

**Code
of the
Village of
Ballston Spa**

COUNTY OF SARATOGA
STATE OF NEW YORK

SERIAL NO. **.505...**

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**OFFICIALS
OF THE
VILLAGE OF
BALLSTON SPA**

Village Office
Ballston Spa, New York 12020
Telephone: (518) 885-5711

1995

Mayor
JOHN P. ROMANO

Board of Trustees
ARTHUR D. MCDONALD
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PAULA L. MCKIE
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Village Clerk
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Village Attorney
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C E R T I F I C A T I O N

VILLAGE OF BALLSTON SPA

Office of the Village Clerk

I, **PATRICIA A. BOWERS**, Village Clerk of the Village of Ballston Spa, New York, hereby certify that the chapters contained in this volume are based upon the original local laws, ordinances and resolutions of the Board of Trustees of the Village of Ballston Spa, and that said local laws, ordinances and resolutions, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Village of Ballston Spa, County of Saratoga, State of New York, as adopted by local law of the Board of Trustees on May 13, 1996.

Given under my hand and the Seal of the Village of Ballston Spa, County of Saratoga, State of New York, this ____ day of _____, at Ballston Spa, New York.

s/PATRICIA A. BOWERS

Village Clerk

PREFACE

The Village of Ballston Spa has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the village, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the village. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Trustees ordered the following codification of the village's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Village of Ballston Spa, including revisions or amendments to existing legislation deemed necessary by the Board of Trustees in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all village legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other village legislation of a regulatory nature.

Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01."

Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the

History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends

with § 45-30 and Article XVII begins with § 45-31, Article XVII should contain §§ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the village officials is gratefully acknowledged by Sarah M. White, the editor. The codification of the legislation of the Village of Ballston Spa reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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PART I

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GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

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[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 5-13-1996 by L.L. No. 1-1996]

Be it enacted by the Board of Trustees of the Village of Ballston Spa, County of Saratoga, New York, as follows:

§ 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 Village of Ballston Spa, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 205, together with an Appendix, shall be known collectively as the "Code of the Village of Ballston Spa," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Ballston Spa" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of 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 Board of Trustees of the Village of Ballston Spa, 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.

(Cont'd on page 103)

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

All local laws and ordinances of a general and permanent nature of the Village of Ballston Spa 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 Village of Ballston Spa prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Ballston Spa 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 Village of Ballston Spa.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Ballston Spa.
- E. Any local law or ordinance of the Village of Ballston Spa 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 Village of Ballston Spa or any portion thereof.

- F. Any local law or ordinance of the Village of Ballston Spa appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Ballston Spa or other instruments or evidence of the village'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 annexation or dedication of property.
- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.
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- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any legislation dealing with vehicles and traffic.
- O. Any legislation dealing with personnel rules and regulations.
- P. Any legislation relating to the Police Justice.
- Q. Any legislation dealing with water and sewers service to Maplewood Manor.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair

or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Ballston Spa and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Village Clerk of the Village of Ballston Spa by impressing thereon the Seal of the Village of Ballston Spa, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

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

contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

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

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Ballston Spa required to be filed in the office of the Village Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees 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 Village Clerk of the Village of Ballston Spa upon the payment of a fee to be set by resolution of the Board of Trustees, 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 Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Ballston Spa or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Ballston Spa to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two

hundred fifty dollars (\$250.) or imprisonment for a term of not more than fifteen (15) days, or both.

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Ballston Spa, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the following amendments and/or additions 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.)¹
- C. Nomenclature changes.
 - (1) Throughout the Code, gender-specific pronouns, (he, she, him, her, etc.) have been revised to be gender-neutral (he/she, him/her, ect.).
 - (2) In Chapter 65, Traffic Violations Bureau (12-1-1953), the term "Police Justice" is hereby changed to "Village Justice."

¹ Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments or additions will be replaced with the following history: "Amended (added) _____." Local Law No. 1, which contains a complete description of all changes, is on file in the village offices.

- (3) In Chapter 205, Zoning (L.L. No. 2-1994), the term "Master Plan" is hereby changed to "Comprehensive Plan."

§ 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 Village of Ballston Spa, 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

**Amendment of Fees and Penalties by Resolution;
Reimbursable Costs
[Adopted 12-9-1996 by L.L. No. 6-1996]**

§ 1-14. Amendment of fees and penalties by resolution.

Notwithstanding any provision of this local law the Village Board of Trustees of the Village of Ballston Spa may, from time to time, review and amend by resolution fee schedules or penalties for offenses hereafter.

§ 1-15. Reimbursement of extraordinary expenses.

Reimbursable costs and expenses incurred by the Village Board of Trustees, Zoning Board of Appeals, Planning Board or Enforcement Officer for private consultation fees or other extraordinary expenses in connection with the review of an application shall be charged to the applicant. Such costs shall be in addition to any fees prescribed herein.

ARTICLE III

Reimbursement of Village Costs
[Adopted 7-26-2004 by L.L. No. 3-2004]**§ 1-16. Reimbursement of review costs.**

Any costs incurred by the Village, its boards, commissions, officials and employees for the review of a project, either prior to approval or after approval, shall be reimbursed by the party requiring services.

Chapter 5**ASSESSMENTS**

§ 5-1. Legislative intent.

§ 5-2. Creation of the position of Assessor.

§ 5-3. Creation of the Board of Assessment Review.

§ 5-4. Designation as assessing unit; responsibilities.

§ 5-5. Referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-22-1993 by L.L. No. 1-1993. Amendments noted where applicable.]

§ 5-1. Legislative intent.

The intent of the Board of Trustees of the Village of Ballston Spa is to rescind Local Law No. 3 of 1992 of the Village of Ballston Spa, which provides for the termination of the Village's status as an assessing unit. It is also the intent of this chapter to reinstate the position of Assessor and the Board of Assessment Review and to reinstate the responsibilities as provided by law for the review of the assessments of real property located within the Village of Ballston Spa.

§ 5-2. Creation of the position of Assessor.

The position of Assessor in the Village of Ballston Spa is hereby created.

**§ 5-3. Creation of the Board of Assessment Review.
[Amended 12-22-2003 by L.L. No. 3-2003]**

The Board of Assessment Review in the Village of Ballston Spa is hereby created. The position of member of the Board of Assessment Review may be filled by a resident of an adjoining municipality.

§ 5-4. Designation as assessing unit; responsibilities.

- A. On or after the effective date of this chapter, the Village of Ballston Spa shall be an assessing unit.
- B. The Village of Ballston Spa, on or after the effective date hereof, shall resume status as an assessing unit under the Real Property Tax Law and shall have all of the responsibilities as provided thereunder for the assessment and review of assessments of real property located within the Village of Ballston Spa.

§ 5-5. Referendum.

This chapter is subject to a permissive referendum, and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.¹

¹ Editor's Note: This local law was passed at a referendum on 5-22-1993.

Chapter 11**CHECKS**

§ 11-1. Mayor authorized to sign checks.

§ 11-2. Certified copy.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 4-4-1983. Amendments noted where applicable.]

§ 11-1. Mayor authorized to sign checks.¹

The Mayor of the Village of Ballston Spa, New York, is hereby authorized to sign checks in the absence or inability of the Treasurer or Deputy Treasurer, if any.

§ 11-2. Certified copy.

The Clerk of the Village will cause a certified copy of this chapter to be transmitted to the official depository of the village.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 14

CLAIMS

§ 14-1. Adherence to statutory provisions.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 2-10-1970; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

§ 14-1. Adherence to statutory provisions.

All bills, accounts and demands for the payment of money, of whatever nature, asserted against the Village of Ballston Spa shall be processed in accordance with the provisions of § 5-524 of the Village Law.

Chapter 18

DEFENSE AND INDEMNIFICATION

§ 18-1. Liability for costs; conferral of benefits.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 10-13-1981 as L.L. No. 3-1981. Amendments noted where applicable.]

§ 18-1. Liability for costs; conferral of benefits.

Pursuant to the provisions of § 18 of the Public Officers Law, as amended, the Board of Trustees of the Village of Ballston Spa hereby agrees to be held liable for costs incurred under the provisions of such section by conferring upon the officers and employees of said village the benefits of § 18 of the Public Officers Law. Such benefits shall supplement and be available in addition to defense or indemnification protection conferred by another enactment.

Chapter 23**ELECTIONS****§ 23-1. Declaration of a tie.****§ 23-2. Runoff elections.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 3-21-1989 as L.L. No. 1-1989.¹ Amendments noted where applicable.]

§ 23-1. Declaration of a tie.

In any general or special village election for the position of Mayor, Trustee or Village Justice in which two (2) or more candidates for the elective office receive an equal number of votes so that no one (1) candidate for such office shall receive majority or plurality of votes cast for such office, the Village Clerk shall declare such election a tie.

§ 23-2. Runoff elections.

- A. In the event that a tie vote is declared in any general or special village election for the office of Mayor, Trustee or Village Justice, a runoff election between the tied candidates shall be held at a time established by the Board of Trustees, but which runoff election shall be held on the first Tuesday at least ten (10) days after the final certification of a tie.²

¹ Editor's Note: This local law was subject to a mandatory referendum, which referendum was not conducted because no general election was to be held within sixty (60) days of the enactment of such local law.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. In the event that the tie is not decided by the first runoff election provided for herein, the runoff shall be repeated until such time as one (1) candidate receives either a plurality or majority of the votes cast in any such runoff election.
- C. Any runoff election conducted pursuant to this chapter shall be conducted in the same manner as any other general or special village election.
- D. Such runoff election shall be waived and the selection be made by lot as otherwise provided in the Election Law if each person who shall have received such equal number of votes shall file with the Village Clerk, no later than two (2) days after such final certification of such tie result, a written notice of consent that such selection be made by lot.³

³ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 27**ETHICS, CODE OF**

- § 27-1. **Definitions; word usage.**
- § 27-2. **Establishment; purpose; cause for suspension or removal.**
- § 27-3. **Conflict of interest prohibited.**
- § 27-4. **Discrimination prohibited.**
- § 27-5. **Misuse of village property.**
- § 27-6. **Written disclosure of interest.**
- § 27-7. **Board of Ethics.**

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

§ 27-1. Definitions; word usage.

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

CONFIDENTIAL — Personnel matters and financial matters which, if disclosed, would be of detrimental interest to the village and a violation of the trust placed in that person.

EMPLOYEES — Includes all employees of the village and of all governmental bodies created under the provisions of the Village Law.

INTEREST — Includes private financial benefit and interest, other than financial, arising from blood or

marriage relationships or close business or political association.

OFFICIALS — Includes elected and appointed officials and officers, whether paid or unpaid, and members of all governmental bodies created under the provisions of the Village Law and all other village ordinances and applicable statutes.

PARTICIPATING — Includes the rendering of advice or recommendation, investigation, approval, disapproval or otherwise influencing a decision or action.

- B. Words of the masculine gender shall include the feminine.

§ 27-2. Establishment; purpose; cause for suspension or removal.

There is hereby established a Code of Ethics for all village officers, employees and officials, whether elected or appointed, paid or unpaid. The purpose of this code is to establish suitable ethical standards for all such officers, employees and officials by prohibiting acts or actions incompatible with the discharge of their public duties and the best interests of the Village of Ballston Spa and by directing disclosure of private financial interest or personal interest in matters affecting the village by such officers, employees and officials. Any violations of this Code of Ethics may constitute a cause for suspension, removal from office or employment or other disciplinary action as more particularly set forth in § 27-7.

§ 27-3. Conflict of interest prohibited.

- A. No officer, employee or official shall engage in or participate in any business or transaction or shall have an interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her

independent judgment or action in the performance of his/her official duties.

- B. No former officer, employee or official shall appear at any time before any village board or agency in which he/she was formerly employed, acting or participating on behalf of the village in connection with any matter or case with which he/she was associated while an officer, employee or official at any time within a period of (1) year after termination of his/her service with the village. Any such former officer, employee or official may, upon written application to the Board of Ethics filed with the Village Clerk, be released from this obligation after review of said written application and relevant facts of his/her case by the Board of Ethics. Any application received must be acted upon within thirty (30) days by the Board of Ethics. Failure of the Board of Ethics to act within a thirty-day period shall constitute approval.
- C. No officer, employee or official shall accept or solicit any gift, whether in the form of a service, loan, thing or promise, from any person, firm or corporation which to his/her knowledge is interested in any manner in business dealings with the village if the acceptance or solicitation of said gift may tend to influence him/her in the discharge of his/her public duties.
- D. Any officer, employee or official who has a substantial or controlling financial or personal interest in any transaction or contract with the village or in the sale of real estate, material, supplies or services to the village, on which he/she may be called to act upon in his/her official capacity, shall refrain from voting upon or otherwise participating in the transaction or the making of such contract. Any such officer, employee or official shall also be required to disclose said interest to the Village Clerk and Board of Ethics in the manner, time and form set forth in § 27-6 of this chapter.
- E. No officer, employee, official or member of his/her firm shall appear on behalf of private interest before any

board, commission, agency or committee of the Village with which he/she is affiliated.

- F. No officer, employee or official shall, without proper authorization, disclose confidential information concerning village affairs nor shall he/she use such information to advance the financial interests or private interests of himself/herself or others.

§ 27-4. Discrimination prohibited.

No officer, employee or official shall discriminate or favor any individual or cause based solely upon race, color, creed, sex or his/her affiliation with any religious, social or political organization.

§ 27-5. Misuse of village property.

- A. No officer, employee or official shall request or permit the use of village-owned vehicles, equipment, facilities, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such officer, employee or official in the interest of the village.
- B. No officer, employee or official shall grant any special consideration, treatment, favor or advantage to any person beyond that which is generally available to residents and/or taxpayers of the village.

§ 27-6. Written disclosure of interest.

Any officer, employee or official having any financial or private interest as designated in § 27-3D shall file written disclosures of said interest with the Village Clerk and the Board of Ethics as soon as he/she becomes aware of such interest. Said written disclosure shall set forth in detail the nature and extent of such interest.

§ 27-7. Board of Ethics.

- A. There is hereby created a Board of Ethics which shall be charged with the administration of this chapter.
- B. The Board of Ethics shall be composed of five (5) resident electors. The Board of Trustees shall appoint all members to the Board of Ethics. Of the five (5) members initially appointed, one (1) shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years and one (1) for a term of one (1) year. Thereafter, upon the expiration of the initial term of any member of the Board or in the event that a vacancy exists on said Board, the Board of Trustees shall appoint a new member to fill the vacancy. All subsequent appointments to the Board shall be for terms of two (2) years. Each member shall serve until his/her successor has been appointed.
- C. The Board shall adopt and promulgate reasonable rules and regulations for the administration of its proceedings. The rules and regulations so promulgated and all amendments thereto shall be made available at the office of the Village Clerk to the public.
- D. The Board shall receive complaints of any violations of the Code of Ethics and shall, upon such complaint, investigate the same and may hold private hearings thereon if, in the opinion of the majority of the Board, said complaint warrants a hearing. Any complaint received by the Board must be in writing and signed by the individual making said complaint. Upon receiving any complaint, the Board shall privately notify, in writing, by registered mail, return receipt requested, the person against whom said complaint has been filed, advising the concerned party of his/her right to demand a full hearing by the Board and the specific nature of the complaint made and being investigated by the Board. Upon receipt of said notice from the Board, the party so notified that a complaint has been filed against him/her

shall, within thirty (30) days thereafter, have the right to demand, by registered mail, a full hearing by the Board. In the event that the Board decides that a hearing is required or the person whose conduct is being called into question demands a hearing, said hearing shall afford the person whose conduct is called into question the right to cross-examine anyone testifying against him/her, to meet and answer any complaint made of his/her conduct and to present evidence in his/her own behalf; provided, however, that no hearing may be conducted with less than four (4) members of the Board in attendance.

- E. The Board shall report to the Board of Trustees its findings as to whether or not a violation of the Code of Ethics has occurred, together with recommendations as to the disposition to be made. The Board of Trustees shall thereupon take such action as it may deem appropriate. In addition, the Board may make public its findings and opinions with such deletions as may be justified, necessary or desirable.
- F. The Board of Ethics may, upon the written request of any officer, employee, official or resident of the village or upon its own initiative, render written advisory opinions concerning any matters relating to the Code of Ethics.
- G. All opinions, findings and recommendations of the Board of Ethics, whether advisory or at the request of a complainant, shall be kept on file in the office of the Village Clerk.

Chapter 31**FIRE DEPARTMENT**

§ 31-1. Title; authority.

§ 31-2. Organization of department; chief officers.

§ 31-3. Membership and officers of the Union Fire Company.

§ 31-4. Membership and officers of the Eagle Matt Lee Fire Company.

§ 31-5. Duties of Fire Department members.

§ 31-6. Training requirements.

§ 31-7. Functions.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 6-14-1993. Amendments noted where applicable.]

§ 31-1. Title; authority.

The organizational statement contained in this chapter is hereby adopted as the organizational statement of the Ballston Spa Fire Department pursuant to Occupational Safety and Health Administration regulation 1910.156.

§ 31-2. Organization of department; chief officers.

- A. The Ballston Spa Fire Department shall consist of two (2) Fire Companies, the Eagle Matt Lee Fire Company No. 1 and the Union Fire Company No. 2. Each Fire Company has a common purpose (see § 31-7) but has a separate function that is not limited to the following: Eagle Matt Lee Fire Company No. 1 is a Ladder and

Rescue Company, and the Union Fire Company No. 2 is an Engine Company and deals with hazardous materials response.

- B. The chief officers of the Ballston Spa Fire Department shall be a Fire Chief and First, Second and Third Assistant Fire Chiefs.

§ 31-3. Membership and officers of the Union Fire Company.

- A. The officers of the Union Fire Company No. 2 of Ballston Spa, New York, shall consist of the Captain or Foreman, the First Assistant Captain or Foreman, four (4) Second Lieutenants, the Recording Secretary, the Financial Secretary and the Treasurer.
- B. The Board of Directors of the Union Fire Company No. 2 of Ballston Spa shall consist of the officers plus all past Captains (foremen) and necessary Lieutenants.
- C. The minor officers of the Union Fire Company No. 2 of Ballston Spa, New York, shall consist of four (4) pipe men, two (2) hydrant men, two (2) truckmen per apparatus and two (2) training officers.
- D. The membership of the Union Fire Company No. 2 of Ballston Spa shall consist of not more than one hundred (100) active members and one hundred (100) social members.

§ 31-4. Membership and officers of the Eagle Matt Lee Fire Company.

- A. The officers of the Eagle Matt Lee Fire Company of Ballston Spa, New York, shall consist of the Captain, the First Lieutenant, four (4) Second Lieutenants, the President, the Vice President, the Recording Secretary, the Financial Secretary and the Treasurer.

- B. The Board of Directors of the Eagle Matt Lee Fire Company consists of the President, Vice President, Captain and three (3) elected members.
- C. The minor officers of the Eagle Matt Lee Fire Company of Ballston Spa, New York, shall consist of four (4) pipe men, two (2) hydrant men, two (2) truckmen per apparatus and two (2) training officers.
- D. The membership of the Eagle Matt Lee Fire Company of Ballston Spa shall consist of not more than one hundred (100) active members and one hundred (100) social members.

§ 31-5. Duties of Fire Department members.

