remove the tower from the site within 120 days. This letter shall be filed with the Building Department prior to issuance of a building permit. Obsolete or unused towers and accessory structures shall be removed from any site within 150 days from the date of discontinuance of use of the tower. Failure to notify and/or to remove the obsolete or unused tower and accessory structures in accordance with this subsection shall be a violation of this chapter and shall be punishable by a fine in the amount of \$5,000 for each violation and \$5,000 thereafter for each day which the violation continues.

P. Intermunicipal notification for new towers. In order to keep neighboring municipalities informed, and to facilitate the possibility that an existing tall structure or existing telecommunications tower in a neighboring municipality will be considered for shared use, and to assist in the continued development of county 911 services, the Planning Board shall require that:

(1) An applicant who proposes a new telecommunication tower shall provide written notification to the legislative body of each municipality that borders the Town of Moreau, the Saratoga County Planning Board and the Director of Saratoga County Emergency Services. Notification shall include the exact location of the proposed tower and a general description of the project, including but not limited to the height of the tower and its capacity for future shared use.

(2) Documentation of this notification shall be submitted to the Planning Board at the time of application.

Q. Notification of nearby landowners. The applicant shall be required to mail notice of the public hearings conducted pursuant to Articles V and/or VI of this chapter directly to all landowners whose property is located within 500 feet of the property line of the parcel on which a new tower is proposed. Notification shall also be mailed to the administrator of any state or federal park land from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail. Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.

R. Bonding. The Planning Board shall require the applicant and/or property owner to establish, prior to approval of any application, a performance bond or an irrevocable letter of credit in an amount sufficient to cover the completion of construction of the tower. The amount required shall be determined by the Planning Board based upon the characteristics of the tower and the site. The applicant and/or owner shall cooperate with the Planning Board in supplying all necessary data to the Planning Board prior to approval of any application.

S. Measurement, monitoring and reporting requirements.

(1) The applicant and/or owner shall file, or cause to be filed, biannually with the Town Board, written reports on microwave power density, radio frequency (RF) field density, RF signal characterization and frequency and time-interval analyses, as obtained from field measurements as described hereafter. Said reports shall

be subject to verification by an independent testing company. The decision for independent verification shall rest solely with the Town Board with the costs borne by the applicant.

(2) Cobbs Test Protocol. Because wave propagation can be complex, depending on such factors as frequency, power output, nearby structures, topography, conductive materials such as metal water towers, and unexpected couplings with other frequencies from power lines or other radio towers, the Cobbs Test Protocol is recommended. The Cobbs Test Protocol is designed to test various aspects of the ambient background before a tower goes online and again afterward. It is intended to provide a benchmark reading of RF and electromagnetic field (EMF) environmental background for comparison to post-cellular build out levels. This will give the community precise knowledge about the RF and microwave (MW) radiation levels.

Cobbs Test Protocol

Test Modality	Suggested Equipment
Microwave power density measured at several locations	HP437B Power Meter with 8542A Thermistor sensor and calibrated horn antenna, or equivalent, to include SWR measurements at each setup
RF field density using broad-band survey meter	Holaday Instruments RF Survey Meter with Isotropic Broadband Probe, or equivalent
Broad-band spectrum analysis covering the range from 50 Hz to 2.9 GHz	HP 35665A (Low Freq.) and HP 8591A or HP 8560 (VHF to microwave), or equivalent
Carrier noise measurement	HP 11729C Carrier noise test set, or equivalent
Transmitter test and RF signal characterization; also analyzer to record modulation characteristics of the detected signals	HP 8901A Modulation, or equivalent
Frequency and time-interval analysis to graphically illustrate frequency and time and phase interval information	HP 5372A Freq. and time interval analyzer, or equivalent
60 Hz electric and magnetic field strength	Holaday Instrument low-frequency measurement system with fiber optic isolation cable and accessories or Combinova low-frequency magnetic field meter with fiber optic probe isolation cable (60 Hz), or equivalent

(3) Methods and data collection.

(a) All tests must be conducted before tower construction or operation, after the system is functional and biannually thereafter.

(b) All possible antenna configurations and power outputs must be examined.

(c) Tests must be conducted during normal times of day with other EM sources at normal operation.

(d) Note all "hot spots" (areas or "nodes" of high local intensity) and "nulls" (areas where fields may be sharply diminished or canceled). A wide-area map shall be prepared that encompasses the normal activities of the population which will be subjected to the exposures. This map will become the template for all subsequent studies.