The duties of the members of the Department shall consist of attendance at all alarms of fire, meetings, parades, drills and funerals.

§ 31-6. Training requirements.

The members of the Department shall be provided with training as follows:

- A. New fire-fighter training. New fire fighters shall complete the New Fire Fighter Essentials State OFPC Course and receive training in the following areas and in the following amounts of time within one (1) year of their appointment:

Type of Training	Time Requirements (hours)
General hazard recognition	1
Fire station safety	1
Response safety	2
Fire science safety	2
Protective clothing	3

Type of Training	Time Requirements (hours)
Self-contained breathing apparatus	3
Tool and equipment safety	2

- B. Annual training. All fire fighters shall receive the following refresher training during each year:

Type of Training	Time Requirements (hours)
General hazard recognition	1
Fire station safety	1
Response safety	1
Fire science safety	1
Protective clothing	1
Self-contained breathing apparatus	1
Tool and equipment safety	1
Recent developments in fire safety	1

- C. In addition, training shall include pump operation, hose laying, driver training, hazardous materials response, initial attack, motor vehicle extraction, ladder placement and such other matters as deemed necessary by the officers of the company.
- D. Training shall be done by qualified personnel appointed by the Captains. The names of members attending and subjects covered shall be recorded.

§ 31-7. Functions.

The function of the Ballston Spa Fire Department shall be to protect property, prevent injury and save lives in the Ballston Spa community through fire fighting, emergency assistance and "jaws of life" extrication at motor vehicle accident scenes, search and rescue, control of a release or spill of a hazardous material,

fire prevention through inspection and education and other activities deemed in the best interests of the fire fighters and the citizens of the community.

Chapter 38**INVESTMENT POLICY****§ 38-1. Objectives.****§ 38-2. Investment of funds.****§ 38-3. Conditions for investment.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 11-22-1988. Amendments noted where applicable.]

§ 38-1. Objectives.

The objectives of the investment policy of the local government are to:

- A. Minimize risk.
- B. Ensure that investments mature when the cash is required to finance operations.
- C. Ensure a competitive rate of return.

§ 38-2. Investment of funds.

- A. In accordance with this policy, the chief fiscal officer is hereby authorized to invest all funds, including proceeds of obligations and reserve funds in:
 - (1) Certificates of deposit issued by a bank or trust company authorized to do business in New York State.
 - (2) Time deposit accounts in a bank or trust company authorized to do business in New York State.
 - (3) Obligations of New York State.

(4) Obligations of the United States Government.

- B. All funds except reserve funds may be invested in obligations of agencies of the federal government if principal and interest is guaranteed by the United States.
- C. Only reserve funds may be invested in obligations of the local government.
- D. All other local government officials receiving money in their official capacity must deposit such funds in negotiable order of withdrawal accounts.

§ 38-3. Conditions for investment.

All investments made pursuant to this investment policy shall comply with the following conditions:

A. Collateral.

- (1) Certificates of deposit shall be fully secured by insurance of the Federal Deposit Insurance Corporation or by obligations of New York State or obligations of the United States or obligations of federal agencies, the principal and interest of which are guaranteed by the United States, or obligations of New York State local governments. Collateral shall be delivered to the local government or a custodial bank with which the local government has entered into a custodial agreement. The market value of collateral shall at all times equal or exceed the principal amount of the certificate of deposit. Collateral shall be monitored no less frequently than weekly, and "market value" shall mean the bid or closing price as quoted in the Wall Street Journal or as quoted by another recognized pricing service.
- (2) Collateral shall not be required with respect to the direct purchase of obligations of New York State, obligations of the United States and obligations of

federal agencies, the principal and interest of which are guaranteed by the United States Government.

B. Delivery of securities. Payment shall be made by or on behalf of the local government for obligations of New York State, obligations the principal and interest of which are guaranteed by the United States, United States obligations, certificates of deposit and other purchased securities upon the delivery thereof to the custodial bank or, in the case of a book-entry transaction, when the purchased securities are credited to the custodial bank's federal reserve system account. All transactions shall be confirmed in writing.

C. Financial strength of institutions.

- (1) All trading partners must be creditworthy. Their financial statements must be reviewed at least annually by the chief fiscal officer to determine satisfactory financial strength, or the chief fiscal officer may use credit rating agencies to determine creditworthiness of trading partners. Concentration of investments in financial institutions should be avoided. The general rule is not to place more than five hundred thousand dollars (\$500,000.) in overnight investments with any one (1) institution.
- (2) Investments in time deposits and certificates of deposit are to be made with banks or trust companies. Their annual reports must be reviewed by the chief fiscal officer to determine satisfactory financial strength.
- (3) When purchasing eligible securities, the seller shall be required to deliver the securities to our custodial bank.

D. Operations, audit and reporting.

- (1) The chief fiscal officer or the deputy chief fiscal officer shall authorize the purchase and sale of all securities and certificates of deposit on behalf of the local government. Oral directions concerning the

purchase or sale of securities shall be confirmed in writing. The local government shall pay for purchased securities upon the delivery or book-entry thereof.

- (2) The local government will encourage the purchase and sale of securities and certificates of deposit through a competitive or negotiated process involving telephone solicitation.
 - (3) At the time independent auditors conduct the annual audit of the accounts and financial affairs of the local government, the independent auditors shall audit the investments of the local government for compliance with the provisions of these investment guidelines.
 - (4) At least annually and, if practicable, at the organization meeting of the governing board, the members shall review and amend, if necessary, these investment guidelines.
- E. The provisions of these investment guidelines and any amendments hereto shall take effect prospectively and shall not invalidate the prior selection of any custodial bank or prior investment.

Chapter 45

OFFICERS AND EMPLOYEES

ARTICLE I

Residency Requirements

- § 45-1. Qualifications for holding office.**
- § 45-2. Retroactive application.**
- § 45-3. Definitions.**
- § 45-4. Modifications and supersession of statute.**

ARTICLE II

Standard Work Day

- § 45-5. Elected and appointed officials.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Residency Requirements

[Adopted 10-27-1992 by L.L. No. 2-1992]

- § 45-1. Qualifications for holding office.**

No person shall be deemed ineligible to hold a village office by virtue of his/her nonresidence within the Village of Ballston Spa, provided that he/she resides within Saratoga County.

§ 45-2. Retroactive application.

This article shall be retroactive as well as prescriptive in its operation. Any person residing in Saratoga County who hitherto has simultaneously both held a village office and been a nonresident of the Village of Ballston Spa is hereby retroactively qualified to hold such office.

§ 45-3. Definitions.

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

VILLAGE OFFICE — The position held by any appointed officers enumerated in Subdivision 1 of § 3-301 of the New York State Village Law.

§ 45-4. Modifications and supersession of statute.

- A. Pursuant to the authority vested in the village by Municipal Home Rule Law § 10, Subdivision 1(ii)e(3), it is hereby declared that this Article changes, amends and supersedes Subdivision 1 and 2 of the New York State Village Law § 3-300 (being known also as Subsections 1 and 2 of § 3-300 of Article 3 of Chapter 892 of the Laws of New York of 1972, as amended thereafter from time to time) and, to the greatest extent the village is empowered to do so, changes, amends and supersedes Subdivision 1 of § 3 of the New York State Public Officers Law, (being known as chapter 51 of the Laws of New York of 1909) and any other general law like import.
- B. Except to the extent hereby changed, amended and superseded, the aforesaid general laws shall remain in full force and effect.

ARTICLE II
Standard Work Day
[Adopted 11-10-1997]

§ 45-5. Elected and appointed officials.

The standard work day for elected and appointed officials shall be as follows:

- A. Court: seven hours.
- B. Department of Public Works: eight hours.
- C. Library: seven hours.
- D. Police Department: eight hours.
- E. Office: seven hours.

Chapter 50

PLANNING BOARD

ARTICLE I

Powers and Duties

§ 50-1. Powers and duties enumerated.

ARTICLE II

Composition and Compensation

§ 50-2. Members; alternates; authority.

§ 50-3. Compensation for alternate members.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 178.

ARTICLE I

Powers and Duties

[Adopted 2-12-1963]

§ 50-1. Powers and duties enumerated.

- A. Pursuant to the provisions of § 7-728 of the Village Law and for the purpose of providing for the future growth and development of the Village of Ballston Spa and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population, the Ballston

Spa Planning Board is hereby empowered to approve plats showing lots, blocks or sites with or without streets or highways. [Amended 5-13-1996 by L.L. No. 1-1996]

- B. For the same purposes and under the same conditions, the Ballston Spa Planning Board is hereby empowered to approve the development of plats entirely or partially undeveloped and which have been filed in the office of the Clerk of the County of Saratoga prior to the appointment of said Ballston Spa Planning Board and the adoption of this chapter.

ARTICLE II

Composition and Compensation

[Adopted 8-9-1999 by L.L. No. 4-1999]

§ 50-2. Members; alternates; authority.

The Planning Board is hereby created, consisting of five members, each to be appointed for five years, and three alternates to be appointed for one-year terms. Said appointments are subject to § 7-718 of the Village Law and § 10 of the Municipal Home Rule Law. The alternates are to be used in the event of conflict, illness or absence of the regular members to ensure that a five-member Board is present for all applications. The Planning Board shall have all the power and functions hereafter provided by the Village Board of Trustees and the laws of the State of New York.

§ 50-3. Compensation for alternate members.

Alternate members will be compensated at the amount of \$42.50 per meeting, when they are called to substitute.

Chapter 53**PROCUREMENT POLICY**

§ 53-1. Evaluation of prospective purchase; estimate.

§ 53-2. Formal bids required for certain purchases.

§ 53-3. Proposal requirements.

§ 53-4. Award to lowest bidder; exceptions.

§ 53-5. Acquisition of professional services.

§ 53-6. Annual review.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 7-28-1992. Amendments noted where applicable.]

§ 53-1. Evaluation of prospective purchase; estimate.

Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law, § 103. Every village, department head or other personnel with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other village departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

§ 53-2. Formal bids required for certain purchases.

All purchases of supplies or equipment which will exceed ten thousand dollars (\$10,000.) in a fiscal year or public works

contacts over twenty thousand dollars (\$20,000.) shall be formally bid pursuant to General Municipal Law, § 103.

§ 53-3. Proposal requirements.

A.¹ All estimated purchases of:

- (1) Less than or equal to ten thousand dollars (\$10,000.) but greater than three thousand dollars (\$3,000.) require a written Request For a Proposal (RFP) and written/fax quotes from three (3) vendors.
- (2) Less than or equal to three thousand dollars (\$3,000.) but greater than one thousand dollars (\$1,000.) require an oral request for the goods and oral/fax quotes from two (2) vendors.
- (3) Less than or equal to one thousand dollars (\$1,000.) but greater than two hundred fifty dollars (\$250.) are left to the discretion of the purchaser.

B.² All estimated public works contracts of:

- (1) Less than or equal to twenty thousand dollars (\$20,000.) but greater than ten thousand dollars (\$10,000.) require a written RFP and fax/written proposals from three (3) contractors.
- (2) Less than or equal to ten thousand dollars (\$10,000.) but greater than three thousand dollars (\$3,000.) require a written RFP and fax/proposal from two (2) contractors.
- (3) Less than or equal to three thousand dollars (\$3,000.) but greater than one thousand dollars (\$1,000.) require an oral RFP and oral/fax quotes from three (3) vendors.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (4) Less than or equal to \$1,000 are left to the discretion of the purchaser.
- C. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral/quotes have been requested and the written/fax/oral/quotes offered.
- D. All information gathered in complying with the procedures of this section shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

§ 53-4. Award to lowest bidder; exceptions.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the Village and its taxpayers to make an award to other than the lowest bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 53-5. Acquisition of professional services. [Amended 11-12-2001 by L.L. No. 6-2001]

There shall be no requirement for solicitation of written proposals, quotations or requests for proposals for acquisition of professional services.

§ 53-6. Annual review.

This policy shall be reviewed annually by the Village Board at its organizational meeting or as soon thereafter as is reasonably practicable.

Chapter 56**PROPERTY INVENTORY****§ 56-1. Policies and guidelines.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 1-10-1978. Amendments noted where applicable.]

§ 56-1. Policies and guidelines.

In order to determine the existence, location and value of all real and personal property of this village and to provide for control and custody of these assets, the following policies and guidelines are hereby established:

- A. A property manager shall be designated who shall be responsible for developing and maintaining the inventory records.
- B. The department head shall be named the custodian responsible for the property under his/her control.
- C. The custodian shall take an annual physical inventory of machinery and equipment each year which shall be certified and submitted to the property manager by February 1. A periodic inventory shall be taken by the commissioner of the department.
- D. Equipment items to be included in fixed asset records shall be those items having:
 - (1) A cost of one hundred dollars (\$100.) or more.
 - (2) An estimated useful life of one (1) year or more.
 - (3) Physical characteristics of the asset that are not appreciably affected by use or consumption.

- E. The inventory and record of real property and buildings shall be compiled and recorded by the commissioner of each department, subject to review by the Board of Trustees.
- F. All procedures shall comply with all applicable laws and requirements of New York State Department of Audit and Control issued pursuant to § 36 of the General Municipal Law.

Chapter 61**SMOKING POLICY****§ 61-1. Restrictions.****§ 61-2. Designated areas.****§ 61-3. Promulgation of policy.****§ 61-4. Employee concerns or complaints.****§ 61-5. Posting of policy.****§ 61-6. Penalties for offenses.**

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

§ 61-1. Restrictions.

- A. Smoking is prohibited in all indoor places of employment of village employees under the jurisdiction and control of the Village of Ballston Spa, except in areas specifically designated for smoking.
- B. Smoking is permitted in an enclosed office occupied by a person who smokes or if it is occupied by more than one (1) person, provided that all persons in that office consent to smoking.
- C. Smoking is not permitted in any conference room or meeting room.
- D. No person shall carry a lighted cigarette, cigar or pipe or other smoking material in any indoor hallway, passage or other common area while walking through such area.

- E. Smoking shall be prohibited in rest rooms, hallways, employee medical facilities and rooms or areas which contain photocopying equipment or other office equipment used in common and in village vehicles occupied by more than one (1) person unless the occupants of such vehicle agree that smoking may be permitted.

§ 61-2. Designated areas.

- A. Areas used as employee cafeterias, lunchrooms and lounges will contain nonsmoking areas as designated by the Village Board to meet employee demand.
- B. Smoking areas may be designated by the Village Board for employees who wish to smoke. Such smoking areas will be clearly marked by a "smoking permitted" sign.

§ 61-3. Promulgation of policy.

The smoking policy in the Village Court shall be as promulgated by the Office of Court Administration.

§ 61-4. Employee concerns or complaints.

Employees are encouraged to present any concerns to their supervisor and may register a complaint with the county enforcement officer.

§ 61-5. Posting of policy.

A copy of this policy shall be posted upon the village bulletin board and in each separate building in which village employees work.

§ 61-6. Penalties for offenses.

Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Commissioner of Health.

Chapter 65**TRAFFIC VIOLATIONS BUREAU**

§ 65-1. Definitions.

§ 65-2. Establishment; hours of operation.

§ 65-3. Designation of fines.

§ 65-4. Authority to dispose of violations; court appearances.

§ 65-5. Procedure for infractions.

§ 65-6. Powers and duties.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 12-1-1953; amended in its entirety 5-24-1999 by L.L. No. 2-1999. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 192.

§ 65-1. Definitions.

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

POWER OF ATTORNEY — Any written statement in the presence of a witness and to which statement the witness shall affix his/her signature, stating that the person executing the same and charged with a violation is thereby appearing and answering to the charge, pleading guilty thereto, waiving a hearing in court and authorizing the person in charge of the Traffic Violations Bureau to make such a plea in his/her stead in court.

§ 65-2. Establishment; hours of operation.

- A. The Village Justice of the Village of Ballston Spa, New York, having jurisdiction of traffic violations in the Village of Ballston Spa, is hereby authorized, pursuant to Article 14-B of the General Municipal Law, to establish a Traffic Violations Bureau to assist the court in the disposition of offenses in relation to traffic violations.
- B. This Bureau, to be termed "Village of Ballston Spa Traffic Violations Bureau," shall be in charge of such person or persons and shall be open at such hours as shall be designated by the Village Justice of the Village of Ballston Spa, New York, having jurisdiction of traffic violations in the Village of Ballston Spa.

§ 65-3. Designation of fines.

The Village Justice of the Village of Ballston Spa, New York, aforementioned, shall designate the fines to be paid for the first, second and third offenses which may be satisfied at the Traffic Violations Bureau as provided in this chapter, provided that these fines are within the limits established as penalties for violations of traffic laws, rules and regulations of the Village of Ballston Spa, and provided, further, that the penalty for violation of the Village Parking Meter Ordinance shall be in accordance with said chapter. The Village Justice shall be authorized to double the amount of any fine should any fine remain unpaid for a thirty-day period.

§ 65-4. Authority to dispose of violations; court appearances.

- A. The Traffic Violations Bureau so established shall have authority to dispose of violations of traffic laws, ordinances, rules and regulations when such offenses shall not constitute the traffic infraction known as speeding or a misdemeanor or felony.

- B. Pursuant to § 371 of Article 14-B of the General Municipal Law, any person who shall have been, within the preceding 12 months, guilty of a number of parking violations in excess of such maximum number as may be designated by the court or three or more violations other than parking violations shall not be permitted to appear and answer to a subsequent violation at the Traffic Violations Bureau, but must appear in court at the time specified by such Bureau.

§ 65-5. Procedure for infractions.

- A. A person who has received a notice of traffic infraction affixed to his/her motor vehicle shall be permitted within the time specified in said notice to answer at the Traffic Violations Bureau to the charges set forth therein, except as limited by Subsection B of this section, either in person or by power of attorney as hereinafter defined by paying a prescribed fine and, in writing, waiving hearing in court, pleading guilty to the charge and giving power of attorney to the person in charge of the Traffic Violations Bureau by depositing a cash bail equal to double the prescribed fine for appearance in court at a time specified by the Bureau. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the infraction, and the violator shall be given a receipt which so states.
- B. Any person who is charged with speeding, contrary to the provisions of the traffic rules, ordinances and regulations of the Village of Ballston Spa,¹ or the New York State Vehicle and Traffic Law, or who has been guilty of three or more violations other than parking violations shall not be permitted to appear and answer to a subsequent violation at the Traffic Violations Bureau, but must appear in court at a time specified by the Bureau.

¹ Editor's Note: See Ch. 192.

- C. The aforementioned Traffic Violations Bureau is not authorized to deprive a person of his/her right to counsel or to prevent him/her from exercising his/her right to appear in court to answer to, explain or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

§ 65-6. Powers and duties.

The following duties are hereby imposed on the Traffic Violations Bureau:

- A. It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desired to plead guilty, waive court appearance and give power of attorney.
- B. It shall receive and issue receipt for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket and notify the arresting officer and witnesses, if any, to be present.
- C. It shall keep an easily accessible record of all violations of which each person has been guilty during the preceding 12 months, whether such guilt was established in court or in the Traffic Violations Bureau.
- D. Notice of traffic infraction.
 - (1) If the violator of restrictions on parking under the traffic ordinances, rules and regulations of the Village of Ballston Spa does not appear in response to a notice affixed to his/her motor vehicle within a period of two days, the Traffic Violations Bureau shall send to the owner of the motor vehicle to which the notice was affixed a letter informing him/her of the violation and warning him/her that he/she will be held responsible for the appearance of the offender, and, in the event that such a letter is disregarded for a period of two days, complaint will

be filed and that their license may be suspended for failure to appear.

- (2) In the event that any person fails to comply with a notice as provided in the preceding Subsection D(1) or fails to make appearance pursuant to a summons directing an appearance, the Traffic Violations Bureau shall forthwith have a complaint entered against such person. Such bureau shall not accept any fine or bail for or from such person but shall consider every such person entirely under the jurisdiction of the court.

E. The Traffic Violations Bureau shall keep records and submit summarized monthly reports to the Village Board of Trustees and the Village Justice of the Village of Ballston Spa, New York, in charge of traffic violations in the Village of Ballston Spa, of all notices, all the fines collected by the Traffic Bureau and of the final disposition or present status of every case of violation. Such record shall be so maintained as to show all types of violations and the totals of each. Said records shall be public records.

PART II

GENERAL LEGISLATION

Chapter 70**ZONING BOARD OF APPEALS**

§ 70-1. Establishment; alternates; authority.

§ 70-2. Compensation for alternate members.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 8-9-1999 by L.L. No. 5-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

§ 70-1. Establishment; alternates; authority.

A Zoning Board of Appeals is hereby created, consisting of five members, each to be appointed for five years, and three alternates to be appointed for one-year terms. Said appointments are subject to § 97-712 of the Village Law and § 910 of the Municipal Home Rule Law. The alternates are to be used in the event of conflict, illness or absence of the regular members to ensure that a five-member Board is present for all applications. The Zoning Board of Appeals shall have all the power, functions and authority pertaining to the Zoning Board of Appeals as now or hereafter provided by the Village Board of Trustees and the laws of the State of New York.

§ 70-2. Compensation for alternate members.

Alternate members will be compensated at the amount of \$42.50 per meeting, when they are called to substitute.

Chapter 75**ALCOHOLIC BEVERAGES**

§ 75-1. Title.

§ 75-2. Definitions.

§ 75-3. Consumption in public.

§ 75-4. Exceptions.

§ 75-5. Penalties for offenses.

§ 75-6. Enforcement by village police.

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

§ 75-1. Title.

This chapter shall be known and cited as the "Village of Ballston Spa Open Container Law."

§ 75-2. Definitions.

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

ALCOHOLIC BEVERAGE — Any liquid intended for human consumption containing more than one-half of one percent ($\frac{1}{2}$ of 1%) by volume of alcohol.

CONTAINER — Any bottle, glass, cup or similar article designed to hold or capable of holding a liquid.

INTENT TO CONSUME — Includes any of the following: drinking from the container; possession with

movement of the container to the mouth; possession with alcohol on the breath of the possessor; any circumstances evidencing an intent to ultimately consume on any public lands.

PUBLIC PARKING LOT — A parking area for one (1) or more vehicles designed to be used by patrons of any commercial, industrial, professional or eleemosynary place of business, including but not limited to such enterprises as may be duly licensed for the sale and consumption of alcoholic beverages on the premises.

PUBLIC PLACE — A place to which the public or a substantial group of persons has access, including but not limited to any highway, street, road, sidewalk, lane, public parking lot, shopping area, place of amusement, playground, park or beach or any and all publicly owned land or lands located within the Village of Ballston Spa, except that the definition of a "public place" shall not include the specific confines of those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within.

§ 75-3. Consumption in public.

No person shall consume any alcoholic beverage on any public lands in the village or carry, transport or have in his or her possession any open container of an alcoholic beverage on or in any public place in the village with intent to consume said alcoholic beverage in any public place in the village.

§ 75-4. Exceptions.

Notwithstanding any provisions of this chapter, consumption and possession of lawful alcoholic beverages such as beer, wine and ale are permitted within the specifically designated picnic area of Kelly Park and also within the Kelly Park pavilion area by special permit issued by the Village Board of Trustees.

§ 75-5. Penalties for offenses.

Any person committing an offense against this chapter shall be guilty of a violation punishable by a fine not to exceed two hundred fifty dollars (\$250.) or by imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

§ 75-6. Enforcement by village police.

The Village of Ballston Spa Police Department is hereby expressly authorized to enter upon village property for the purpose of enforcing the provisions of this chapter.

AMUSEMENTS

Chapter 78

AMUSEMENTS

ARTICLE I

Carnivals, Circuses and Outdoor Shows

- § 78-1. Definitions.**
- § 78-2. Purpose.**
- § 78-3. Permit required.**
- § 78-4. Application for permit.**
- § 78-5. Insurance requirements.**
- § 78-6. Registration of professional solicitors and charities.**
- § 78-7. Restrictions and revocation.**
- § 78-8. Proof of inspection.**
- § 78-9. Conditions on permits.**
- § 78-10. Duration of permit.**
- § 78-11. Display of permit.**
- § 78-12. Penalties for offenses.**

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

ARTICLE I
Carnivals, Circuses and Outdoor Shows
[Adopted at time of adoption of Code¹]

§ 78-1. Definitions.

For the purposes of this Article, the following terms shall be given the meanings set forth herein:

AMUSEMENT EVENTS — Any form of entertainment open to the public and generally conducted in the outdoors with the presence of tents, booths or temporary structures erected for such purpose or any combination of the foregoing, including but not limited to forms of entertainment commonly known as “carnivals,” “circuses,” “fairs,” “bazaars” and “outdoor shows.”

APPLICATION — That form specified by the Village Clerk used for obtaining an amusement event permit.

ORGANIZATION — A group having a joint or common interest and organized for some purpose. An “organization” shall include a charitable, religious, membership, hospital or not-for-profit corporation.

§ 78-2. Purpose.

The purpose of this Article is to preserve the public peace and good order, to prevent tumultuous assemblages and to assure the health and safety of the residents of the Village of Ballston Spa in regard to the conduct of all amusement events.

§ 78-3. Permit required.

- A. All amusement events are prohibited in the Village of Ballston Spa except when they are for the profit of an organization as herein defined, and provided that a permit from the Village Board has been secured in

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

advance of such amusement event and remains valid throughout such event.

- B. It shall be unlawful to erect, operate or maintain any amusement event without having secured a permit from the Village Board or to continue to erect, operate or maintain such event after the expiration or revocation of such permit.

§ 78-4. Application for permit.

No later than four (4) weeks in advance of a proposed amusement event, an application shall be executed and filed with the Village Clerk by the organization seeking a permit. All applications for permits for amusement events shall supply the following information:

- A. The name, address and the telephone number of the organization.
- B. The names, addresses and the telephone number of two (2) authorized officers or directors who will be responsible for and can be contacted during the operation of the amusement event and who shall both sign said application.
- C. The date(s), time(s) and place of the amusement event.
- D. A complete description of all activities, games of skill, rides and special events.
- E. A notarized letter signed by the property owner stating the nature, extent and duration of the amusement event and granting permission for the organization to use the property.
- F. A certificate of insurance pursuant to § 78-5 of this Article.
- G. Any other documents required to be provided pursuant to any section of this Article.

- H. Such additional information as the Village Clerk may require.

§ 78-5. Insurance requirements.

- A. Upon filing the application, the applicant must furnish a surety bond, cash or certified check of two thousand dollars (\$2,000.) to the Village Clerk to ensure that the applicant will clean the area and put the property in order at the conclusion of the amusement event. If the applicant fails to clean and restore the amusement area, or if damage is done to public or private property as a result of said amusement event, the Village Clerk may apply the bond, cash or check to the cost of cleanup or restoration and may recover from the organization such additional costs as may be incurred.
- B. All amusements must procure public liability insurance of not less than one million dollars (\$1,000,000.) for bodily injury and two hundred thousand dollars (\$200,000.) for damage to property.
- C. All insurance shall include the Village of Ballston Spa as a named insured and be noncancelable without ten (10) days' prior written notice to the Village Clerk.
- D. The Village Clerk may require an applicant to supply additional insurance coverage, if available, where the minimum amounts stated herein are insufficient in the opinion of the Village Clerk after considering the size, duration and hazard presented by the proposed amusement event.

§ 78-6. Registration of professional solicitors and charities.

- A. Every professional fund-raiser, commercial coventurer, professional solicitor and charitable organization, as each is defined by Article 7-A of the Executive Law of New York State, organizing, controlling or otherwise

involved in conducting an amusement event shall include with an application for such event proof of valid registration with the Secretary of State as such fundraiser, coventurer, solicitor or organization.

- B. With each application, a professional fund-raiser or commercial coventurer shall also submit proof that a surety bond naming him/her as obligor is on file with the Secretary of State.

§ 78-7. Restrictions and revocation.

No permit for an amusement event shall be issued, and any outstanding permit may be revoked if the Village Board determines that such amusement event includes any activity which, in the judgment of the Village Board, will disturb the order and peace of the village or will jeopardize the health, safety or welfare of the residents of the Village of Ballston Spa.

§ 78-8. Proof of inspection.

Prior to opening an amusement event to the public, the permit holder shall file proof with the Village Clerk that his/her mechanical rides have been inspected and found satisfactory by the New York State Department of Labor in compliance with § 202-b of the Labor Law.²

§ 78-9. Conditions on permits.

- A. Permits may be subject to conditions that the Village Board deems necessary to ensure proper sanitation, to prevent undue noise, to prevent fire hazards and to protect the public safety, health and welfare.
- B. All permits shall be subject to the hours of operation determined by the Village Board.

² Editor's Note: Section 202-b of the Labor Law was repealed 12-31-1983 by L. 1983, c. 876, § 9.

§ 78-10. Duration of permit.

The term of any permit shall not exceed six (6) days, and only two (2) permits may be issued per organization for each calendar year.

§ 78-11. Display of permit.

A permit pursuant to this Article must be conspicuously displayed during the operation of said amusements and be available for inspection by any person demanding such inspection, said display to be at the site or location of the amusement.

§ 78-12. Penalties for offenses.

Any person who shall erect, operate or maintain any amusement event without first having obtained a permit or who shall own the land on which such amusement event is located shall be guilty of a violation of this Article. Such violation is an offense punishable by a fine not to exceed five hundred dollars (\$500.) for each day such violation continues or by imprisonment for fifteen (15) days, or both such fine and imprisonment.

ANIMALS

Chapter 81

ANIMALS

ARTICLE I
Wiswall Park

- § 81-1. Animals prohibited on premises;
impoundment.
- § 81-2. Penalties for offenses.

ARTICLE II
Defecation by Dogs

- § 81-3. Purpose.
- § 81-4. Prohibitions.
- § 81-5. Penalties for offenses.
- § 81-6. Appearance ticket.

ARTICLE III
Rabies Control

- § 81-7. Purpose.
- § 81-8. Definitions.
- § 81-9. Vaccination required.
- § 81-10. Report of bites.
- § 81-11. Proof of vaccination; impoundment; failure
to confine.
- § 81-12. Report of rabies.
- § 81-13. Enforcement.

VILLAGE OF BALLSTON SPA CODE

§ 81-14. Penalties for offenses.

ARTICLE IV
Number of Cats Per Household

§ 81-15. Purpose and findings.

§ 81-16. Definitions.

§ 81-17. Restriction of number of cats.

§ 81-18. Penalties for offenses.

ARTICLE V
Control of Dogs and Cats

§ 81-19. Intent.

§ 81-20. Definitions.

§ 81-21. Animal Control Officer.

§ 81-22. Prohibited acts.

§ 81-23. Enforcement; appearance tickets.

§ 81-24. Trial procedure.

§ 81-25. Penalties for offenses.

§ 81-25.1. Educational programs.

ARTICLE VI
Livestock

§ 81-26. Intent.

§ 81-27. Definitions.

§ 81-28. Prohibited acts.

ANIMALS

§ 81-29. Enforcement.

§ 81-30. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

(Cont'd on page 8103)

ARTICLE I
Wiswall Park
[Adopted 4-12-1988]

§ 81-1. Animals prohibited on premises; impoundment.

No dog, cat or other domestic animal shall enter upon the confines of Wiswall Park. Any such animal found on the premises shall be impounded by the Dog Warden and taken to the Saratoga County Animal Shelter where the same shall be retained unless redeemed by the owner or otherwise dealt with in accordance with the law.

§ 81-2. Penalties for offenses. [Added 5-13-1996 by L.L. No. 1-1996]

Any person who violates any provisions of this Article shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

ARTICLE II
Defecation by Dogs
[Adopted 7-10-1995 by L.L. No. 3-1995]

§ 81-3. Purpose.

The Village of Ballston Spa, New York, hereby recognizes the need and benefit of its citizens in enhancing and maintaining the cleanliness and beauty of property owned and/or maintained by the Village of Ballston Spa, as well as private property owned by its residents. The village further recognizes the danger to public health, and particularly to young children, of accumulations of unremoved dog waste. The purpose of these provisions is to enact and enforce certain regulations concerning the activities of dogs within the village as those activities relate to the maintenance of clean and sanitary property.

§ 81-4. Prohibitions.

- A. Any person who owns or is in charge of any dog which defecates upon property owned and/or maintained by the Village of Ballston Spa or any public sidewalk shall immediately remove said waste product and dispose of it in a sealed, nonabsorbent, leakproof container. The waste material shall be disposed of by said person in a container used for the disposal of refuse. [Amended 5-14-2001 by L.L. No. 1-2001]
- B. These provisions shall also apply to private property in the Village of Ballston Spa, unless the owner of said property gives his or her permission for the deposit of said waste on his or her property.
- C. This section shall not apply to a blind person with a guide dog or otherwise disabled person with a dog trained to assist them nor to police or service dogs.

§ 81-5. Penalties for offenses.

Any person convicted of a violation of these provisions shall be deemed to have committed a violation and shall be subject to the following fines:

- A. A minimum fine of at least \$10 and not more than \$25 for the first conviction of a violation of these provisions.
- B. A minimum fine of at least \$25 and not more than \$50 for the second conviction of these provisions within one year of the first conviction of a violation of these provisions.
- C. A minimum fine of at least \$50 and not more than \$100 for the third conviction of a violation of these provisions within one

(Cont'd on page 8105)

year of the first conviction of a violation of these provisions.

- D. A minimum fine of at least one hundred twenty-five dollars (\$125.) and not more than two hundred fifty dollars (\$250.) for the fourth or additional convictions of a violation of these provisions within one (1) year of the first conviction of a violation of these provisions.

§ 81-6. Appearance ticket.

Any police officer in the employ of or under contract to the Village of Ballston Spa or any Animal Control Officer or peace officer who, acting pursuant to his or her special duties, shall observe a violation of these provisions or who shall have reason to believe that such violation shall have occurred shall issue and serve an appearance ticket to the person owning or in charge of the dog as referred to herein.

ARTICLE III

Rabies Control

[Adopted 7-10-1995 as L.L. No. 4-1995]

§ 81-7. Purpose.

The Village Board of Trustees finds that rabies is a highly virulent and almost uniformly fatal disease for which there is no known cure other than prevention. The disease is endemic to the wild mammal population from which it can be readily transmitted to domestic cats and dogs with consequent hazards of exposure to this disease to persons in this village. To protect such persons, the Board of Trustees has enacted this Article.

§ 81-8. Definitions.

As used and intended in this Article and for the purposes hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

ANIMAL CONTROL OFFICER — A Dog Control Officer as defined in § 114 of the New York State Agriculture and Markets Law who is responsible for enforcing village laws enacted concerning dogs and other animals.

CAT — Includes both male and female cats.

CONFINED — That such animal is securely confined or restrained and kept on the owner's premises either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place or, if the animal is being transported by the owner, that it is securely confined in a crate or other container or so restrained in a vehicle that it cannot escape therefrom.

DOG — Includes both male and female dogs.

OWNER — Includes any person or persons, firm, association or corporation who or which at any time owns or has custody and control of or harbors or is otherwise responsible for any cat or dog which is kept, brought or comes within the corporate limits of this city.

§ 81-9. Vaccination required.

No owner of a cat or dog shall keep or possess a dog or cat within the geographic limits of this village unless such animal has been vaccinated for rabies.

§ 81-10. Report of bites.

Every owner of a dog or cat shall immediately report to the Animal Control Officer every case where a person has been bitten by a dog or cat.

§ 81-11. Proof of vaccination; impoundment; failure to confine. [Amended 6-9-1997 by L.L. No. 3-1997]

- A. Every owner of a dog or cat, after a report pursuant to § 81-10 has been reviewed, must produce for the Animal Control Officer a current record of rabies vaccination. Failure to produce the same will result in impoundment of the animal at the Saratoga County Animal Shelter at the owner's sole cost and expense pending the pursuit, if any, of a proceeding under § 121 of the Agriculture and Markets Law and the directives of the Animal Control Officer pursuant to § 81-12 of this Code.
- B. Should the owner be able to produce a proof of current vaccination, then the animal shall be confined for a period of time as directed by the Health Officer and/or Animal Control Officer. Failure to comply shall be a violation of the provisions of this article.
- C. Every owner failing to confine a dog or cat after being directed to do so by the Health Officer and/or Animal Control Officer shall be guilty of violating the provisions of this article.

§ 81-12. Report of rabies.

Every dog or cat having rabies or suspected of being infected with rabies shall be reported immediately to the Animal Control Officer or Health Officer, and the owner shall promptly comply with any and all directions the Health Officer and/or the Animal Control Officer shall give with reference to the observation of such animal or the continued confinement, immunization or other disposition to be made of such animal under the provisions of Section 2.14 of Part 2 of the Sanitary Code, or otherwise.

§ 81-13. Enforcement.

The Police Department is hereby authorized and directed to enforce strictly all the provisions, rules and regulations of this

Article or any emergency orders issued by the Health Officer and/or Animal Control Officer.

§ 81-14. Penalties for offenses.

Every person violating the provisions of this Article shall, upon conviction, be guilty of an offense punishable by a fine of not less than \$50 nor more than \$100.

ARTICLE IV
Number of Cats Per Household
[Adopted 7-10-1995 as L.L. No. 5-1995]

§ 81-15. Purpose and findings.

The Village Board of Trustees finds that harboring of large numbers of cats within a single household poses problems to the public health, order, comfort, safety and well-being. Accordingly, this Article is enacted to prevent such concentrations of cats within a single household.

§ 81-16. Definitions.

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

CAT — Male or female cats, i.e., that animal known as felis domesticus.

HOUSEHOLD — A single apartment, a single-family occupancy house or single-occupancy unit within a multiple-occupancy habitation.

§ 81-17. Restriction of number of cats.

- A. There shall be no more than five cats kept or possessed within any household within the corporate geographic limits of the Village of Ballston Spa.

- B. Separate offenses. Each day on which a person keeps or possesses an unlawful number of cats shall constitute a separate offense.

§ 81-18. Penalties for offenses.

A violation of this Article shall be a violation punishable by a fine of not more than \$25 nor less than \$10. Notwithstanding the foregoing provisions of this

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section, the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional \$50 if the conviction is for a second violation of § 81-17 of this article, and the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional \$100 if the conviction is for a third or subsequent violation of § 81-17 of this article.

ARTICLE V

Control of Dogs and Cats

[Adopted 5-13-1996 by L.L. No. 1-1996]

§ 81-19. Intent.