- (e) The exact coordinates of each test location must be recorded on copies of the map.
- (f) The orientation of each antenna or probe shall (as much as possible) be the same as the initial, and readings of minimums and maximums shall be noted. Wherever possible, isotopic antenna and probes should be used.
- (g) All parameters under test must be referenced to the same coordinates at each test location.
- (h) Measurements must be taken at locations and at heights above ground (or other surfaces).
- (i) Measurements shall not be made within 20 centimeters of any object.
- (j) All equipment must be calibrated regularly by an independent facility with traceable calibration sources. Written documentation of biannual equipment calibration for each piece of equipment shall be provided to the Building Department.
- (k) All test team members must show proof of training on each piece of equipment as well as have familiarity with electric and magnetic field measurement procedures. Written proof shall be provided to the Building Department for each test team member each time the member visits the town to perform measurement testing.

T. Application to existing telecommunication towers or structures. The provisions of Subsection S, (Measurement, monitoring and reporting requirements), shall apply to all existing telecommunication towers or structures in the town on the effective date of this section, and such existing telecommunication towers or structures shall henceforth be maintained and operated in compliance with the provisions of this section and any amendments thereto.

ARTICLE VIII. Cluster Development

§ 149-51. General provisions.

A. Authorization. The Town Board hereby authorizes the Planning Board, simultaneously with the approval of a plat or plats pursuant to the Town Subdivision Regulations, Editor's Note: See Ch. 124, Subdivision of Land, to modify applicable provisions of this chapter, subject to the conditions hereinafter set forth and such other reasonable conditions as the Town Board may, in its discretion, add thereto. The purpose of such authorization shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.

B. Application. If the owner makes written application for the use of this procedure, it may be followed at the discretion of the Planning Board if, in the Board's judgment, its application would benefit the town.

C. Must be zoned residential. This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the lands were subdivided into lots conforming to the minimum lot size and density requirements of this chapter applicable to the district in which such land is situated and conforming to all other applicable requirements.

D. Unit types. The dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth in this chapter, in detached, semidetached, attached or multistory structure.

E. Open space areas. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space or other municipal purposes directly related to the plat, then the Planning Board, as a condition of plat approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

ARTICLE IX. Nonconforming Buildings, Structures and Uses

§ 149-52. Existing uses.

The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued although such use does not conform to provisions of this chapter.

A. Unsafe structures. Any structure or portion of that structure declared unsafe by a proper authority may be restored to a safe condition.

B. Restoration. Any building damaged by fire or other causes may be repaired or rebuilt for the same, but not a different, nonconforming use.

C. Alterations. A nonconforming building used for a nonconforming use shall not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost the replacement value of the building unless said building is changed to a conforming use.

D. Extension. Any nonconforming use, building or structure may be enlarged upon issuance of a special permit by the Zoning Board of Appeals, up to, but not more than, 50% of its floor or lot area as it existed at the time of passage of this chapter. Such enlargement must conform to all other regulations of the district in which it is located and may be used only once for each nonconforming use.

E. Previous extension. Any nonconforming use, building or structure which was enlarged to 50% of its floor or lot area under provisions of the Zoning Ordinance in existence prior to this chapter may not be enlarged or extended again under the provisions of this Article.

F. Displacement. No nonconforming use shall be extended to displace a conforming use.

G. Abandonment. No nonconforming use which shall have ceased for a period exceeding two years shall be resumed.

H. Changes. A nonconforming use may be changed to another nonconforming use of a more restrictive classification, and when so changed to a more restrictive use, it shall not again be changed to a less restrictive use.

§ 149-53. Effect on buildings under construction.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which lawful construction has commenced prior to the effective date of this chapter and is diligently continued. The entire building shall be completed within two years from the effective date of this chapter or shall be deemed in violation of this chapter.

§ 149-54. Effect of district changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provision shall also apply to any nonconforming uses existing therein.

§ 149-55. Lot area exceptions.

A. Any nonconforming lot of record as of the date of this chapter which does not meet the minimum lot area and/or minimum lot width requirements of this chapter for the zoning district in which such lot is situated shall be considered as complying with such minimum lot requirements, and no variance shall be required.

B. Any nonconforming lot of record in an approved subdivision as of the date of this chapter which does not meet the minimum lot area and/or the minimum lot width requirements of this chapter for the zoning district in which such lot is situated shall be exempt from such minimum lot requirements, and no variance shall be required, if said lot is shown and delineated on a subdivision plat of land into residential use, duly approved by the Moreau Planning Board subsequent to the effective date of the first Zoning Ordinance of the Town of Moreau, and said subdivision plat has been duly filed in the office of the Saratoga County Clerk in accordance with law.

ARTICLE X. Variances

§ 149-56. Purpose of Article.

The purpose of this Article is to provide for variances from this chapter in cases where the strict application thereof would result in practical difficulty or unnecessary hardships inconsistent with the general purpose and objectives of this chapter.

§ 149-57. Authorization.

Any variance to this chapter shall be granted by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this Article. In granting a variance, the Zoning Board of Appeals may impose conditions similar to those provided for special permit usage to protect the best interest of the surrounding property, the neighborhood and the town as a whole.