The intent of this article is to preserve the public peace and good order of the Village of Ballston Spa by controlling the running at large of animals and to control other additional obnoxious behavior which may be a nuisance to the residents and occupants of this Village.

§ 81-20. Definitions.

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

ANIMAL CONTROL OFFICER — The position created by this Article, the purpose of which is to assist in the enforcement of the Agriculture and Markets Law generally and to enforce the provisions of this Article specifically.

AT LARGE — Other than on the premises of the owner, or on the premises of another person without the knowledge, consent or approval of the other person.

OWNER — Any person who harbors or keeps any dog or cat.

PERSON — Any individual, corporation, partnership, association or other organized group of persons or other legal entity.

SEVERE INJURY — Any physical injury that results in broken bones or lacerations requiring sutures or cosmetic surgery. [Added 3-13-2006 by L.L. No. 2-2006]

§ 81-21. Animal Control Officer.

There is hereby created in the Village of Ballston Spa the position of Animal Control Officer. Such person shall have the authority, duty and obligation to issue appearance tickets to enforce the provisions of the Agriculture and Markets Law generally and this article specifically.

§ 81-22. Prohibited acts.

A. Dogs. [Amended 9-13-2004 by L.L. No. 4-2004; 3-13-2006 by L.L. No. 2-2006]

- (1) It shall be unlawful and a violation of this article for any owner or any person harboring any dog in the Village of Ballston Spa to permit or allow such dog to:
 - (a) Run at large while not being restrained by a leash, chain or other suitable device under six feet in length unless the failure to utilize restraint by leash, chain or other suitable device is pursuant to the rules or guidelines established during the conduct of a sanctioned competitive dog show, approved by the Village Board, or any ancillary activity associated with such sanctioned event.
 - (b) Engage in habitual loud barking or howling or to conduct itself in a manner as to habitually

annoy any person other than the owner or person harboring the dog.

- (c) Cause damage or destruction to property or commit a nuisance on the premises of another.
 - (d) Chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such a person in reasonable apprehension of harm or injury.
 - (e) Cause severe injury to a person or domestic animal.
 - (f) Habitually chase or bark at motor vehicles or cycles.
- (2) Excused behavior. It shall be a defense to a prosecution under this article if the injury or damage caused by such dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog.
- (3) The use of extendable-type leashes shall be prohibited.
- B. It shall be unlawful for any owner of or any person harboring any cat to permit or allow such cat, while in the Village of Ballston Spa, to:
- (1) Be vicious or to spray or to defecate in such a way as to cause annoyance to any person other than the owner or person harboring such cat.
 - (2) Cause damage or destruction to property or to commit a nuisance upon the premises of a person other than the owner or person harboring such cat.
 - (3) Remain in the Village of Ballston Spa unless vaccinated currently against feline rabies.

§ 81-23. Enforcement; appearance tickets.

- A. This article shall be enforced by the Animal Control Officer or by the Village Police Department or any other enforcement officer.
- B. Any person who witnesses or suffers from a violation of the restrictions of this article may file verified information with the Animal Control Officer, who shall issue and serve an appearance ticket based upon such information. The appearance ticket shall conform with the requirements of the New York State Criminal Procedure Law. [Amended 3-13-2006 by L.L. No. 2-2006]

§ 81-24. Trial procedure.[Amended 3-13-2006 by L.L. No. 2-2006]

- A. The owner of an animal who is issued an appearance ticket pursuant to this Article herein may answer the same by registered or certified mail, return receipt requested, within five days of the violation(s) as hereunder provided in lieu of a personal appearance on the return date at the time and court specified in said appearance ticket.
- B. If the person charged with the violation admits to the violation as charged in the appearance ticket, he/she may complete the appropriate form on such appearance ticket and forward such form and appearance ticket to the office specified on such appearance ticket.
- C. If the person charged with the violation denies part or all of the violation as charged in the appearance ticket, he/she may complete the appearance ticket likewise prescribed for that purpose and forward such appearance ticket. Upon receipt, such answer shall be entered in the docket and a new return date established by said court officer. Such person shall be notified by return mail of the date and place of such return date and/or trial. If a person shall fail to appear at a return date when such is

provided for pursuant to this subsection, a summons or a warrant of arrest may be issued pursuant to the Criminal Procedure Law.

§ 81-25. Penalties for offenses. [Amended 3-24-2003 by L.L. No. 1-2003; 3-13-2006 by L.L. No. 2-2006]

A. Unless otherwise provided for in the Agriculture and Markets Law, a violation of this article shall be punishable as follows:

- (1) A first offense shall be punishable by a fine of \$250 and/or a sentence of 15 days' imprisonment.
- (2) A second offense within 10 years shall be punishable by a fine of \$500 and if said second offense includes a violation of § 81-22A(1)(c) or 81-22A(1)(e) by a fine of \$750 and/or a sentence of 15 days' imprisonment.
- (3) A third offense within 10 years shall be punishable by a fine of \$750 and if said third offense includes a violation of section § 81-22A(1)(c) or 81-22A(1)(e) by a fine of \$1,500 and/or a sentence of 15 days' imprisonment.
- (4) A fourth offense within 10 years shall be punishable by a fine of \$1,500 and if said fourth offense includes a violation of § 81-22A(1)(c) or 81-22A(1)(e), by a fine of \$5,000 and/or a sentence of 15 days' imprisonment.

B. In addition to the penalties set forth in Subsection A of this section, restitution for all damages and expenses must be awarded as part of any sentence.

§ 81-25.1. Educational programs. [Added 3-13-2006 by L.L. No. 2-2006]

A dedicated fund shall be established from the collection of fines pursuant to § 81-25 of this article for the purpose of establishing and promoting dog bite prevention education and

awareness programs within the community. Additionally, said funds will be used to sponsor and fund animal licensing initiatives and rabies vaccination clinics.

ARTICLE VI

Livestock

[Adopted 10-22-2001 by L.L. No. 5-2001]

§ 81-26. Intent.

The intent of this article is to preserve the public peace and good order of the Village of Ballston Spa by the prohibition of keeping of livestock within the Village which would create an unsafe environment and a nuisance to the residents and occupants of the Village.

§ 81-27. Definitions.

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

LIVESTOCK — Includes but is not limited to horses, goats, cows, chickens, ducks, hens, pigs, roosters, ponies, tigers, and lions or any animal that produces odor, unsanitary conditions, or is a danger or nuisance to the community.

§ 81-28. Prohibited acts.

It shall be unlawful to keep within the Village of Ballston Spa any livestock as defined in this article, except at authorized Village events.

§ 81-29. Enforcement.

This article shall be enforced by the Animal Control Officer or by the Village Police Department or any other enforcement officer.

§ 81-30. Penalties for offenses.

Unless as otherwise prescribed by the Agriculture and Markets Law, a violation of this article shall be punishable by a sentence of 15 days' imprisonment and/or a fine not to exceed \$250. Each day a violation occurs is considered a separate and distinct offense and may be charged as such.

Chapter 84**AUCTIONS**

§ 84-1. Permit required; fee.

§ 84-2. Applicability.

§ 84-3. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-25-1943 as Section 219 of the Ordinances of the Village of Ballston Spa. Amendments noted where applicable.]

§ 84-1. Permit required; fee. [Amended 5-13-1996 by L.L. No. 1-1996]

Any person or persons shall not offer or expose for sale at public auction within the Village of Ballston Spa any goods, wares, merchandise or personal property of any kind without procuring a permit to do so from the Clerk. Said Clerk may grant a license for such auction upon the payment of a fee in an amount to be set forth from time to time by resolution of the Board of Trustees.

§ 84-2. Applicability. [Amended 6-24-1996 by L.L. No. 2-1996]

This chapter shall not apply to sales by virtue of any legal proceedings or sales conducted by residents of the village for the proposed selling of their goods or property, nor shall this chapter apply to any person or entity located full time within the village conducting an auction as part of their ongoing commercial business.

§ 84-3. Penalties for offenses. [Amended 5-13-1996 by L.L. No. 1-1996]

Any person who violates any provision of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

Chapter 88**BINGO****§ 88-1. Conduct authorized.****§ 88-2. Sunday games.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 10-14-1958¹; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 125.

§ 88-1. Conduct authorized.

It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Village of Ballston Spa, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.

§ 88-2. Sunday games.

Any game of bingo conducted within the village pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."

¹ Editor's Note: This resolution was passed at a referendum on 11-11-1958.

Chapter 91**BLASTING****§ 91-1. Permission required; conditions.****§ 91-2. Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-25-1943 as Section 236 of the Ordinances of the Village of Ballston Spa. Amendments noted where applicable.]

§ 91-1. Permission required; conditions.

- A. Any person desiring to do any blasting within the limits of the Village of Ballston Spa must first make application to the Board of Trustees by written petition, which petition must state, among other things, the name of the owner of the property upon which blasting is desired to be done, the character of the material to be blasted and explosive to be used in so doing.
- B. The Board of Trustees, in granting permission to blast, may require the party so doing to give a bond to pay all damage that may be caused to public or private property.
- C. The Board of Trustees, in granting its consent, may do so upon such terms and conditions as it shall deem proper.

§ 91-2. Penalties for offenses.¹

Any person who violates any provision of this chapter shall be punishable by a fine of not more than two hundred fifty

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

Chapter 95**BUILDINGS, MOVING OF**

§ 95-1. Permission required; information; conditions.

§ 95-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-25-1943 as Section 30 of the Ordinances of the Village of Ballston Spa. Amendments noted where applicable.]

§ 95-1. Permission required; information; conditions.

- A. Any person or persons shall not at any time move any building or part of a building through or upon any of the public streets, alleys or lanes in the village unless by permission, in writing, of the Board of Trustees upon the conditions in such consent expressed.
- B. Every applicant for the removal of any building or part of a building upon or through any of the public streets, alleys or lanes of the village shall be required to set forth in his/her petition for permission to remove such building the name of the street or streets which he/she expects to move such building through or along and the place from and to which he/she intends to move the same, which petition shall be duly verified before the Board of Trustees shall act thereon.

§ 95-2. Penalties for offenses.¹

Any violation of any of the provisions of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment of not more than fifteen (15) days, or both.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 99**BUILDINGS, UNSAFE**

- § 99-1. Purpose; findings.**
- § 99-2. Title.**
- § 99-3. Definitions.**
- § 99-4. Requirements for buildings.**
- § 99-5. Investigation and report.**
- § 99-6. Village Board action upon consideration of report.**
- § 99-7. Contents of notice.**
- § 99-8. Service of notice.**
- § 99-9. Filing of notice.**
- § 99-10. Hearing.**
- § 99-11. Refusal to comply.**
- § 99-12. Assessment of expenses.**
- § 99-13. Private rights of action.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 7-10-1995 as L.L. No. 6-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

§ 99-1. Purpose; findings.

- A. Unsafe buildings pose a threat to life and property in the Village of Ballston Spa. Buildings (and structures) may**

become unsafe by reason of fire, the elements, age, abandonment, damage, poor maintenance, general deterioration, neglect or other cause. Such unsafe buildings (and structures) pose a hazard of fire, contagion and pestilence (through provision of harboring and breeding areas to rodents or other disease vectors) and injury due to dilapidation and unsafe condition. They diminish property values and affect adversely the health, safety and well-being of persons and property in the village. Through their presence they could blight this community and detract from its appearance and its reality as a safe, suitable and healthy place to live, work and raise families. This chapter proposes to provide for the protection, order, safety, health, comfort, general welfare and well-being of persons and property in the village pursuant to powers invested in the village by the New York State Constitution, Municipal Home Rule Law, Statute of Local Governments and Village Law and other laws by requiring that such unsafe buildings be repaired or demolished and removed.

- B. The Board of Trustees further finds that the repeal of the unsafe buildings provisions of Subsection 7-a of former § 89 of the Village Law of 1909 by L. 1972, c. 892, § 1, did not intend to remove from villages the power to address such insalubrious conditions but merely to replace the myriad of unwieldy specific powers bestowed on this class of municipality by the former § 89 with a "broad grant of general power" as provided by § 57 of such L. 1972 c. 892.

§ 99-2. Title.

This chapter shall be known as the "Unsafe Buildings Law" of the Village of Ballston Spa.

§ 99-3. Definitions.

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

BUILDING — Any building, structure or portion thereof used, formerly used or apparently now or formerly intended for residential, business or industrial purpose and/or the grounds adjacent thereto.

BUILDING INSPECTOR — The Building Inspector of the Village of Ballston Spa.

VILLAGE BOARD — The Village Board of Trustees of the Village of Ballston Spa.

§ 99-4. Requirements for buildings.

No building within the corporate geographic boundaries of the Village of Ballston Spa shall be kept, maintained, become or otherwise exist in such a manner as to be:

- A. Unreasonably dangerous or unsafe to the general public;
- B. A place of actual or potential rodent infestation;
- C. So unreasonably dilapidated, unreasonably poorly maintained, unreasonably deteriorated, unreasonably neglected or so unreasonably damaged as to comprise a hazard to the health, safety and/or well-being of persons and property in the village; or
- D. Unreasonably unsanitary.

§ 99-5. Investigation and report.

When in his/her own opinion or upon receipt of information that a building is violative of the standards contained in § 99-4 of this chapter, the Building Inspector and any other official duly appointed by the Village Board shall cause or make inspection thereof and report, in writing, to the Village Board of

his/her/their findings and recommendations in regard to the termination of such conditions.

§ 99-6. Village Board action upon consideration of report.

- A. The Village Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is violative of any of the requirements contained in § 99-4 of this chapter.
- B. The Village Board shall then order such violations of any requirement of § 99-4 of this chapter to be remedied, corrected, repaired and/or otherwise made safe and secure and/or the building's demolition and removal. The Village Board shall further order that a notice be posted and served upon the persons hereinafter stated in the manner hereinafter provided. The Board, in such order, shall determine such reasonable times in which such action must commence and be completed, having due regard for all the circumstances of the matter.

§ 99-7. Contents of notice.

The notice described in § 99-6B of this chapter shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building is violative of the requirements contained in § 99-4 of this chapter.
- C. An order outlining the manner in which the violation is to be remedied, corrected, repaired and/or otherwise made safe and secure and/or to be demolished and removed. The notice shall also contain a statement that such action must commence within such time after the service of the notice as the Village Board has, in its order referred to in § 99-6B hereof, determined and shall be

completed within such time after such service as the Village Board has, in its aforesaid order, determined unless the Village Board of Trustees, for good cause shown and in its discretion, extends such time.

- D. Notice of a hearing before the Village Board and the date, time and place thereof in relation to the violation of § 99-4 and the action ordered to be taken to address the same, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice and no more than twelve (12) days from the date of service of such notice.
- E. A statement that, in the event of failure or refusal to comply with the order directing action to be taken as aforesaid within the aforesaid times, the Village Board is authorized to provide for the remedy, correction and/or repair of the conditions and/or otherwise make the building safe and secure or provide for the building's demolition and removal as aforesaid and to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of such action, including but not limited to legal, surveying, engineering and architectural expenses.

§ 99-8. Service of notice.

The notice described in § 99-7 of this chapter shall be served by personal service of a copy thereof upon the owner, executor, administrator, legal representative, agent, lessee or any other person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes and/or records in the office of the County Clerk or, if such person cannot be reasonably found, by mailing such person, by registered mail, a copy of such notice directed to his/her last known address as shown by the above records; and by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and by securely affixing a copy of such notice upon the unsafe building.

§ 99-9. Filing of notice.

A copy of the notice served as provided herein shall be filed in the office of the Village Clerk of the Village of Ballston Spa.

§ 99-10. Hearing.

A hearing shall be held before the Village Board of Trustees at the time and place stated in the notice described in § 99-7 of this chapter.

§ 99-11. Refusal to comply.

- A. In the event of the refusal or failure of the persons notified herein to comply with said order of the Village Board within any time provided in the notice and after the hearing, the Village Board shall provide for the remedy, correction and/or repair of such condition or conditions and/or otherwise making the building safe and secure and/or the demolition and removal of such building. Such action may be taken either by village employees or by contract. Such action shall not differ substantially from that ordered pursuant to § 99-6B hereof and specified in the notice pursuant to § 99-7C hereof.
- B. The Village Board, prior to the commencement of such action, shall cause to be served upon the persons and in the manner provided in § 99-8 a final notice that the Board intends to provide for such action either by town employees or by contract and specifying which of such actions is to be taken.

§ 99-12. Assessment of expenses.

All expenses and costs incurred by the village in connection with the proceedings to take action authorized by this chapter and in connection with the taking of such action, including the cost of actually removing such building and all costs incidental

thereto, shall be a charge against the land on which the affected building is located and shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as the levy and collection of a special ad valorem levy.

§ 99-13. Private rights of action.

This chapter shall not be construed as to entitle any private person or entity to bring an action or proceeding to compel the Village Board or any person specified in § 99-8 of this chapter to take any action pursuant to this chapter regarding a violation of § 99-4 hereof.

Chapter 106**CURFEW**

- § 106-1. Title.**
- § 106-2. Policy; legislative intent.**
- § 106-3. Definitions and word usage.**
- § 106-4. Establishment; hours.**
- § 106-5. Exceptions.**
- § 106-6. Parental responsibility.**
- § 106-7. Police procedures.**
- § 106-8. Penalties for offenses.**

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

§ 106-1. Title.

This chapter shall be entitled an "Ordinance of the Village of Ballston Spa, Saratoga County, New York, Establishing a Curfew During Nocturnal Hours for Minor Children Under the Age of Seventeen (17) Years."

§ 106-2. Policy; legislative intent.

It is hereby declared to be the policy of the Village of Ballston Spa to minimize nocturnal crime, juvenile delinquency and vandalism and to prevent the destruction and damage of both public and private property. By this chapter, the Village of Ballston Spa seeks to promote the safety and general welfare of

the residents of the Village of Ballston Spa by prescribing, in accordance with prevailing community standards, regulations concerning the presence of minors on streets, roads, highways, public parks or other public areas of the village at night, all for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare. The Board finds that a curfew for minors meets a very local need and will be a significant factor in minimizing juvenile delinquency. This chapter takes into consideration also the danger hours for nocturnal crime and for accumulations of minors with potential risks incident to immaturity. Parental responsibility for the whereabouts of children is the norm; and as parental control increases, the likelihood of juvenile delinquency decreases, and there is a need for nocturnal curfew for minors to achieve, under local conditions, the purpose herein stated.

§ 106-3. Definitions and word usage.

- A. As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

MINOR — Any person under the age of seventeen (17), or in equivalent phrasing often herein employed, any person sixteen (16) or less years of age.

PARENT — Any person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis or as a person to whom legal custody has been given by order of court.

PUBLIC PARKS and PUBLIC AREAS — Includes, but is not limited to, recreational and other places, whether privately or publicly owned and open to the general public, and those places visited by many persons and accessible to the public.

REMAIN or LOITER — To stay behind, to tarry or to stay unnecessarily upon the streets, roads, highways, public parks or other public area, including the

congregating in groups (or of interacting minors) totaling four (4) or more persons in which any minor involved would not be using the streets, roads, highways, public parks or other public areas for ordinary or serious purposes such as mere passage or proceeding home. To implement this definition with additional precision and precaution, numerous exceptions are expressly set forth in § 106-5 hereof so that this is not a mere prohibitory-type curfew Local chapter.

STREET, ROAD and HIGHWAY — A way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The terms "street", "road" and "highway" include the legal right-of-way, including but not limited to traffic lanes, curbs, sidewalks, whether paved or unpaved, and any grass plots or other ground found within the legal right-of-way of a "street," "road" or "highway." The terms "street," "road" and "highway" apply irrespective of what they are called or formally named, whether an alley, avenue, court, drive, boulevard or otherwise.

TIME OF NIGHT — Based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight saving time, generally observed at that hour by the public in the village.

- B. The word "shall" is mandatory; the word "may" is permissive.

§ 106-4. Establishment; hours.

It shall be unlawful and a violation of this chapter for any person sixteen (16) or less years of age [under seventeen (17)] to be or loiter or remain in or upon the streets, roads, highways, public parks or other public area within the Village of Ballston Spa at night during the period ending at 6:00 a.m. and beginning at 10:00 p.m.

§ 106-5. Exceptions.

In the following exception cases, a minor on or upon a village street, road, highway, public park or other public area during the nocturnal hours for which § 106-4 is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not be considered in violation of this chapter:

- A. When accompanied by a parent of such minor.
- B. When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.
- C. When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the intention of such exercise by exhibiting to Police Department personnel a written statement, signed by such minor and countersigned by a parent of such minor, with their home address and telephone number, specifying when, where and in what manner said minor will be on or upon the streets, roads, highways, public parks or public areas at night (during hours when this chapter is otherwise applicable to said minor) in the exercise of a First Amendment right specified in such statement.
- D. In case of reasonable necessity, but only after such minor's parent has communicated to the Village Police Department personnel the facts establishing such reasonable necessity relating to specified streets, roads, highways, public parks or other public areas at a designated time for a described purpose, including points of origin and destination. A copy of such communication or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of such parent and minor, shall be admissible evidence.

- E. When the minor is on the sidewalk or the area immediately in front of the place where such minor resides or is on the sidewalk or the area immediately in front of either next door neighbor not communicating an objection to the Police Department or an officer thereof.
- F. When authorized by special permit from the Village Mayor, carried on the person of the minor thus authorized, as follows: When necessary nighttime activities of a minor may be inadequately provided for by other provisions of this chapter, then recourse may be had to the Mayor of the village for a special permit as the circumstances warrant. Upon the Mayor's finding of necessity for the use of the streets, roads, highways, public parks or other public areas to the extent warranted by a written application signed by a minor and by a parent of such minor, if feasible, stating the name, address and telephone number of a parent thereof; the height, weight, sex, color of eyes and hair and other physical characteristics of such minor; the necessity which requires such minor to remain upon the streets, roads, highways, public parks or other public areas during the curfew hours otherwise applicable; and the route to be taken and the beginning and ending of the period of time involved by date and hour, the Mayor may grant a permit, in writing, for the use by such minor of such streets, roads, highways, public parks or other public areas at such hours as in the Mayor's judgment may be necessary. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously, either to the Mayor or, if unavailable, to the police officer authorized by the Mayor to act on his/her behalf in an emergency at the police station.
- G. When authorized by resolution passed by the Village Board of Ballston Spa in other similar cases of reasonable necessity, similarly handled but adapted to necessary nighttime activities of more minors than can readily be dealt with on an individual special permit

basis by the Mayor. Normally, such resolution by the Village Board permitting use of the streets, roads, highways, public parks or other public areas should be passed sufficiently in advance to permit appropriate publicity through news media and through other agencies, such as schools, and shall define the activity, the scope of the use of the street, roads, highways, public parks or other public area permitted, the period of time involved, not to extend more than thirty (30) minutes beyond the time for termination of such activity, and the reason for finding that such resolution is reasonably necessary.

- H. When the minor carries a certified card of employment, renewable each calendar month when the facts so warrant, dated or reissued not more than forty-five (45) days previously, signed by the Chief of Police and briefly identifying the minor, the addresses of his/her home and of his/her place of employment and his/her hours of employment.
- I. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. This clearly exempts bona fide interstate movement through the Village of Ballston Spa. This also exempts interstate travel beginning or ending in the Village of Ballston Spa.

§ 106-6. Parental responsibility.

It shall be unlawful and a violation of this chapter for a parent, as defined herein, having legal custody of a minor, knowingly to permit or by inefficient control to allow such minor to be or remain or loiter upon any street, road, highway, public park or other public areas of the village under circumstances not constituting an exception to, or otherwise beyond the scope of, this chapter. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the location or whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community

standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

§ 106-7. Police procedures. [Amended 11-11-1996 by L.L. No. 4-1996]

Any law enforcement officer, upon finding or having attention called to any minor on or upon the street, roads, highways, public parks or other public areas of the village in prima facie violation of this chapter, shall ascertain the name, address and age of said minor and contact said minor's parents or guardian and have them retrieve the minor. In the case of a first violation by a minor, the Chief of Police or, in the event of his/her absence, the officer in charge shall send, by certified mail, written notice of said violation with a warning that any subsequent violation may result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties as hereinafter set forth. A copy of said written notice of violation shall be placed on file in the Police Department.

§ 106-8. Penalties for offenses.

Any person convicted for violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days' imprisonment, or both.

Chapter 114**FAIR HOUSING**

- § 114-1. Purpose; authority.**
- § 114-2. Definitions and word usage.**
- § 114-3. Discrimination in the sale or rental of housing.**
- § 114-4. Discrimination in the financing of housing.**
- § 114-5. Discrimination in the provision of brokerage services.**
- § 114-6. Exceptions.**
- § 114-7. Administration.**
- § 114-8. Miscellaneous provisions.**
- § 114-9. Title.**
- § 114-10. Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-14-1991 as L.L. No. 3-1991. Amendments noted where applicable.]

§ 114-1. Purpose; authority.

For the purpose of providing and ensuring fair housing opportunities for all within the Village of Ballston Spa, the Village Board of the Village of Ballston Spa in the County of Saratoga, State of New York, under the authority of the General Municipal and Village Laws, hereby obtains, enacts and publishes this chapter.

§ 114-2. Definitions and word usage.

- A. General. For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural, words used in the present tense include the future tense, the word "person" includes a corporation as well as an individual, and the word "shall" is always mandatory.
- B. Specific words or phrases. For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

DISCRIMINATORY HOUSING PRACTICE — An act that is unlawful under §§ 114-3, 114-4 and 114-5.

DWELLING — Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILY — Includes a single individual.

PERSON — Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

TO RENT — Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

§ 114-3. Discrimination in the sale or rental of housing.

Except as exempted by § 114-6, it shall be unlawful within the Village of Ballston Spa:

- A. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex or national origin.
- B. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.
- C. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex or national origin or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a persons or persons of a particular race, color, religion, sex or national origin.

§ 114-4. Discrimination in the financing of housing.

It shall be unlawful within the Village of Ballston Spa for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying there for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him/her in the fixing of the

amount, interest rate, duration or other terms or conditions of such loans or other financial assistance because of the race, color, religion, sex or national origin of such person or of any person associated with him/her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 114-6.

§ 114-5. Discrimination in the provision of brokerage services.

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

§ 114-6. Exceptions.

A. Sales/rentals by owners. Nothing in § 114-3 (other than Subsection C) shall apply to:

- (1) Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the recent resident of such house prior to such sale, the exception granted by this subsection shall apply only with respect to one (1) such sale within any

twenty-four-hour period; provided, further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his/her behalf under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at one (1) time; provided, further, that the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person and without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of § 114-3 of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as may be necessary to perfect or transfer the title; or

- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one (1) of such living quarters as his/her residence.
- (3) For the purpose of this exemption, a person shall be deemed to be in the business of selling or renting dwellings if:
 - (a) He/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;

- (b) He/she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (c) He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.
- B. Sales/rentals by religious organizations. Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sales, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such person unless membership in such religion is restricted on account of race, color, sex or national origin, nor shall anything in this chapter prohibit a private club not in fact open to the public which, as an incident to its primary purpose or purposes, provides lodging which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

§ 114-7. Administration.

- A. Authority and responsibility. The authority and responsibility for publicizing, administering and enforcing this chapter shall be in the village's Fair Housing Officer, to be designated by the Mayor of the Village of Ballston Spa.
- B. Violations. Violations of this chapter shall be reported in person or in writing to the village's Fair Housing Officer.

- C. Enforcement. Where sufficient cause exists to believe that the terms of this chapter have been violated, the Fair

Housing Officer shall institute a suit in Village Court against the alleged violator.

§ 114-8. Miscellaneous provisions.

- A. Amendment. The Village Board may, on its own initiative or on petition, amend, supplement or repeal the provisions of this chapter in conformity with applicable law after public notice and hearing.
- B. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

§ 114-9. Title.

This chapter shall be known and may be cited as the "Village of Ballston Spa Fair Housing Law."

§ 114-10. Penalties for offenses.¹

Any person who violates any provision of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 116

FENCES

§ 116-1. Location restrictions.

§ 116-2. Penalties for offenses.

§ 116-3. Approval required.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 1-27-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

§ 116-1. Location restrictions.

No fence shall be erected within the confines of the Village of Ballston Spa closer than six inches to the boundary line of any plot or lot of land within said Village.

§ 116-2. Penalties for offenses.

- A. A violation of this chapter shall constitute disorderly conduct, and a person violating this chapter shall and hereby is declared a disorderly person subject to arrest, prosecution and punishment provided by § 338 of the Village Law.¹
- B. The penalty for each violation of this chapter shall be and is hereby fixed at \$10 per day for each and every day that any fence is allowed to remain in violation of this

¹ Editor's Note: Section 338 of the prior Village Law was omitted from the current Village Law.

chapter after written notice to remove has been forwarded to the owner thereof.

§ 116-3. Approval required.

No fence shall be erected within said Village without first obtaining approval of the Building Inspector as to its location in compliance with this chapter.

FIRE PREVENTION

Chapter 117

FIRE PREVENTION

**ARTICLE I
Inspections**

- § 117-1. **Inspection of premises.**
- § 117-1.1. **Open burning.**
- § 117-2. **Removal of dangerous materials; failure to comply.**
- § 117-3. **Penalties for offenses.**

**ARTICLE II
Conduct at Fires**

- § 117-4. **Obedience to officers.**
- § 117-5. **Penalties for offenses.**

**ARTICLE III
Administration and Enforcement**

- § 117-6. **Title.**
- § 117-7. **Purpose.**
- § 117-8. **Conflicts with other provisions.**
- § 117-9. **Designation of enforcement officials.**
- § 117-10. **Powers and duties of enforcement officials.**
- § 117-11. **Records and reports.**
- § 117-12. **Revocation of building permits.**
- § 117-13. **(Reserved)**

§ 117-1 VILLAGE OF BALLSTON SPA CODE § 117-1.1

- § 117-14. Inspections; records.
- § 117-15. Certificates of occupancy.
- § 117-16. Unlawful acts; failure to comply.
- § 117-17. Additional remedies.
- § 117-18. Solid-fuel-burning heating appliances, chimneys and flues.
- § 117-19. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Inspections

[Adopted 5-25-1943 as Section 136
of the Ordinances of the Village of Ballston Spa]

§ 117-1. Inspection of premises. [Amended 12-22-2003 by L.L. No. 4-2003]

It shall be the duty of the Building Inspector, or a certified code compliance technician under the direction of the Building Inspector, to inspect as often as may be necessary the public portions of all buildings within the Village for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of the provisions or intent of any ordinance, law, rule or regulation of the Village or the State of New York affecting fire hazard.

§ 117-1.1. Open burning. [Added 10-22-2001 by L.L. No. 4-2001]

- A. It shall be unlawful within the Village of Ballston Spa for a person to burn materials outdoors without the consent of the Fire Chief, Assistant Fire Chief, or Fire

Code Officer. Said prohibition shall apply to bonfires, controlled burns, leaves, rubbish, burning barrels or any other open flames. Nothing contained herein shall preclude the preparation of food; provided, however, that said cooking apparatus does not discharge inordinate amounts of ash or cinders as to cause a public nuisance or danger.

- B. Should approval be granted for open burning by the Fire Code Enforcement Officer, or Assistant Fire Chief, such open burning shall comply with any requirements which the Fire Code Enforcement Officer, Fire Chief or Assistant Fire Chief shall require.

§ 117-2. Removal of dangerous materials; failure to comply.

- A. Whenever the Building Inspector finds, in any building or upon any premises or other place, combustible or explosive matter or dangerous accumulation of rubbish or unnecessary accumulation of wastepaper, boxes, shavings or any other highly inflammable materials especially liable to fire and which is so situated as to endanger property or any other hazardous condition liable to cause fire or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows liable to interfere with the operations of the Fire Department or egress of the occupants in case of fire, he/she shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupants of such buildings or premises, subject to appeal within 24 hours to the Mayor, who shall, within 10 days, review such order and file his/her decision thereon, and, unless the order is revoked or modified, it shall remain in full force and be obeyed by such owner or occupant. **[Amended 12-22-2003 by L.L. No. 4-2003]**
- B. Any owner or occupant failing to comply with such order within 10 days after said appeal shall have been determined or, if no appeal is taken, then within 10 days

after the service of the said order shall be liable to a penalty as hereinafter stated.

- C. The service of any such order shall be made upon the occupant of the premises to whom it is directed by either delivering a true copy of the same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises or, in case no person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance to said premises. Whenever it may be necessary to serve such order upon the owner of a premises, such order may be served by delivering to and leaving with said person a true copy of said order or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address.

§ 117-3. Penalties for offenses. [Amended 5-13-1996 by L.L. No. 1-1996]

Any person or persons, firm or corporation violating any of the provisions of this article shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

**ARTICLE II
Conduct at Fires
[Adopted 5-25-1943 as Section 137
of the Ordinances of the Village of Ballston Spa]**

§ 117-4. Obedience to officers.

All persons who may be present at any fire shall obey the orders of the Mayor, the Chief of Police, police officers, Chief Engineer or Assistant Engineer of the Fire Department in the extinguishment of fires and the removal of property.

§ 117-5. Penalties for offenses. [Amended 5-13-1996 by L.L. No. 1-1996]

Any person who shall neglect or refuse to obey such orders shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

ARTICLE III

Administration and Enforcement

[Adopted 5-13-1996 by L.L. No. 1-1996]

§ 117-6. Title.

This article shall be known as the "Uniform Fire Prevention and Building Code Administration and Enforcement Law."

§ 117-7. Purpose. [Amended 12-22-2003 by L.L. No. 4-2003]

It is the purpose of this article to provide for the administration and enforcement of the Uniform Fire Prevention and Building Code established by Article 18 of the Executive Law of the State of New York as the same may be applicable to the Village of Ballston Spa, New York, to implement a policy of clean, safe and sanitary conditions within the Village.

§ 117-8. Conflicts with other provisions.

Where the provisions of this article conflict with or impose a different requirement than any other provisions of the Village of Ballston Spa Code or any rule or regulation adopted thereunder, the provision which establishes the higher standard or requirement shall govern.

§ 117-9. Designation of enforcement officials. [Amended 12-22-2003 by L.L. No. 4-2003]

It shall be the duty of the Building Inspector to administer and enforce the Uniform Fire Prevention and Building Code and the provisions of this article.

§ 117-10. Powers and duties of enforcement officials. [Amended 12-22-2003 by L.L. No. 4-2003]

- A. The Building Inspector shall administer and enforce all of the provisions of the Uniform Fire Prevention and Building Code and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.
- B. The Building Inspector shall receive applications and issue permits, subject to the fee provisions of § 205-68B of this Code for the erection, alteration, removal and demolition of buildings or structures or parts thereof. Prior to the issuance of such permit, the Building Inspector shall examine the premises for which such applications have been received for the purpose of ensuring compliance with the Uniform Fire Prevention and Building Code and other laws, ordinances and regulations governing building construction.
- C. The Building Inspector shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of the Uniform Fire Prevention and Building Code and other applicable laws, ordinances and regulations. He shall make all inspections which are necessary or proper for the carrying out of his duties.
- D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws,

ordinances or regulations covering building construction, the Building Inspector may require the performance of tests in the field by experienced professional persons or by a credited and authoritative testing laboratory or service bureau or agency.

E. In the furtherance of the duties of the Building inspector as provided for in this article, said Inspector shall institute and perform the following inspections in addition to those otherwise required in this article:

- (1) Construction inspections where a building permit has been issued at such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detection systems and exit features.
- (2) Inspections where a certificate of occupancy or a certificate of compliance is required, prior to its issuance.
- (3) Firesafety inspections of areas of public assembly, defined in Part 606 of Title 9 of the official compilation of the New York Codes, Rules and Regulations, at least once a year.
- (4) Fire safety inspections of all multiple dwellings and all nonresidential occupancies or mixed uses, at periodic intervals consistent with local conditions (see Title 19 of the New York Codes, Rules and Regulations, Administration and Enforcement of the Uniform Fire Prevention and Building Code, Part 444), as follows:
 - (a) Areas of public assembly: at least once every 12 months.
 - (b) Gas stations: at least once every six months.
 - (c) Petroleum bulk storage: at least once every six months.

§ 117-10 VILLAGE OF BALLSTON SPA CODE § 117-12

- (d) All buildings open to the public: periodically, consistent with local conditions.
- (e) All common areas to multiple dwellings (not one- or two-family dwellings): consistent with local conditions.
- (f) Any building, use or occupancy: during an emergency or for a bona fide complaint.

§ 117-11. Records and reports. [Amended 12-22-2003 by L.L. No. 4-2003]

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by them, including all applications received, inspection reports and notices of orders issued.
- B. The Building Inspector shall, as directed, submit to the Village Board of Trustees a written report and summary of all business conducted by them, including orders and notices promulgated, inspections and tests made and appeals or litigation pending.

§ 117-12. Revocation of building permits. [Amended 12-22-2003 by L.L. No. 4-2003]

The Building Inspector may revoke a building permit theretofore issued and approved in the following instances.

- A. Where he/she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where he/she finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

- C. Where he/she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

§ 117-13. (Reserved)¹

§ 117-14. Inspections; records. [Amended 12-22-2003 by L.L. No. 4-2003]

- A. Before a certificate of occupancy is issued in the Village of Ballston Spa, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy, and he/she may conduct such inspection as he/she deems appropriate, from time to time, during and upon completion of the work for which a building permit has been issued.
- B. There shall be maintained by the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the Uniform Fire Prevention and Building Code and other applicable laws.

§ 117-15. Certificates of occupancy. [Amended 12-22-2003 by L.L. No. 4-2003]

- A. Issuance.

¹ Editor's Note: Former § 117-13, Right of entry, was deleted 12-22-2003 by L.L. No. 4-2003.

- (1) When, after final inspection, it is found that the proposed work has been completed in accordance with the Uniform Fire Prevention and Building Code and other applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall approve the issuance of a certificate of occupancy, which certificate shall be issued by the Village Clerk.
 - (2) If it is found that the proposed work has not been properly completed, the Building Inspector shall refuse to approve the issuance of a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the Uniform Fire Prevention and Building Code and other applicable building regulations.
- B. Tests for compliance with standards. Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the Uniform Fire Prevention and Building Code or the applicable building laws, ordinances or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 117-16. Unlawful acts; failure to comply. [Amended 12-22-2003 by L.L. No. 4-2003]

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use or occupy or maintain any building or structure or portion thereof in violation of any of the provisions of this article or to fail in any manner to comply with the notice, directive or order of the Building Inspector or to construct, alter or use and occupy any building or

structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. For each offense against any of the provisions of the Uniform Fire Prevention and Building Code or of this article or any regulations made pursuant thereto or failure to comply with a written notice or order of any Building Inspector within the time fixed for compliance therewith, the owner, occupant, builder, architect, contractor or their agents or any other person who commits, takes part or assists in the commission of any such offense or who shall fail to comply with a written order or notice of any Building Inspector shall be subject to the terms and provisions of § 382 of the Executive Law.