§ 149-58. Applications.

Variances may be instituted by filing an application with the Zoning Board of Appeals using forms supplied by the Board, which shall include all information reasonably considered by the Board as necessary to make its findings under § 149-59 of this Article. The information supplied by the applicant shall include a legal description of the property, a map showing the property, a plat and elevations necessary to show the proposed variance and other drawings or information reasonably considered necessary by the Board of Appeals to an understanding of the proposed use and its relationship to surrounding properties.

§ 149-59. Requirements for granting.

A. Area variances. An area variance does not involve a use prohibited by this chapter. A variance to allow a use to be located on a lot or property which does not conform to the dimensional requirements for that district listed in Article IV may be granted only in the event that all of the following circumstances are specifically found to exist by the Zoning Board of Appeals and are each so stated in the Board's findings:

- (1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.
- (2) How substantial the requested variance is in relation to the requirements.
- (3) That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.
- (4) That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.
- (5) That the variance would not be materially detrimental to the purpose of this chapter or to property in the district in which the property is located or otherwise conflict with the description or purpose of the district or the objectives of any plan or policy of the town and that the variance requested is the minimum variance which would alleviate the specific practical difficulty found by the Zoning Board of Appeals to affect the applicant.

B. Use variances. A variance to allow a use that is prohibited by this chapter may be granted only in the event that all of the following circumstances are specifically found to exist by the Zoning Board of Appeals and are each so stated in the Board's findings and no such variance shall be valid unless all of the following circumstances are so found:

- (1) That the strict application of said use provisions of this chapter would result in a specified unnecessary hardship to the applicant which arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district or which results from a lot size or shape legally existing prior to the date of this chapter or topography or other circumstances over which the applicant has had no control.

(2) That the property in question cannot yield a reasonable financial return if used for any permissible use, special permit use or site plan review use applicable to the zoning district in which the property is located.

(3) That the variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same district possess without such a variance.

(4) That the variance would not be materially detrimental to the purpose of this chapter or to property in the district in which the property is located or otherwise conflict with the description or purpose of the district or the objectives of any plan or policy of the town and that the variance requested is the minimum variance which would alleviate the specific unnecessary hardship found by the Zoning Board of Appeals to affect the applicant.

§ 149-60. Hearing; decision.

A. Within 35 days of receipt by the Zoning Board of Appeals of a completed application for a variance, the Zoning Board of Appeals shall give notice, by public advertisement in the official newspaper of the town, of a public hearing to be held on the application not less than five days and not more than 31 days after the notice.

B. Within 35 days of the final adjournment of a public hearing called and held under Subsection A of this section, the Zoning Board of Appeals shall grant, grant with conditions or deny the variance applied for. The decision of the Board shall be in writing and shall contain each of the findings specified in § 149-59 of this Article and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board.

§ 149-61. Expiration of decision.

Unless otherwise specified or extended by the Zoning Board of Appeals, decision on any request for a variance shall expire in six months if the applicant fails to undertake the proposed action or project. The Zoning Board of Appeals may increase this period from six months to one year at its discretion.

ARTICLE XI. Administration and Enforcement

§ 149-62. Enforcement official designated.

A. This chapter shall be enforced by a Zoning Inspector, who is appointed by the Town Board and may be removed at the pleasure of the Town Board.

B. The Zoning Inspector shall have the power and duty to administer and enforce the provisions of this chapter.

C. An appeal from an action, omission, decision or ruling by him regarding a requirement of this chapter may be made only to the Zoning Board of Appeals.

D. The Zoning Inspector shall have the power to:

(1) Issue building permits and certificates of occupancy where compliance is made with the provisions of this chapter and, except on written order of the Board of Appeals, refuse to issue the same in the event of noncompliance, giving prompt written notice of such refusal and the reason therefor to the applicant.

(2) Keep the Board of Appeals advised of all matters, other than routine duties pertaining to the enforcement of this chapter, and keep all records necessary and appropriate to this office and file them in the office of the Town Clerk, including records of all permits and certificates of occupancy issued or withheld.

(3) Submit a report each month to the Town Board enumerating the applications received and stating the action taken.

(4) Administer and enforce the Subdivision Regulations. Editor's Note: See Ch. 124, Subdivision of Land.

§ 149-63. Remedies.

In case of any violation or threatened violation of any of the provisions of this chapter or conditions imposed by a building permit, in addition to other remedies herein provided, the town may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

§ 149-64. Stop-work orders.

A. The Town Board for the Town of Moreau hereby grants the Zoning Inspector the administrative responsibility of immediately terminating any actions according to § 149-62 of this Article by posting a stop-work order on the premises wherein the violation has occurred.

B. The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the stop-work order must be terminated immediately.

C. Relief from the stop-work order can be realized as follows:

(1) If all provisions of this chapter, together with other conditions specified by the Zoning Inspector, are met, then the Town Board or Zoning Inspector may authorize the termination of the stop-work order.