§ 117-17. Additional remedies.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises, and those remedies shall be in addition to the penalties prescribed in § 382 of the Executive Law.

§ 117-18. Solid-fuel-burning heating appliances, chimneys and flues.

- A. Prior to the installation of any solid-fuel-burning heating appliance, chimney or flue in any dwelling used as a residence, the owner thereof or his/her agent shall first secure a building permit from the Village Clerk.
- B. The Building Inspector shall cause an inspection to be made of the solid-fuel-burning heating appliance, chimney or flue at a time when such inspection will best determine conformity of such installation with the Uniform Fire Prevention and Building Code; provided,

however, that the Building Inspector may waive such inspection for good cause shown. **[Amended 12-22-2003 by L.L. No. 4-2003]**

- C. Upon approval of such installation, the Building Inspector shall issue a certificate evidencing compliance with the appropriate provision of the Uniform Fire Prevention and Building Code. **[Amended 12-22-2003 by L.L. No. 4-2003]**
- D. No owner of any dwelling used as a residence shall operate or cause to be operated any solid-fuel-burning heating appliance until such installation, including chimney and flue, has been approved and a certificate indicating such approval obtained from the Building Inspector. **[Amended 12-22-2003 by L.L. No. 4-2003]**
- E. The issuance of such certificate of compliance shall not be deemed to give rise to any claim or cause of action for damages against the Village of Ballston Spa or the Building Inspector for damages resulting from the operation or use of such solid-fuel-burning heating appliance, chimney or flue. **[Amended 12-22-2003 by L.L. No. 4-2003]**
- F. The fees for such inspection shall be paid by the owner of such property or his/her agent in a sum which shall be determined from time to time by the Board of Trustees.
- G. Notwithstanding the foregoing provisions, in the event of an emergency where a delay occasioned by the requirement of securing a building permit could reasonably be expected to cause irreparable damage to the property or serious personal injury to the occupants or other person, the owner or his/her agent may commence such installation without first obtaining such building permit, provided that application therefor is filed within three business days after such work is commenced.

§ 117-19

FIRE PREVENTION

§ 117-19

§ 117-19. Penalties for offenses.

Any violation of this article shall be punishable by a fine not to exceed \$250.

FLOOD DAMAGE PREVENTION

Chapter 120

FLOOD DAMAGE PREVENTION

- § 120-1. Findings.**
- § 120-2. Purpose.**
- § 120-3. Objectives.**
- § 120-4. Definitions and word usage.**
- § 120-5. Applicability.**
- § 120-6. Designation of special flood hazard areas.**
- § 120-7. Interpretation, conflict with other laws.**
- § 120-8. Penalties for offenses.**
- § 120-9. Warning and disclaimer of liability.**
- § 120-10. Designation of local administrator.**
- § 120-11. Development permit.**
- § 120-12. Duties of local administrator.**
- § 120-13. General standards for flood hazard reduction.**
- § 120-14. Specific standards for flood hazard reduction.**
- § 120-15. Floodways.**
- § 120-16. Appeals Board.**
- § 120-17. Conditions for variances.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 9-29-1988 as L.L. No. 2-1988. Amendments noted where applicable.]

GENERAL REFERENCES

**Subdivision of land — See Ch. 178.
Zoning — See Ch. 205.**

§ 120-1. Findings.

The Board of Trustees of the Village of Ballston Spa finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ballston Spa 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.

§ 120-2. 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 naturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 120-3. 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 and 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.

§ 120-4. Definitions and word usage.

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.

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 AD or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3)

feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

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

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

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

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

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

CELLAR — See “basement.”

COASTAL HIGH HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone VI – 30, VE, VO or V.

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

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

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

- A. The overflow of inland or tidal waters; or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

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

FLOODWAY — See "regulatory floodway."

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

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

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

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

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

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

MOBILE HOME — See "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the “start of construction” commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — See “base flood.”

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

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 120-12B of this chapter.

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

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

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

SUBSTANTIAL IMPROVEMENT:

- A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:
 - (1) Before the improvement or repair is started; or
 - (2) If the structure has been damaged and is being restored, before the damage occurred.
- B. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

§ 120-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Ballston Spa.

§ 120-6. Designation of special flood hazard areas.
[Amended 9-12-1989 by L.L. No. 5-1989; 9-11-1995
by L.L. No. 7-1995]

- A. The areas of special flood hazard for the Village of Ballston Spa, Community No. 360710, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (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, New York, (all jurisdictions) as shown on Index No. 36091C0000 and panels 0438, 0439, 0551, 0552, 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 Village of Ballston Spa Clerk's office.

§ 120-7. Interpretation, conflict with other laws.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 120-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions or conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Ballston Spa 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 §§ 120-16 and 120-17 will be declared noncompliant and notification shall be sent to the Federal Emergency Management Agency.

§ 120-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Ballston Spa, 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.

§ 120-10. Designation of local administrator.

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

§ 120-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 120-6. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

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

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 120-13C(1).
- (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 120-14.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

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

§ 120-12. Duties of local administrator.

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

- A. Permit application review. The local administrator shall:
- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An

engineering study may be required of the applicant for this purpose.

- (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of § 120-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 120-6, Designation of special flood hazard areas, 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 § 120-13D in order to administer § 120-14, Specific standards for flood hazard reduction, and § 120-15, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
 - (1) Obtain and record the actual elevation in relation to mean sea level of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation in relation to mean sea level to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 120-13 and 120-14.

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

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of firm boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 120-6 and/or § 120-12B, when available, shall be used to accurately delineate the area of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator.

Disregard of a stop-work order shall be subject to the penalties described in § 120-8 of this chapter.

- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 120-8 of this chapter.

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

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to § 120-12G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 120-13. General standards for flood hazard reduction.

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

A. Anchoring.

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

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

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

a professional engineer's or architect's certification is required.

- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazard set forth in § 120-12A(3). This may require the submission of

additional technical data to assist in the determination.

- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 120-12B or Subsection D(4) above and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 120-12B, the requirements of § 120-15, Floodways, shall apply.

§ 120-14. Specific standards for flood hazard reduction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 120-6, Designation of special flood hazard areas, and § 120-12B, Use of other base flood and floodway data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any resident structure shall:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
 - (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for

every square foot of enclosed area subject to flooding shall be provided.

- (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

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

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

- (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Opening may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
- (a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (3) The local administrator shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 120-12B or two (2) feet above the highest adjacent grade where no elevation data is available.
- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated

at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 120-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (See § 120-4, Definitions and word usage). The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 120-6 and 120-12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 120-16. Appeals Board.

- A. The Zoning Board of Appeals, as established by the Village of Ballston Spa, 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.

§ 120-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 120-16D(1) through D(12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre,

the technical justification required for issuing the variance increases.

- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- 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; and
 - (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, 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 that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 125**GAMES OF CHANCE**

§ 125-1. Statutory authority; title.

§ 125-2. Definitions.

§ 125-3. Games of chance authorized.

§ 125-4. Sunday games.

§ 125-5. Control and supervision of games.

§ 125-6. Effective date; referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 3-15-1977 as L.L. No. 2-1977.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 88.

§ 125-1. Statutory authority; title.

This chapter is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York and shall be known as the "Games of Chance Law of the Village of Ballston Spa."

§ 125-2. Definitions.

The words and terms used in this chapter shall have the same meaning as such words and terms which are used in

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Article 9-A of the General Municipal Law, unless otherwise provided herein or the context requires a different meaning:

OFFICER — The enforcement officer of the Village of Ballston Spa.

VILLAGE — The Village of Ballston Spa.

§ 125-3. Games of chance authorized.

Games of chance may be conducted in the village by an authorized organization after obtaining a license therefor in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Racing and Wagering Board and this chapter.

§ 125-4. Sunday games.

The conduct of games of chance on Sundays is authorized, except as otherwise provided in Article 9-A of the General Municipal Law.

§ 125-5. Control and supervision of games.²

The Enforcement Officer of the Village of Ballston Spa shall exercise control over and supervision of all games of chance.

§ 125-6. Effective date; referendum.

This chapter shall take effect immediately and upon filing with the Secretary of State after approval thereof by the voters of the village voting thereon at the regular village election to be held in the village of Ballston Spa on March 15, 1977.³

² Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: This law was passed at a referendum on 3-15-1977.

Chapter 129**GASOLINE STATIONS****ARTICLE I****Abandoned Stations**

§ 129-1. Removal of tanks and gasoline tanks.

§ 129-2. Removal of buildings.

§ 129-3. Failure to comply.

§ 129-4. Time limitations.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa: Art. I, 4-9-1974 as L.L. No. 1-1974. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 205.

ARTICLE I**Abandoned Stations**

[Adopted 4-9-1974 as L.L. No. 1-1974]

§ 129-1. Removal of tanks and gasoline tanks.

In the event that any commercial establishment offering gasoline and/or liquefied petroleum products for resale does not sell or offer such gasoline and/or liquefied petroleum products for resale for a period of three (3) months, wherein there is no continuous business operation for at least four (4) continuous weeks in said three-month period as measured from the first day of nonuse, then the owner and/or lessee of such commercial establishment shall immediately remove the tanks and gasoline pumps from the site of the same. In lieu of removing the tanks, said owner and/or lessee shall remove the gasoline and/or

liquefied petroleum products therefrom and fill all storage tanks with sand.

§ 129-2. Removal of buildings.

In the event that the operation of any commercial establishment offering gasoline and/or liquefied petroleum products for resale is discontinued for a period of three (3) years after the effective date of this Article, wherein there is no continuous operation for a period of at least three (3) continuous months out of said three-year period, then the same shall be considered as abandoned, and all buildings shall be removed and the property leveled, graded, landscaped and seeded. This section shall not be applicable where any such commercial establishment has been converted to a use permitted by Chapter 205, Zoning, as the same shall exist now or as the same shall be amended from time to time.

§ 129-3. Failure to comply.

In the event of failure to comply with any of the foregoing within thirty (30) days after the issuance of a written directive to do so by the Board of Trustees of the Village of Ballston Spa, then the Village of Ballston Spa may take such steps as it deems necessary to enforce these conditions and add all costs and expenses thereof incurred therein to the next annual tax bill covering the property on which said commercial establishment is located and collect the same in the same manner as unpaid taxes.

§ 129-4. Time limitations.

In the event that there exists any commercial establishment within the Village of Ballston Spa which formerly offered gasoline and/or liquefied petroleum products for resale and is not now offering gasoline and/or liquefied petroleum products for resale at the present time, the time limitations contained in

§ 129-4

GASOLINE STATIONS

§ 129-4

§§ 129-1 and 129-2 above commence to run upon the effective date of this Article.

Chapter 147**NOISE**

§ 147-1. Title.

§ 147-2. Statement of policy.

§ 147-3. Prohibited acts.

§ 147-4. Enforcement.

§ 147-5. Penalties for offenses.

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

§ 147-1. Title.

This chapter shall be known as the "Village of Ballston Spa Noise Control Law."

§ 147-2. Statement of policy.

It is hereby declared to be the policy of the Village of Ballston Spa to safeguard the right of its residents within the privacy of their homes to be free from intrusive unwanted sounds. It is the policy of the Village of Ballston Spa to establish standards and enforcement procedures and penalties to resolve problems of noise which is disturbing to residents.

§ 147-3. Prohibited acts.

A. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound

level which exceeds the limits set forth for the receiving land use category stated below when measured at or within the property boundary of the receiving land use:

Receiving Land Use Category	Time	Sound Level
		Limit (dBa)
Residential Zones R-1, R-2	6:00 a.m. to 7:00 p.m.	57
	7:00 p.m. to 6:00 a.m.	53
Commercial Zones CBD, C and M	7:00 a.m. to 9:00 p.m.	64
	9:00 p.m. to 7:00 a.m.	60

B. For any source of sound which emits a pure tone, a discrete tone or impulsive sound, the maximum sound limits set forth above shall be reduced by five (5) dBa.

§ 147-4. Enforcement.

The provisions of this chapter shall be enforced by the Police Department of the Village of Ballston Spa.

§ 147-5. Penalties for offenses.

Any person who violates any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.). Each day that a violation shall occur shall constitute a separate offense.

Chapter 153**PEDDLING AND SOLICITING**

- § 153-1. **Definitions.**
- § 153-2. **Exemptions.**
- § 153-3. **License required.**
- § 153-4. **Application for license; bond for solicitors.**
- § 153-5. **Approval of license application.**
- § 153-6. **Transfer of license; lost license.**
- § 153-7. **License provisions.**
- § 153-8. **License fees.**
- § 153-9. **Name and address on vehicle.**
- § 153-10. **Revocation of license.**
- § 153-11. **Restriction.**
- § 153-12. **Garage sales.**
- § 153-13. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-13-1996 by L.L. No. 1-1996. Amendments noted where applicable.]

§ 153-1. Definitions.

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

PERSON — Includes one or more persons of either sex, natural persons, corporations, partnership, 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 newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

VENDOR, HAWKER and PEDDLER — Except as hereinafter expressly provided, any person, either principal or agent, who, from any boat or car or on a railroad track or 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, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares and merchandise, except milk or newspapers.

§ 153-2. Exemptions.

- A. Generally, nothing in this chapter shall apply to sales conducted pursuant to statute or by order of any court or to any person selling personal property at wholesale to dealers in such chapter or to any person selling personal property from their home if these sales do not exceed more than six days per year.
- B. The licensing provisions of this chapter shall not apply to:
 - (1) Merchants having an established place of business within the Village of Ballston Spa or their employees conducting the business of their employer where such sales are conducted at such place of business.
 - (2) Resident farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens.

- K. Not sell his/her wares in any area of the Village which is zoned as residential without specific authorization by the Village Board.¹

§ 153-12. Garage sales. [Added 3-25-2002 by L.L. No. 1-2002²]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

GARAGE SALE — Any person selling property for a twenty-four-hour period from his/her home for the purpose of liquidating personal property irrespective of what the person designates the sale.

- B. No person shall conduct a garage sale within the Village of Ballston Spa without a permit.
- C. Any person wishing to obtain a permit must register with the Village Clerk in person or by telephone, and no fee for such permit shall be charged. The Village Clerk shall maintain a record of garage sale permits.
- D. The Clerk shall not issue a permit to any person who has held six garage sales in the current year. Nothing contained herein shall apply to established religious, charitable, civic or municipal organizations.
- E. No permit shall be necessary for the annual Village Garage Sale, nor shall such event apply to the six allowable garage sales permitted under this section.

§ 153-13. Penalties for offenses.

Any person who himself/herself or by his/her clerk, agent or employee who shall act as a vendor, hawker, peddler or

¹ Editor's Note: See Ch. 205, Zoning.

² Editor's Note: With the addition of this local law, former § 153-12, Penalties for offenses, was renumbered a § 153-13.

§ 153-13 VILLAGE OF BALLSTON SPA CODE § 153-13

solicitor, as herein defined, without a license or shall violate any of the provisions of this chapter or who, having had his/her license revoked, shall continue to act as a vendor, hawker, peddler or solicitor shall be liable to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both.

RECORDS

Chapter 159

RECORDS

ARTICLE I

Records Management

- § 159-1. Establishment of program; appointment of officer.**
- § 159-2. Powers and duties.**
- § 159-3. Records Advisory Board.**
- § 159-4. Custody of records.**
- § 159-5. Replevin.**
- § 159-6. Disposal of records.**
- § 159-7. Definitions.**

ARTICLE II

Public Access to Records

- § 159-8. Purpose and scope.**
- § 159-9. Designation of Records Access Officer; duties.**
- § 159-10. Location of records.**
- § 159-11. Hours for public inspection.**
- § 159-12. Requests for access to records.**
- § 159-13. Denial of access to records; appeals.**
- § 159-14. Fees.**
- § 159-15. Posting of public notice.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa: Art. I, 7-9-1991 as L.L. No. 4-1991; Art. II, at time of adoption of Code; (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I
Records Management
[Adopted 7-9-1991 as L.L. No. 4-1991]

§ 159-1. Establishment of program; appointment of officer.

There shall be a records management program established for the Village of Ballston Spa and headed by a Records Management Officer (RMO) who shall be appointed by the Mayor of the village. The officer will be responsible for administering the noncurrent and archival public records and storage areas for the Village of Ballston Spa in accordance with local, state and federal laws and guidelines.

§ 159-2. Powers and duties.

The Records Management Officer shall:

- A. Have all the necessary powers to carry out the efficient administration, determination of value, use, preservation storage and disposition of the noncurrent and archival public records kept, filed or received by the offices and departments of the Village of Ballston Spa.
- B. Continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for maintaining, storing and servicing of archival materials. Records to be examined include:
 - (1) Obsolete and unnecessary records according to New York State Records Retention and Disposition Schedules thereby subject to disposition;

- (2) Information containing administrative, legal, fiscal, research, historical or educational value which warrant their permanent retention; or
 - (3) Records not subject to disposition according to state law.
- C. Establish guidelines for proper records management in any department or agency of the Village of Ballston Spa in accordance with local, state and federal laws and guidelines.
- D. Report annually to the chief executive official and the governing body on the powers and duties herein mentioned including, but not limited to, the cost/benefit ratio of programs effectuated by the department.
- E. Operate a records management center for the storage, processing and servicing of all noncurrent and archival records for all Village of Ballston Spa departments and agencies.
- F. Establish a Village of Ballston Spa archives and perform the following functions:
- (1) Advise and assist the Village of Ballston Spa departments in reviewing and selecting material to be transferred to the Village of Ballston Spa archives for preservation.
 - (2) Continually survey and examine public records to determine the most suitable methods to be used for the creating, maintaining, storing and servicing of archival materials.
 - (3) Establish and maintain an adequate repository for the proper storage, conservation, processing and servicing of archival records.
 - (4) Promulgate rules governing public access to the use of records in the archives, subject to the approval of the Records Advisory Board.

- (5) Develop a confidentiality policy for archival records designated confidential, provided that such policy does not conflict with any federal or state statutes.
- (6) Provide information services to other Village of Ballston Spa offices.
- (7) Collect archival materials which are not official Village of Ballston Spa records but which have associational value to the Village of Ballston Spa or a close relationship to the existing archival collection. Such collecting shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if they are not collected by the archives.
- (8) Develop a procedure whereby historically important records are to be identified at the point of generation.

§ 159-3. Records Advisory Board.

There shall be a Records Advisory Board designated to work closely with and provide advice to the RMO. The Board shall be appointed by the Mayor of the Village of Ballston Spa and shall consist of five (5) members. The Board shall meet periodically and have the following duties:

- A. To provide advice to the RMO on the development of the records management program.
- B. To review the performance of the program on an ongoing basis and propose changes and improvements.
- C. To review retention periods proposed by the RMO for records not covered by state archives' schedules.
- D. To provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

§ 159-4. Custody of records.

- A. A Village of Ballston Spa department is the legal custodian of its records and shall retain custody of records deposited in the Records Center. Records transferred to or acquired by the archives shall be under the custody and control of the archives rather than the department which created or held them immediately prior to being transferred to the archives.
- B. Records shall be transferred to the archives upon the recommendation of the RMO with the approval of the head of the department which has custody of the records and the approval of the Records Advisory Board.
- C. Records may be permanently removed from the archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 159-5. Replevin.

The legal department may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

§ 159-6. Disposal of records.

No records shall be destroyed or otherwise disposed of by a department of the Village of Ballston Spa unless approval has been obtained from the RMO. No records shall be destroyed or otherwise disposed of by the RMO without the express written consent of the department head having authority.

§ 159-7. Definitions.

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

ARCHIVES — Those official records which have been determined by the RMO and Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the local government.

RECORDS — Any documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official Village of Ballston Spa business.

RECORDS CENTER — An establishment maintained by the Village of Ballston Spa primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space.

RECORDS DISPOSITION:

- A. The removal by the Village of Ballston Spa, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:
 - (1) The disposal of temporary records by destruction or donation; or
 - (2) The transfer of records to the Record Center/ Archives for temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value arranging continued preservation.
- B. The transfer of records from one Village of Ballston Spa agency to any other Village of Ballston Spa agency.

RECORDS MANAGEMENT — The planning, controlling, directing, organizing, training, promotion and other managerial use and records disposition,

including records preservation, records disposal and records centers or other storage facilities.

SERVICING — Making information in records available to any Village of Ballston Spa agency for official use or to the public.

ARTICLE II

Public Access to Records

[Adopted at time of adoption of Code¹]

§ 159-8. Purpose and scope.

- A. The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 159-9. Designation of Records Access Officer; duties.

- A. The Board of Trustees is responsible for ensuring compliance with the regulations herein and designates the following person as records access officer: Village Clerk, Municipal Center, 66 Front Street, Ballston Spa, New York.

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

C. The records access officer shall ensure that personnel:

- (1) Maintain an up-to-date subject matter list.
- (2) Assist the requester in identifying requested records, if necessary.
- (3) Upon locating the records, take one (1) of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to records in whole or in part and explain, in writing, the reasons therefor.
- (4) Upon request for copies of records, take one (1) of the following actions:
 - (a) Make a copy available upon payment of or an offer to pay the established fees.
 - (b) Permit the requester to copy those records.
- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that:
 - (a) The village is not the custodian for such records; or
 - (b) The records of which the village is a custodian cannot be found after diligent search.

§ 159-10. Location of records.

Records shall be available for public inspection and copying at the Village Clerk's Office, Municipal Center, 66 Front Street, Ballston Spa, New York.

§ 159-11. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours that the Clerk's office is regularly open for business.

§ 159-12. Requests for access to records.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A response shall be given within five (5) business days of receipt of any request reasonably describing the record or records sought.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five (5) business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within ten (10) business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 159-13. Denial of access to records; appeals.

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the body established to hear appeals.
- B. If requested records are not provided promptly, such failure shall be deemed a denial of access.

- C. The Mayor shall hear appeals for denial of access to records under the Freedom of Information Law.
- D. The time for deciding an appeal by the person designated to hear appeals shall commence upon receipt of a written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 159-12D.
 - (5) The name and return address of the requester.
- E. The person designated to hear appeals shall inform the requester of his/her decision, in writing, within ten (10) business days of receipt of an appeal.
- F. The person designated to hear appeals shall immediately forward to the Committee on Open Government copies of all appeals upon receipt and the ensuing determination thereon.

§ 159-14. Fees.

The following fees shall be charged:

- A. Inspection of records: no fee.
- B. Search for records: no fee.
- C. Any certification pursuant to this Article: no fee.
- D. Photocopies not exceeding nine by fourteen (9 X 14) inches: twenty-five cents (\$.25) per page.
- E. Fees for copies of records other than photocopies which are nine by fourteen (9 X 14) inches or less in size: the actual copying cost, excluding fixed agency costs such as

salaries, except when a different fee is otherwise prescribed by statute.

§ 159-15. Posting of public notice.

A notice containing the title or name and business address of the records access officers and appeals body and the location where records can be seen or copies may be made shall be posted in a conspicuous location wherever records are kept.

persons and which has no steering device or mechanism to steer or control the direction thereof while being used or ridden, even though the direction may be controlled to some degree by shifting the feet or weight of the rider during such use.

**§ 166-2. Skateboards permitted in designated areas only.
[Amended 10-13-1997 by L.L. No. 5-1997]**

No person shall use or ride upon a skateboard on any pavement, sidewalk or parking lot within the Village of Ballston Spa unless such area is located within a designated skateboard area.

§ 166-3. Penalties for offenses.

- A. The penalty for a violation of any provision of this article shall be the imposition of a fine in a sum not to exceed \$250 for each such violation and the confiscation of any skateboard used in violation of this article.
- B. A violation of this article shall be deemed a violation.

**ARTICLE II
Skateboard Park
[Adopted 8-11-1997]**

§ 166-4. Rules and regulations.

- A. All participants must supply their own equipment.
- B. All participants must wear helmets, knee and elbow pads at all times. Wrist pads are recommended.
- C. All participants must be fully clothed.
- D. Abusive language will not be tolerated.
- E. Alcoholic beverages will not be permitted at any time.

Chapter 166

SKATEBOARDS

**ARTICLE I
Use Regulated**

§ 166-1. Definitions.

§ 166-2. Skateboards permitted in designated areas only.

§ 166-3. Penalties for offenses.

**ARTICLE II
Skateboard Park**

§ 166-4. Rules and regulations.

§ 166-5. Procedures for use of park.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

**ARTICLE I
Use Regulated
[Adopted 10-15-1990 by L.L. No. 1-1990]**

§ 166-1. Definitions.

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

SKATEBOARD — A narrow board constructed of wood, plastic, fiberglass or other substance, mounted on roller-skate-type wheels, designed to be ridden by a person or

persons and which has no steering device or mechanism to steer or control the direction thereof while being used or ridden, even though the direction may be controlled to some degree by shifting the feet or weight of the rider during such use.

§ 166-2. Skateboards permitted in designated areas only.
[Amended 10-13-1997 by L.L. No. 5-1997]

No person shall use or ride upon a skateboard on any pavement, sidewalk or parking lot within the Village of Ballston Spa unless such area is located within a designated skateboard area.

§ 166-3. Penalties for offenses.

- A. The penalty for a violation of any provision of this article shall be the imposition of a fine in a sum not to exceed \$250 for each such violation and the confiscation of any skateboard used in violation of this article.
- B. A violation of this article shall be deemed a violation.

ARTICLE II
Skateboard Park
[Adopted 8-11-1997]

§ 166-4. Rules and regulations.

- A. All participants must supply their own equipment.
- B. All participants must wear helmets, knee and elbow pads at all times. Wrist pads are recommended.
- C. All participants must be fully clothed.
- D. Abusive language will not be tolerated.
- E. Alcoholic beverages will not be permitted at any time.

- F. Bicycles are not allowed in or around the skateboard facility.
- G. In the event of rain, the park will be closed.
- H. Skateboards are to be used only in designated areas.
- I. The park will be monitored.
- J. All participants must register at the Area Center for Teens.
- K. Abuse of the facility will result in permanent loss of privileges.
- L. All other park rules and regulations apply.

§ 166-5. Procedures for use of park.

- A. All participants must register at the Ballston Area Community Center (BACC). All paperwork must be returned to one of the supervisors at the BACC.
- B. Upon the receipt of the requested paperwork, a membership card will be issued.
- C. Membership cards will be free to all residents that reside in the Middle Town Task Force (Village of Ballston Spa, Townships of Milton, Malta and Ballston.)
- D. A fee of \$50 will be charged to all nonresidents of each Middle Town each season. Only checks will be accepted, made payable to the Village of Ballston Spa.
- E. All participants must register each season. (The skatepark season is considered to be from April through October 31 each year.)
- F. Membership cards must be carried at all times. Members will be asked to leave the park if the card is not shown.
- G. All lost ID cards may be replaced with an additional \$1 charge.

H. All fees collected will be deposited into an account designated for the skatepark at the village office for maintenance and upkeep of the park.

Chapter 170

SOLID WASTE

ARTICLE I

Disposal of Waste and Recyclables

- § 170-1. Definitions.**
- § 170-2. Disposal of garbage and trash.**
- § 170-3. Source separation required.**
- § 170-4. Restrictions on collection vehicles.**
- § 170-5. Trash and recyclables from outside the Village prohibited.**
- § 170-6. Acceptance of refuse or recyclables from outside the Village prohibited.**
- § 170-7. Deposit of materials restricted.**
- § 170-8. Responsibility for scattered bags or containers.**
- § 170-9. Enforcement.**
- § 170-10. Penalties for offenses.**

ARTICLE II

Yard Waste Collection

- § 170-11. Legislative intent.**
- § 170-12. Yard waste.**
- § 170-13. Containers.**
- § 170-14. Time of collection.**
- § 170-15. Failure to comply; penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Disposal of Waste and Recyclables
[Adopted 5-13-1996 by L.L. No. 1-1996]**§ 170-1. Definitions.**

Whenever used in this article or in the resolutions duly adopted by the Village Board pursuant to the authority granted herein, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following words shall have the respective meanings hereinafter set forth:

ASHES — All substances or material which remain after combustion.

GARBAGE — All organic waste material, both animal and vegetable.

HAZARDOUS WASTE —

- A. Waste or a combination of wastes which, because of its quantity or concentration or physical, chemical or infectious characteristics, may:
- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
 - (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- B. All those chemicals, waste, oils and/or all those articles or materials listed under § 27-0903 of the Environmental Conservation Law or the regulations promulgated thereunder.

LANDFILL — A disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment or an injection well.

PAPER — Wastepaper, cardboard, cardboard boxes and containers.

PERSON — An individual, trust, firm, joint-stock company, corporation, partnership, association or any interstate body.

PERSON IN CHARGE — A natural person, association, partnership, firm or corporation that occupies, manages, uses or controls premises.

RECYCLABLE — Those items or materials appearing on the official list of mandatory recyclable materials as adopted by the County of Saratoga.

REFUSE — All other waste material not otherwise specifically defined.

STORAGE — The containment of waste, garbage or refuse for a period of over 60 days in such a manner as not to constitute disposal of such waste.

TRASH — All discarded material not suitable for further use.

VEHICLE — A motor vehicle designed or adapted for use in the removal of garbage and trash.

VILLAGE — The Village of Ballston Spa.

WASTE — Any garbage, refuse, trash, sludge and all other waste materials not otherwise specifically defined.

WHITE GOODS — Washing machines, clothes dryers, refrigerators, freezers and all other similar types of materials that are of recyclable value.

§ 170-2. Disposal of garbage and trash.

- A. Public property. No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon any sidewalk, street, alley, lane, gutter or any public ground in the Village or into any stream or upon the banks of any stream running through or adjacent to the Village.
- B. Private property. No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon the private property of another person, except that ashes may be deposited thereon with the owner's permission for the purpose of filling land so long as it is immediately covered with a suitable material to prevent ashes from blowing into the air.
- C. Burning or burying. No person shall bury or openly burn or cause to be buried or openly burned any garbage, refuse, trash, hazardous waste and/or materials within the Village of Ballston Spa.
- D. All persons must dispose of all solid wastes in accordance with this article. No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, ashes, white goods, hazardous material or waste in the Village of Ballston Spa except in conformance with this article.

§ 170-3. Source separation required.

All persons residing within the Village of Ballston Spa shall separate all nonrecyclable garbage and trash from recyclable trash.

§ 170-4. Restrictions on collection vehicles. [Amended 7-14-1997 by L.L. No. 4-1997; 6-26-2007 by L.L. No. 4-2007]

The commercial collection, removal and carrying of garbage, refuse, trash, paper, hazardous waste and/or materials and ashes on any highway, road, street, alley or lane of the Village must be done between the hours of 7:00 a.m. and 7:00 p.m. in all districts; however, on Thursdays only within the Central Business District, collection hours shall be from 6:30 a.m. to 7:00 p.m. Collection shall be in covered, watertight vehicles which shall be in accordance with the laws of the State of New York and the rules and regulations of the Board of Health and this article. No garbage, refuse, trash, paper, hazardous waste and/or materials and ashes shall be spilled or scattered along the roads, streets or public places, and the vehicles used for the collection and transportation of such material shall not be allowed to stand or tarry along the public streets for a longer time than shall be reasonably necessary for the loading of the same.

§ 170-5. Trash and recyclables from outside the Village prohibited.

It shall be a violation for nonresidents of the Village of Ballston Spa to bring nonrecyclable trash into the Village for storage or disposal. It shall also be a violation for nonresidents of the Village of Ballston Spa to transport or cause to be transported recyclable materials into the Village of Ballston Spa for disposal through a Village-operated recycling program.

§ 170-6. Acceptance of refuse or recyclables from outside the Village prohibited.

It shall be a violation for any resident of the Village, owner, lessee or person in control of real property within the Village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal.

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§ 170-7. Deposit of materials restricted.

It shall be a violation to place any materials into a trash receptacle located on Village property unless such waste was generated at that location. Permitted waste would include picnic waste.

**§ 170-8. Responsibility for scattered bags or containers.
[Amended 4-14-1997 by L.L. No. 1-1997]**

All garbage prior to its placement for pickup or hauling shall first be placed in sealed garbage containers. In the case where waste is found in bags or containers or found scattered, it shall be presumed that such waste is the responsibility of the person or persons that may be identifiable by inspection of the waste or contents of the container or bag.

§ 170-9. Enforcement.

The provisions of this article or the resolution passed thereunder shall be enforceable by the Mayor or his/her deputy, the Building Inspector, the Animal Control Officer or his/her deputy, any peace officer, any police officer or any other agent duly authorized by resolution of the Village Board.

§ 170-10. Penalties for offenses.

A person violating any provision of this article or resolutions passed under the authority of this article shall be guilty of a violation, punishable as follows:

- A. For a first conviction, by a fine of \$25 or imprisonment for up to 15 days, or both.
- B. For a second conviction within one year, by a fine of \$50 or imprisonment for up to 15 days, or both.
- C. For a third conviction within one year, by a fine of \$100 or imprisonment for up to 15 days, or both.

- D. For a fourth and all subsequent convictions within one year, by a fine not less than \$250 nor more than \$500 or imprisonment for up to 15 days, or both.

ARTICLE II

Yard Waste Collection

[Adopted 9-11-2006 by L.L. No. 3-2006]

§ 170-11. Legislative intent.

The Village Board, in its continuing effort to implement its stormwater management plan for compliance with the Federal Clean Water Act and the New York State Pollution Discharge Elimination Systems (SPEDS) permitting process hereby creates the protocol for the collection of yard waste which will thereby reduce the discharge of pollutants from the Village of Ballston Spa's stormwater system and protect and enhance water quality of local streams and creeks.

§ 170-12. Yard waste.

Yard waste shall be defined as brush or grass clippings. Brush must be four feet long (or less) and three inches in diameter (or less). Yard waste shall not include dirt, sand, or rocks.

§ 170-13. Containers.

All yard waste must be bagged in biodegradable paper bags or may be placed in trash containers less than 32 gallons in size. Small brush materials may be bundled with cotton twine and set out without a container.

§ 170-14. Time of collection.

Collection shall be every Thursday, commencing on the first Thursday of April and ceasing on November 30 each year. Yard waste must be placed at the end of the driveway, or curbside, away from household trash.

§ 170-15. Failure to comply; penalties for offenses.

In the event that yard waste is left at the curb for a period of greater than 10 days, and which does not comply with the requirements of this article, it shall be punishable by a fine of \$10 per day.

Chapter 172

STORM SEWERS

ARTICLE I

Illicit Discharge and Connection

- § 172-1. Purpose; intent.**
- § 172-2. Definitions.**
- § 172-3. Applicability.**
- § 172-4. Responsibility for administration.**
- § 172-5. Severability.**
- § 172-6. Ultimate responsibility.**
- § 172-7. Discharge prohibitions.**
- § 172-8. Suspension of MS4 access.**
- § 172-9. Industrial or construction activity discharges.**
- § 172-10. Monitoring of discharges.**
- § 172-11. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.**
- § 172-12. Watercourse protection.**
- § 172-13. Notification of spills.**
- § 172-14. Enforcement.**
- § 172-15. Appeal of notice of violation.**
- § 172-16. Enforcement measures after appeal.**
- § 172-17. Cost of abatement of the violation.**
- § 172-18. Injunctive relief.**
- § 172-19. Compensatory action.**
- § 172-20. Violations deemed a public nuisance.**

§ 172-21. Criminal prosecution.

§ 172-22. Remedies not exclusive.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 120.
Solid waste — See Ch. 170.
Stormwater control — See Ch. 173.
Streets and sidewalks — See Ch. 174.
Subdivision of land — See Ch. 178.
Water and sewers — See Ch. 200.
Zoning — See Ch. 205.

ARTICLE I

Illicit Discharge and Connection
[Adopted 2-12-2007 by L.L. No. 2-2007]

§ 172-1. Purpose; intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Village of Ballston Spa through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- B. To prohibit illicit connections and discharges to the municipal separate storm sewer system;

- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

§ 172-2. Definitions.

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

AUTHORIZED ENFORCEMENT AGENCY — Employees or designees of the director of the municipal agency designated to enforce this article.

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 subject to NPDES construction permits. Currently these include construction projects resulting in land disturbance of five acres or more. Beginning in March 2003, NPDES Stormwater Phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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.

ILLEGAL DISCHARGE — Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § 172-7A(2) of this article.

ILLICIT CONNECTIONS — An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system 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 storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY — Activities subject to NPDES industrial permits as defined in 40 CFR § 122.26(b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT —

A permit issued by EPA [or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

NONSTORMWATER DISCHARGE — Any discharge to the storm drain system 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 owners agent.

POLLUTANT — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES — Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM — Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER — Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN — A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions

to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

§ 172-3. Applicability.

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

§ 172-4. Responsibility for administration.

The Village of Ballston Spa shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

§ 172-5. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

§ 172-6. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure

that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 172-7. Discharge prohibitions.

A. Prohibition of illegal discharges.

- (1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
- (2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
 - (a) The following discharges are exempt from discharge prohibitions established by this article: waterline flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), fire-fighting activities, and any other water source not containing pollutants.
 - (b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

- (c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (d) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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 storm drain system.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

§ 172-8. Suspension of MS4 access.

A. Suspension due to illicit discharges in emergency situations.

- (1) The Village of Ballston Spa 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, or to the health or welfare of persons, or to the MS4 or waters of the United States.

- (2) If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge.

- (1) Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- (2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the authorized enforcement agency.

§ 172-9. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES 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 Village of Ballston Spa prior to the allowing of discharges to the MS4.

§ 172-10. Monitoring of discharges.