(2) Except for cases involving site plan review, if a variance is granted by the Zoning Board of Appeals permitting the violations specified on the stop-work order to continue henceforth as allowable, said administrative decision shall also specify the conditions, if any, for the termination of the stop-work order.

§ 149-65. Effect of misrepresentation.

Any permit or approval granted under this chapter which is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the town under § 149-63 of this Article.

§ 149-66. Complaint of violations.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Zoning Inspector, who may require such complaint to be in writing. The Zoning Inspector shall have the complaint properly investigated and report thereon to the governing body.

§ 149-67. Penalties for offenses.

A violation of this chapter is an offense punishable by a fine not exceeding \$50. Each week that a violation is continued shall constitute a separate offense. In addition thereto, the town authorities shall have such other remedies as are provided by law to restrain, correct or abate any violation of this chapter.

§ 149-68. Building permits.

There shall be submitted with the application for a building permit duplicate written copies of all the information, building plans and plot plans necessary to enable the Zoning Inspector to determine whether the proposed building and use of the premises comply with the provisions of this chapter. One copy of such submitted information or plans shall be returned to the applicant when approved by the Zoning Inspector, or by the Board of Appeals or Planning Board when their approval is necessary, together with such permit, upon payment of a fee as set forth in the Building Code. Editor's Note: See Ch. 74, Fire Prevention and Building Construction.

§ 149-69. Certificates of occupancy.

A certificate of occupancy shall be issued within 10 days after any building erected, added to, altered or relocated, or proposed change in use of any building or land, shall have been approved as complying with the provisions of this chapter. Any new certificate of occupancy voids any certificate of a prior date for the same premises.

§ 149-70. Temporary certificates of occupancy.

A. After review and under such rules and regulations as may be established by the Board of Appeals and filed with the Town Clerk, a temporary certificate of occupancy for not more than one year may be issued by the Zoning Inspector. The Board of Appeals shall have the right to revoke any temporary certificate at its own discretion. Such a certificate shall be required for:

(1) Unfinished structures.

(2) Land for the purpose of temporary amusements, provided that such use shall not be detrimental to the community welfare.

B. The Board of Appeals may, after public notice and hearing, authorize the Zoning Inspector to issue a single renewal of said temporary certificate of occupancy for a period of not more than one additional year.

§ 149-71. Form of petitions, applications and appeals.

Unless otherwise stated, all petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Planning Board and Zoning Board. Completed forms shall be accompanied by whatever further information, plans or specifications as may be required by such forms.

§ 149-72. Schedule of fees.

A. Fees provided for by this chapter shall be paid upon the submission of petitions, applications and appeals in such amount or amounts as shall be established by the Town Board from time to time. Said fees will be posted in the Building Department on the official Schedule of Fees for the Town of Moreau. The following actions will require fees:

(1) Building permit.

(2) Certificate of occupancy.

(3) Site plan review application.

(4) Zoning variance application.

(5) Special permit application.

B. This list is not necessarily all inclusive.

§ 149-73. Payment of fees.

A. All fees shall be paid at the time of application to the Zoning Inspector.

B. No fee shall be allowed to be substituted for any other required fee.

§ 149-74. Notice of public hearing.

Each notice of hearing upon an application for site plan review, an application for PUD districting, the review of a variance application or upon an appeal to the Zoning Board of Appeals from an action of the Zoning Inspector shall be published once in the official newspaper of the Town at least five days prior to the date of the hearing. In addition, at least five days prior to the date of the hearing, notices shall be mailed to all owners of the property within 500 feet of the exterior boundary of the property for which the application is made, as may be determined by the latest assessment records of the Town.

§ 149-75. Site inspections.

The filing of an application for a variance under Article X hereof an application for site plan approval under Article V hereof and an application for a special permit under Article V hereof or an application for a building permit under this article by a person shall be deemed a granting of approval by such person to the Planning Board, the Zoning Board of Appeals and the Zoning Inspector and to such persons as they may designate to conduct such examinations, test and other inspections of the sites which are the subjects of such applications as they deem necessary and appropriate for the purposes of this chapter.

ARTICLE XII. Zoning Board of Appeals

§ 149-76. Intent.

Upon appeal from a decision by the Zoning Inspector, the Board of Appeals shall decide any question involving interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

§ 149-77. Zoning Board of Appeals; members, alternate members and authority.

[Added 11-13-2001 by L.L. No. 5-2001 Editor's Note: This local law also redesignated former Art. XII, Appeals, as Art. XII, Zoning Board of Appeals, and renumbered former §§ 149-77 through 149-90 as 149-78 through 149-91, respectively.]

A. In accordance with § 267 of the Town Law of the State of New York, the Board of Appeals shall consist of five members. The chairperson of the Board of Appeals shall be designated by the Town Board. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose. The Town Board may require members of the Board of Appeals to complete training and continuing education courses in order to fulfill their duties as members of the Board of Appeals.

B. The terms of the membership of the Board of Appeals shall be as set forth in § 267 of the Town Law and any amendment thereto.

C. The Town Board may appoint alternate members of the Board of Appeals for the purpose of substituting for members in the event such members are unable to participate due to absence or a conflict of interest. The term of the appointment of said alternate members shall be established through resolution of the Town Board. The Town Board may also require said alternate members to complete training and continuing education courses in order to fulfill their duties as members of the Board of Appeals.

D. The Board of Appeals shall have such authority, powers and duties as specified in Article 16 of the Town Law and as may be amended, as well as the authority, powers and duties specified in the Moreau Town Code.

§ 149-78. Procedure for appellant.

A. An appeal to the Board of Appeals from any ruling of any administrative officer administering any portion of this chapter may be taken by any person aggrieved or by an officer, board or bureau of the Town affected thereby. Such appeal shall be taken by filing with the officer from whose action the appeal is taken and with the Board of Appeals, by filing with the Secretary thereof, a notice of appeal specifying the grounds therefor.

B. All applications and appeals made to the Board of Appeals shall be in writing on forms furnished by the Zoning Inspector. Every application or appeal shall refer to the specific provision of this chapter and shall exactly set forth the interpretation that is claimed, the plans for a special permit or the details of the variance that is applied for, in addition to the following information:

- (1) The name and address of the applicant/appellant.
- (2) The name and address of the owner of the lot to be affected by such proposed change or appeal.
- (3) A brief description and location of the lot to be affected by such proposed change or appeal.

(4) A statement of the present zoning classification of the lot in question, the improvements thereon and the present use thereof.

(5) A reasonably accurate description of the present improvement and the additions or changes intended to be made under this application indicating the size of such proposed improvements, material and general construction thereof.

(6) In addition, a plot plan of the real property to be affected indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon and all yard dimensions and identification of adjacent property owners.

§ 149-79. Procedure for Zoning Inspector.

A. The notice of appeal in any case where a permit has been granted or denied by the Zoning Inspector shall be filed within such time as shall be prescribed by the Board of Appeals under general rule after notice of such action granting or denying the permit has been mailed to the applicant. The Zoning Inspector shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken, or, in lieu thereof, certified copies of said papers.

B. It shall be permissible for the Zoning Inspector to recommend to the Board of Appeals a modification or reversal of his action in cases where he believes substantial justice requires the same, but where he has not himself sufficient authority to grant the relief sought.

§ 149-80. Procedure for Board of Appeals.

The Board of Appeals shall decide each appeal within 60 days. Upon the hearing, any party may appear in person or be represented by an agent or attorney. The Board of Appeals decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the Board of Appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from or may make such order, requirement, decision or determination in accordance with the provision hereof.

§ 149-81. Expiration of decision.

Unless otherwise specified by the Board of Appeals, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within six months from the date of authorization thereof.

§ 149-82. Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Inspector certifies for the Board of Appeals, after the notice of appeal shall have been filed, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Supreme Court, on application, on notice to the Zoning Inspector and on due cause shown.

§ 149-83. Appeals from decision of Board of Appeals.

All decisions of the Board of Appeals are subject to court review in accordance with applicable laws of the State of New York.

§ 149-84. Public hearings; notice.

The Board of Appeals shall fix a reasonable time for the hearing of an appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing at least five days prior to the date thereof and shall, at least five days before such hearing, mail notices thereof to the following officials, persons and owners of properties involved and in accordance with the requirements of § 267 of Article 16, Chapter 62 of the Consolidated Laws of the State of New York:

A. When appealing action of the Zoning Inspector. In case of an appeal alleging error or misrepresentation in any order or other action by the Zoning Inspector, the following persons shall be notified: the Inspector, the appellant and the person or persons, if any, who benefit from the order, requirement, regulation or determination.

B. When appealing for variance or special permit uses. In case of an appeal for a variance or in case of an application for a special permit as provided for in this chapter, the following persons shall be notified: all owners of property within 500 feet of the nearest line of the property for which the variance or special permit is sought and such other property owners as the Chairman of the Board of Appeals may direct.

§ 149-85. Adjournment of hearing.

Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

§ 149-86. Time limit for rehearing.

Whenever the Board, after hearing all the evidence presented upon an application or appeal under the provisions of this chapter, denies the same, the Board of Appeals shall refuse to hold further hearings on said or substantially similar application or appeal by the same applicant, his successor or assign for a period of one year, except and unless the Board of Appeals shall find and determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing would be allowable only upon a motion initiated by a member of the Board of Appeals and adopted by the unanimous vote of the members present.

ARTICLE XIII. Miscellaneous Provisions

§ 149-87. Amendments.

The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board or the Board of Appeals after public notice and hearing, amend, supplement, change, modify or repeal this chapter pursuant to the provisions of the Town Law applicable thereto. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given at least 10 days prior stating the time and place of such hearing in a paper of general circulation in the Town.

§ 149-88. Referrals to County Planning Agency.

In accordance with the General Municipal Law of New York State, §§ 239-l and 239-m, all proposed zoning regulations, or any amendment thereof, which would change the district classification of or the regulations applying to real property lying within areas defined by the aforementioned sections, and of proposed special permits or variances affecting lands or buildings within the defined areas, shall be referred to the County Planning Agency of Saratoga County for review and comment prior to final action by the appropriate Town body.

§ 149-89. Repealer.

Chapter 38 of the 1973 Code of the Town of Moreau, entitled "Town of Moreau Zoning Ordinance," is hereby repealed. It is the intent of this section to repeal only Chapter 38 of the 1973 Code of the Town of Moreau, and all other chapters and sections of the 1973 Code shall remain in full force and effect whether said chapters and sections apply to land use or otherwise.

§ 149-90. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 149-91. When effective.

This chapter shall take effect 10 days from the date of enactment.

Attachments:

149a Schedule of Regulations R-1 District
149b Schedule of Regulations R-2 District
149c Schedule of Regulations R-3 District
149d Schedule of Regulations R-4 District
149e Schedule of Regulations R-5 District
149f Schedule of Regulations C-3 District
149g Schedule of Regulations RP District
149h Schedule of Regulations UR Districts
149i Schedule of Regulations C-1 Districts
149j Schedule of Regulations CC-1 District
149k Schedule of Regulations C-2 Districts
149l Schedule of Regulations M-1 Districts
149m Schedule of Regulations M-1A Districts
149n Schedule of Regulations M-2 Districts

CHAPTER A155. PERSONNEL POLICIES

ARTICLE I. Rules and Regulations

§ A155-1. Enumeration of violations.

ARTICLE II. Leave Policy

§ A155-2. Definitions.

§ A155-3. Vacations.

§ A155-4. Sick days.

§ A155-5. Personal days.

§ A155-6. Bereavement leave.

§ A155-7. Holidays.

§ A155-8. Records.

CHAPTER A155. PERSONNEL POLICIES

[HISTORY: Adopted by the Town Board of the Town of Moreau: Art. I, 12-14-1971 by resolution; Art. II, during codification (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 12.

ARTICLE I. Rules and Regulations

[Adopted 12-14-1971 by resolution]

§ A155-1. Enumeration of violations.

Employees who violate these town rules will be subject to disciplinary action depending upon the circumstances of the violation. Among these violations are the following:

- A. Falsifying personnel records or other town records.
- B. Knowingly falsifying any time sheet, causing time sheets to be falsified or altering a time sheet.
- C. Theft or removal from town premises, without proper authorization, of any town property or property of another employee.
- D. Bringing alcoholic beverages to work or reporting to work under the influence of liquor so as to impair the ability to perform assigned duties, or drinking alcoholic beverages on town time.
- E. Refusal to carry out a proper order.

- F. Refusal to follow safety rules or instructions, either written or verbally given to the employee.
- G. Smoking in restricted places (near gasoline, etc.).
- H. Horseplay, fighting, assault or any other disorderly conduct on town time.
- I. Sleeping during working hours.
- J. Failure to report an illness to the foreman or supervisor if such illness impairs ability to perform assigned duties.
- K. Failure of an employee to report his injury or accident promptly to his foreman or supervisor.
- L. Leaving assigned job without permission.
- M. Repeated tardiness and/or absence from work without a satisfactory reason; failure to give proper notification when absent from work.

(1) If an employee is unable to report for work at his scheduled time because of illness or other unavoidable causes, he shall notify his department head at least two hours before the time he is scheduled to report for work, unless the reason for his inability to report occurs so suddenly as to make such prior notification impossible. In that event, he shall give notification as promptly as possible.

(2) In the case of department heads, notice of absence should be referred to the Supervisor as soon as possible.

(3) Whenever it deems it advisable, the town may require employees who have been absent because of illness or other reasons not connected with their work to secure the approval of a physician before being permitted to return to their jobs.

- N. Willful or careless destruction or damage to town property or to the property of others on town premises or town time.

ARTICLE II. Leave Policy

[Adopted during codification Editor's Note: See Ch. 1, General Provisions, Art. II.]

§ A155-2. Definitions.

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

FULL-TIME

Any permanent employee working in excess of 19 hours per week on a regular, continuing basis.

PART-TIME

Any permanent employee working fewer than 20 hours per week on a regular, continuing basis.

§ A155-3. Vacations.

- A. Employees will earn vacation leave upon the completion of the following:

- (1) One to five years of service: two weeks' vacation.
- (2) Six to 10 years of service: three weeks' vacation.
- (3) Eleven to 19 years of service: four weeks' vacation.
- (4) Over 20 years of service: five weeks' vacation.

B. Vacation credits may not be accumulated from one year to the next, and unused vacation time will not be paid in cash.

C. Vacation schedules shall be approved in advance by each department head.

D. Part-time employees will be eligible for the same vacation schedule with "week" being the same as that employee's workweek.

§ A155-4. Sick days.

All employees, after six months of continuous service, shall be entitled to one day of paid sick leave for each month of service commencing from the first day of employment. Unused sick leave may be accumulated but cannot be paid in cash at any time.

§ A155-5. Personal days.

All full-time employees shall be entitled to four personal leave days per year. Part-time employees shall be entitled to two such days per year. If an employee fails to use his/her personal days, all unused days shall be added to the employee's accumulated sick leave.

§ A155-6. Bereavement leave.

All permanent employees shall be entitled to three days' bereavement leave for a death in the immediate family.

§ A155-7. Holidays.

A. All permanent employees shall be granted 13 paid holidays. Employees working on any of these holidays will be paid overtime, if on hourly wage, or be eligible for compensatory time off, if salaried. The holidays are as follows:

New Year's Day

Washington's Birthday

Good Friday

Memorial Day

Fourth of July

Labor Day

Columbus Day

Election Day

Veterans Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day

Employee's birthday

B. If a holiday falls on a Saturday, the day of observance shall be the previous Friday. If a holiday falls on a Sunday, the day of observance shall be the following Monday.

§ A155-8. Records.

All employees will be responsible for maintaining an accurate, ongoing accounting of his/her used and unused leave time on forms provided by the town. These forms shall be submitted, with written approval of department heads, to the Supervisor's office at the end of each month.

CHAPTER A156. RECREATION COMMISSION BYLAWS

§ A156-1. Title.

§ A156-2. Philosophy and purpose.

§ A156-3. Membership.

§ A156-4. Meetings.

§ A156-5. Powers, duties and responsibilities.

§ A156-6. Officers.

§ A156-7. Duties of officers.

§ A156-8. Committees.

§ A156-9. Procedures at meetings.

§ A156-10. Amendments.

CHAPTER A156. RECREATION COMMISSION BYLAWS

[HISTORY: Adopted by the Town Board of the Town of Moreau during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Recreation Commission — See Ch. 28.

Parks and recreation — See Ch. 102.

§ A156-1. Title.

The name of the organization shall be the "Recreation Commission for the Town of Moreau."

§ A156-2. Philosophy and purpose.

A. The Recreation Commission for the Town of Moreau serves as a focal point on all aspects of the town's responsibility to the youth population, being all persons under 21 of the Town of Moreau for the purpose of planning, coordinating and supplementing the activities devoted to the welfare and protection of youth.

B. All of the activities of the Recreation Commission for the Town of Moreau shall conform to the New York State Executive Department for Youth codes, rules and regulations, Title 9, Executive Law, Act. 19A 419-420; Article 13 of the General Municipal Law and the resolution adopted by the Town Board, Town of Moreau, April 11, 1972. Editor's Note: See Ch. 28, Recreation Commission.

§ A156-3. Membership.

A. All members of the Recreation Commission for the Town of Moreau are appointed by the Town Board of the Town of Moreau.

B. The total membership shall consist of seven persons for terms of seven years.

C. Members may serve consecutive terms.

D. Any member may withdraw from the Commission by giving written notice of such intention to the Secretary and Town Clerk, which notice shall be presented to the Recreation Commission and Town Board at the first meeting after it is received.

E. Vacancies that may occur other than by the expiration of a term shall be filled by the Town Board and shall be for the unexpired term only.

F. When a member misses three consecutive Recreation Commission meetings without contacting the Commission (Chairperson or Director), the Town Board will be notified and requested to appoint a replacement for the duration of that term.

§ A156-4. Meetings.

A. The Commission shall meet at least eight times a year.

B. Four members shall constitute a quorum; meetings with fewer than four members present can be held, but there cannot be voting or a specific action decided.

C. All regular meetings will be open to the public.

D. Executive sessions may be called by the Chairperson on matters relating to personnel, budget, program planning or confidential discussion pertaining to specific youth served.

E. Written notice of meetings will be sent out at least five days ahead of regular monthly meetings and at least two weeks in advance of the annual meeting.

F. The annual meeting of the Recreation Commission for the election of officers and the transaction of such business as may legally come before it shall be held during the month of January.

G. Special meetings may be called by the Chairperson or upon written request of any member of the Commission. Written notice must be sent five days in advance of such meeting. No business other than that specified in the notice shall be transacted at such special meeting.

§ A156-5. Powers, duties and responsibilities.

The Recreation Commission shall:

A. After consultation with the Director of Recreation, develop effective policies and programs for the prevention and control of delinquency and to further youth development.

B. Act as liaison for the Town Board in respect to the solution of youth problems and/or the enactment of youth programs.

C. Encourage closer cooperation between schools, churches, youth boards, service clubs and other public and private agencies as to sound youth programs on the basis of community planning.

D. With the cooperation of the Director, review and analyze plans for the creation or expansion of recreation facilities, youth programs and youth service projects as defined by the laws of the State of New York and the resolution adopted 4-11-1972 by the Town Board of the Town of Moreau Editor's Note: See Ch. 28, Recreation Commission. and make appropriate recommendation to the Town Board.

E. Appoint such advisory groups and committees as may be necessary to carry out its powers and duties.

F. Submit a monthly and annual report to the Town Board, Town of Moreau.

G. Perform such other duties pertaining to youth as may be assigned by the Town Board.

§ A156-6. Officers.

A. The Commission members shall elect from its membership the following officers: Chairperson, Secretary and Comptroller.

B. Officers shall be elected at the annual meeting in January and shall assume office at the end of that meeting. Officers shall be elected by a secret ballot of all the members present with a simple majority required for election. There will not be proxy ballots. Where there is only one nominee for an office, it shall be in order for the Secretary to cast the effective ballot.

C. Term of office shall be two years with an eight-year limit on consecutive terms served.

D. Should any office become vacant, the Commission shall elect a successor from its membership at the next regular meeting to fill out the unexpired time of that term of office.

§ A156-7. Duties of officers.

A. The Chairperson shall preside at all meetings of the Commission, act as an ex officio member of all committees, perform all duties usually pertaining to the office, appoint temporary officers in the absence of elected officers and call special meetings.

B. The Secretary shall be responsible for recording attendance at all meetings, taking and recording of minutes, communicating notice of meetings, writing correspondence of the Commission and all other duties ordinarily pertaining to the office.

C. The Comptroller shall be responsible for recording all budget items, approving all expenditures of the Commission, monitoring all transactions of money by the Commission and reporting to the town bookkeeper monthly and annually.

§ A156-8. Committees.

Standing committees of the Commission shall include:

A. Program and Finance.

B. Planning and Review.

C. Park Development.

D. Public Relations.

§ A156-9. Procedures at meetings.

A. Robert's Rules of Order shall govern the procedures of the Commission while in session.

B. The order of business shall be:

(1) Call to order.

(2) Roll call.

(3) Reading of minutes of previous meeting (correction or addition to minutes and their approval).

(4) Reports of officers, Recreation Director, committees.

(5) Old or unfinished business.

(6) New business.

(7) Informational matters.

(8) Adjournment.

C. Questions of priority of business shall be decided by the Chair without debate. This order of business may be altered or suspended at any meeting by the majority vote of the members present.

D. The ordinary manner of voting will be by a show of hands. The use of secret written ballots in any voting can be invoked at the discretion of the Chair or the request of at least two members of the Commission.

§ A156-10. Amendments.

These bylaws may be amended, repealed or altered in whole or in part by a 2/3 vote of the voting members present at any duly organized meeting of the Commission, provided that the proposed change is submitted in the mail to the last recorded address of each member at least two weeks before the time of the meeting which is to consider the change or, if the proposed change is read at a meeting, preceding the meeting at which the vote is to be taken.

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 Moreau adopted since January 1, 2006, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult municipal records for prior legislation.

§ DL-1. Disposition of legislation.

Local Law Number	Adoption Date	Subject	Disposition
1-2006	2-14-2006	Mining moratorium	NCM
2-2006	8-22-2006	Zoning amendment	Ch. <u>149</u>
3-2006	12-26-2006	Zoning amendment	Ch. <u>149</u>
4-2006	12-26-2006	Administration and enforcement of New York State Uniform Fire Prevention and Building Code	Ch. <u>74</u>
1-2007	7-24-2007	Water District No. 6 rules and regulations	Ch. <u>145</u> , Art. <u>VI</u>
1-2008	2-26-2008	Stormwater management and erosion and sediment control; subdivision of land amendment; zoning amendment	Chs. 120, 124 and 149
2-2008	2-26-2008	Illicit discharges, activities and connections	Ch. <u>84</u>
3-2008	3-11-2008	Zoning amendment	Ch. <u>149</u>
4-2008	7-10-2008	Mining moratorium	NCM
5-2008	7-22-2008	Noise amendment	Ch. <u>100</u>

Local Law Number	Adoption Date	Subject	Disposition
6-2008	8-12-2008	Mining moratorium amendment	NCM
7-2008	8-26-2008	Taxation: Cold War veterans exemption	Ch. <u>130</u> , Art. <u>IV</u>