- A. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- B. Access to facilities.
- (1) The Village of Ballston Spa shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - (2) Facility operators shall allow the Village of Ballston Spa ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - (3) The Village of Ballston Spa shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The Village of Ballston Spa has the right to require the discharger to install monitoring equipment as necessary. 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) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village of Ballston Spa and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Village of Ballston Spa access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
- (7) If the Village of Ballston Spa has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

§ 172-11. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

The Village of Ballston Spa will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial

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establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

§ 172-12. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 172-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States, 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 authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village of Ballston Spa within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 172-14. Enforcement.

Notice of violation.

- A. Whenever the Village of Ballston Spa finds that a person has violated a prohibition or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit connections or discharges;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment of a fine to cover administrative and remediation costs; and

- (6) The implementation of source control or treatment BMPs.

- B. 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.

§ 172-15. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 10 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or its designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or its designee shall be final.

§ 172-16. Enforcement measures after appeal.

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 10 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

§ 172-17. Cost of abatement of the violation.

- A. Within 10 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
- B. Any person violating any of the provisions of this article shall become liable to the Village by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 1/2% per annum shall be assessed on the balance beginning on the 31st day following discovery of the violation.

§ 172-18. Injunctive relief.

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

§ 172-19. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

§ 172-20. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 172-21. Criminal prosecution.

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$250 per violation per day and/or imprisonment for a period of time not to exceed 15 days per violation. The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 172-22. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Chapter 174

STREETS AND SIDEWALKS

- § 174-1. Construction and repair of sidewalks.
- § 174-2. Reimbursement for sidewalks.
- § 174-3. Obstruction of streets.
- § 174-4. Permission required.
- § 174-5. Removal of snow, ice and dirt; enforcement; liability.
- § 174-6. Obstruction of public property.
- § 174-7. Prohibited uses.
- § 174-7.1. Special requirements regarding dumpsters.
- § 174-8. Obstruction of crosswalks.
- § 174-9. Transporting of refuse and other substances.
- § 174-10. Deposits of dirt, grass and other substances; permission.
- § 174-11. Throwing and depositing paper.
- § 174-12. Occupancy of streets by builders; bonds.
- § 174-13. Alterations and excavation of streets; bond; liability.
- § 174-14. Failure to restore streets; notice; actions upon noncompliance.
- § 174-15. Excavations adjoining streets.
- § 174-16. Digging of sidewalks.
- § 174-17. Guarding excavations.
- § 174-18. Building materials in streets; permits.
- § 174-19. Riding on sidewalks.

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- § 174-20. Curbing specifications; reimbursement.
- § 174-21. Maintenance of sidewalks and curbing; notice; action upon noncompliance.
- § 174-22. Notice of defects; liability.
- § 174-23. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-25-1943 as Sections 8 through 19, 21 through 29, 32 through 34, 45, 48, 49 and 53 of the Ordinances of the Village of Ballston Spa. Amendments noted where applicable.]

§ 174-1. Construction and repair of sidewalks.
[Amended 10-25-1999 by L.L. No. 8-1999]

Sidewalks not less than four feet in width and of cement, slate, brick, bluestone or similar substance shall be constructed on both sides of the street in said Village. Such sidewalks and all repairs to the same shall be made by the owners or occupants of the premises adjoining such walks under the supervision of the Street Superintendent and of such material as the Committee on Streets shall direct after receiving notice from such Superintendent and within the time prescribed by the Board of Trustees, and, in case such owner or owners shall thereafter neglect so to do, the Street Superintendent shall construct or repair such walks, and the expense thereof may be collected by said Village against such owner or occupant in the manner prescribed by law.

§ 174-2. Reimbursement for sidewalks. [Amended 9-13-1949; 5-13-1968; 10-25-1983 by L.L. No. 3-1983; 10-12-1998 by L.L. No. 2-1998; 11-10-2003 by L.L. No. 2-2003; 8-27-2007]

Whenever sidewalks are constructed on the streets of said Village with the consent of the Village Clerk, of approved

material and of the width and cost provided by law, the owner or occupant of the premises adjoining such walk who shall have constructed the same will be paid, with approval of the Board of Trustees, the sum of \$2.50 for each square foot of such walk and the sum of \$2.50 for each linear foot of curbing. Receipts and bills of items of the cost thereof must accompany all claims for such payment.

§ 174-3. Obstruction of streets.

It shall be unlawful for any person to encumber the sidewalks, streets, alleys or lanes of the Village of Ballston Spa with casks, boxes or other articles or to pile or store on any sidewalk, street, alley or lane any casks, boxes or other articles. It shall not be lawful for the owner or occupant of any premises in the Village of Ballston Spa to erect or permit to be placed in or upon the street or sidewalk in front of or on any side of such premises any sign, pole, stepping block, boot-black stand, bicycle rack or canopy nor shall anyone be permitted to carry on any business or trade upon any sidewalk in said Village or shall any sign or advertisement be inserted in or placed on the surface of any sidewalk or highway.¹

§ 174-4. Permission required.

No person or persons shall hereafter erect or cause to be erected any building or other fixture or place any encumbrance in or upon or which shall project into or over the line of any public square, street or alley within this Village without first securing permission from the Board of Trustees.²

1. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.
2. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

§ 174-5. Removal of snow, ice and dirt; enforcement; liability. [Amended 5-13-1996 by L.L. No. 1-1996; 7-26-2004 by L.L. No. 2-2004]

A. It shall be unlawful for any owner of any house or building in the Village of Ballston Spa to permit the sidewalks or gutters in front of the premises owned by him to become in any manner obstructed by the accumulation of snow, ice and dirt thereon, and such owner shall remove the snow or ice from such sidewalk for the whole width thereof and from the gutters for the space of 20 inches from the curbline within eight hours after any fall of snow which shall cease in the daytime and before 12:00 noon of the day following any such fall of snow and before such fall of snow shall obtain the depth of 12 inches, or sooner should a hazardous condition be created and, in case the snow and ice becomes so congealed that the same cannot be removed without injury to the pavement, to cause such snow and ice to be sprinkled with fine ashes or sand and also at all other times to keep such sidewalks free and clear from all dirt, filth or other obstructions and encumbrances in order to allow and permit all persons to have the free and uninterrupted use of the same.

B. Notice to remedy; removal by Village; costs.

- (1) In the event of a complaint received for the failure of the owner to comply with Subsection A hereof, the Mayor or his designee shall direct that a notice be delivered to the occupant of the premises that includes a copy of this section of the Village Code and notice that the condition must be remedied within 24 hours. Should the owner fail to comply, the Village shall then have the authority to perform the work and charge the owner four times the actual cost to the Village. In the event that the notice is not able, for whatever reason, to be delivered to the occupant, the Village is authorized to affix a copy of said notice to the premises. The affixation of the notice to the premises shall have the same effect as if served to the occupant.

- (2) In the event it is necessary for the Village to perform the work, the owner will be provided with a summary of cost and the amount due within 14 days. The owner shall then have 30 days to make payment. In the event that the owner does not remit payment to the Village, the Village is hereby authorized to make said amount a lien against the property and collect the amount due as an assessment against the property in a like manner as collection of taxes.

- C. In the event that the owner of the adjoining premises fails to comply with the provisions of this section and, by reason of such failure, injuries to persons and damage to property result, then in such event such owner shall be liable for such injuries or damages.

§ 174-6. Obstruction of public property.

Any person shall not obstruct, keep or use any part of any street, walk, lane, public square or other public ground or any gutter, sewer, drain brook, watercourse or public reservoir in any manner or for any other purpose than is authorized by law or by the Code of the Village of Ballston Spa.³

§ 174-7. Prohibited uses.

- A. No person shall cause any vehicle to obstruct the free use of any sidewalk or crosswalk in the Village. **[Amended 5-13-1996 by L.L. No. 1-1996]**
- B. No person shall push, ride or draw any vehicle except a baby carriage or invalid chair upon any sidewalk in the Village.

3. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

- C. No person shall encumber the street or sidewalks in the Village with boxes, barrels, crates, wares, merchandise or any material whatever.⁴

§ 174-7.1. Special requirements regarding dumpsters.
[Added 10-9-2006 by L.L. No. 4-2006]

- A. No dumpster shall be placed, located upon or obstruct a sidewalk within the Village of Ballston Spa unless the owner of the property demonstrates to the Building Inspector that there is absolutely no alternative to the dumpster being placed, located upon or obstructing the sidewalk.
- B. In the event that the Building Inspector makes the determination that there is absolutely no alternative to the dumpster being placed, located upon or obstructing the sidewalk, the owner shall provide plans for a three-sided screen that is appropriate in facade design and in size to obscure the view of the dumpster. Said plans must be approved by the Building Inspector prior to construction.
- C. In the event that the owner of the property disagrees with the determination of the Building Inspector, the owner may appeal to the Planning Board for a determination of the disputed issues.
- D. Failure to comply shall be punishable by a fine of \$50 per day.

§ 174-8. Obstruction of crosswalks. [Amended 5-13-1996 by L.L. No. 1-1996]

No person shall permit or cause any vehicle to stand on any crosswalk in this Village for a longer time than necessary for a

4. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

person to alight therefrom or to get into such vehicle nor except for such purpose.

§ 174-9. Transporting of refuse and other substances.

- A. No person shall haul or transport or cause to be hauled or transported over or upon any of the streets of this Village any gravel, stone, sand, dirt, offal, manure, rubbish, shavings, sawdust, lime or other substance in any wagon or other vehicle which is not constructed so as to prevent the material with which it may be loaded from dropping or sifting through upon said streets nor shall any person move or cause to be moved any vehicle through or upon any of the streets of the Village containing any of the materials above mentioned placed thereon so that the same shall fall or blow from such vehicle upon any of said streets.
- B. All garbage and similar refuse, carried through the streets of the Village of Ballston Spa must be in airtight containers and properly covered.⁵

§ 174-10. Deposits of dirt, grass and other substances; permission.

No person shall deposit or cause to be deposited any dirt, ashes, grass, leaves, brush or other substance upon any of the streets, sidewalks, gutters, highways, alleys or banks of streams in said Village unless the same shall be done for the improvement of such streets under the direction of the Street Superintendent.⁶

5. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

6. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

§ 174-11. Throwing and depositing paper. [Amended 5-13-1996 by L.L. No. 1-1996]

No person shall throw or deposit in or upon any street or public place of the Village of Ballston Spa or in or upon any place from whence the same shall be carried by the wind to or upon such street or public place any paper or other substance easily blown about by the wind.⁷

§ 174-12. Occupancy of streets by builders; bonds. [Amended 5-13-1996 by L.L. No. 1-1996]

- A. Any person or persons engaged in the erection of any building or structure or in excavating for any cellar, wall or sewer or other excavation shall not occupy or use any portion of any street, alley or public place of the Village of Ballston Spa with any building material or other substance formed by such excavation without first obtaining consent of the Building Inspector. No person or persons shall thus occupy such street, alley or public place any longer than is reasonable to construct such buildings or to make any such excavation as mentioned aforesaid nor for any period longer than that permitted by the Building Inspector. Such use of a street, alley or public place shall be subject to such rules and regulations as the Building Inspector shall prescribe. In every case where permission shall be granted as aforesaid, the gutters along such street, alley or public place shall be kept entirely free and clear of all obstruction.
- B. Any person or persons asking permission to use a street, alley or public place of the Village of Ballston Spa for the purpose herein above set forth shall, if required by said Village, give a bond in an amount commensurate with the actual costs and potential costs of damages, which shall be determined by the Building Inspector, to said Village to

7. Editor's Note: Former sections 19, 21 and 22 of the Ordinances of the Village of Ballston Spa entitled Foul water, Cleaning sidewalks, and Cleaning sidewalks and gutters, respectively, were deleted 5-13-1996 by L.L. No. 1-1996.

indemnify it against any damage, costs or expenses that may arise from the use of such street, alley or public place by such person or persons.

§ 174-13. Alterations and excavation of streets; bond; liability. [Amended 9-12-2005 by L.L. No. 1-2005]

- A. Definitions. As used in this section, the following definitions shall have the meanings indicated:

EMERGENCY — Any condition which poses an imminent and serious threat to life, safety or property.

EXCAVATION — Excavating, drilling, boring or the like.

HIGHWAY — All or any part of any street, right-of-way, roadway or highway owned, controlled or maintained by the Village of Ballston Spa.

VILLAGE — The land area located within the boundary of the Village of Ballston Spa.

- B. Permit required, except for emergencies. A person, firm or corporation, public service or water, light or power company, except duly authorized Village officials or employees acting in their official capacities on Village projects, shall not excavate, drill or bore in any highway or sidewalk in the Village for any purpose without first obtaining Village Board approval and obtaining a permit from the Village Clerk as hereinafter provided except in the case of an emergency as herein defined.

- C. Issuance of permit; bond; insurance.

- (1) Upon a written application filed with the Village Clerk stating the purpose, extent, location, date and duration and nature of a proposed excavation or other disturbance of a highway or sidewalk in the Village, the Village Board may grant or deny a permit therefor. Except in an emergency, or where an excavation or disturbance shall be directly

authorized by law, the Village Board may require the applicant to deposit a sum of money, which shall be deemed by the Mayor and/or the Department of Public Works' Trustee Commissioner as adequate to pay any and all expenses to which the Village may be put to replace the streets, highways, or sidewalks, pavement, curb or gutter in proper condition, or in lieu thereof, the applicant shall file with the Village Clerk a surety bond or the equivalent in such amount as the Village deems adequate to pay said expenses, upon the condition that the permittee replace the streets, highways or sidewalk, pavement, curb or gutter in proper condition or pay all of the expenses to which the Village may be put to replace the streets, highways or sidewalk, pavement, curb or gutter or put the same in proper condition upon the satisfactory completion of the project. All costs associated with determining the amount of the surety bond or the equivalent shall be charged to the permit applicant.

- (2) Such applicant shall take out and maintain during the term of the permit and file with the Village Clerk a public insurance policy insuring the Village of Ballston Spa, its agents, servants, and/or employees in an amount not less than \$1,000,000 for injuries, including wrongful death, to any person, and subject to the same limit for each person in an amount not less than \$1,000,000 on account of each occurrence, and a property damage insurance policy insuring the Village of Ballston Spa and all employees thereof in an amount not less than \$1,000,000 on account of all occurrences. Such insurance policies shall cover liability which may arise from operations under the permit, whether such operations are by the permittee or any individual employed either by the permittee or by the Village of Ballston Spa. Such insurance policies shall be issued in the name of the Village of Ballston Spa, its agents, servants and/or employees.

D. Fees. Except as otherwise provided by law or where permits as above are granted for work done at the direction of the Village, each application for such permit shall be accompanied by a fee of \$150 for such excavation, to be paid to the Village. The fee and permit herein required shall be in addition to permits required for construction of any sidewalk, curb or driveway.

E. Protection of property.

- (1) All permits granted for Village highway or sidewalk excavations for any purpose shall be conditioned upon the adequate protection, at the expense of the applicant, of the property of the Village and of persons, corporations or municipalities engaged in the underground distribution of gas, gasoline, fuel oil, and electricity via lines or mains within the vicinity of the proposed excavation. All excavations shall be backfilled properly upon completion and a written notice thereof given to the Village Clerk. All backfilled excavations shall be maintained for one year after such notice of completion has been given. Such excavations must be made and restored under the supervision of the Working Foreman of the Department of Public Works or restored to specifications. The Village Board of Trustees shall require that they be restored as nearly as is practicable to their original condition before such excavation was made.
- (2) Routing of traffic. The permittee shall take appropriate measures to assure that during the performance of the excavation work traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, and at no time shall a highway ever be closed to all traffic for any period of time, unless deemed necessary by the Village. The

following steps shall be taken before any highway may be restricted to traffic:

- (a) The permittee must notify the Village Mayor and the Working Foreman of the Department of Public Works;
 - (b) The permittee must notify the applicable fire company of any street so restricted; and
 - (c) Where flagmen are deemed necessary by the Mayor, they shall be furnished by the permittee at its own expense. Through traffic shall be maintained without the aid of detours, if possible. The permittee will be responsible for any unnecessary damage caused to any highway by the operation of its equipment.
- (3) Noise and dust control; work hours.
- (a) In all cases the permittee shall endeavor in good faith to take such reasonable precautions and follow such reasonable work procedures as may be appropriate to control and abate as fully as possible the creation of excessive noise and dust.
 - (b) Except in cases where the permittee's excavation is necessary to prevent an imminent danger to the public health and safety or is immediately necessary to restore the uninterrupted flow of public utility services, no such excavation shall be conducted earlier than 7:00 a.m. or later than 7:00 p.m.⁸

8. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this subsection, was deleted 5-13-1996 by L.L. No. 1-1996.

§ 174-14. Failure to restore streets; notice; actions upon noncompliance. [Amended 9-12-2005 by L.L. No. 1-2005]

- A. If the person who makes such an excavation fails, upon notice from the Department of Public Works' Working Foreman, to restore it within a reasonable time to the satisfaction of the Village Board, the Village shall perform the task at the expense of the permittee and may reimburse itself from the bond or cash deposit provided in lieu thereof. The balance, if any, of such deposit shall be refunded to the depositor.
- B. Damage to public utilities and improvements. The person, corporation, or entity to whom any permit is issued pursuant to this chapter shall be responsible for all damages caused to public utilities in the highway and shall replace any cracked or damaged sewer pipe or water main with new pipe and repair or replace ditches, curbs, sidewalks or other improvements so that they shall be in as good condition after the excavation as before the excavation, under the supervision of the Village.
- C. Responsibility of Village. The Village, by the issuance of any such permit, assumes no responsibility for supervising the work of any permittee or for the work actually performed by any permittee and shall not be liable for the negligence of any such permittee.
- D. Action by Village; cancellation of permit.
 - (1) In the event that an unsafe condition is created with any work being performed pursuant to a permit issued hereunder, which condition creates an immediate danger of personal injury or property damage, the Village shall have the right to take whatever action is necessary and perform such work as required to restore the same to a proper and safe condition, and the cost thereof shall be charged against the permittee and/or deducted from the deposit made by it or paid by the surety, as the case may be.

- (2) In the event that a permittee fails to abide by the specifications issued by the Village Board, the Village shall have the right, after 24 hours' written notice to the permittee, if said permittee has not made satisfactory arrangements, to correct the situation, to cancel the permit or otherwise take whatever action is necessary to remedy the permittee's noncompliance, and the cost thereof may be charged against the permittee and deducted from the deposit made by him/her or paid by the surety, as the case may be.

§ 174-15. Excavations adjoining streets.

Any person making or causing to be made any excavation within five feet of the line of any street shall erect and maintain at all times substantial barriers at least four feet in height between said street and the excavation and, between sunset and sunrise, keep a lighted lantern, flares or other lighted device placed upon said barriers so as to properly warn all persons of such excavation.⁹

§ 174-16. Digging of sidewalks.

No person shall dig into or across the sidewalk in front of the premises owned or occupied by him/her or in front of any other premises or shall cause the same to be done until the owner or occupant thereof shall have obtained the permission of the Street Superintendent, in writing, which permission shall state the purpose for which said digging is to be done, and such person, after such digging, shall put the sidewalk and gutter in as good condition as they were in before and shall maintain the

9. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

same for six months thereafter in such good condition and to the satisfaction of the Street Superintendent.¹⁰

§ 174-17. Guarding excavations.

Any person making or causing to be made an excavation in any street shall, between sunset and sunrise on every night that the same remains open, keep the same fenced and a lighted lantern or lanterns, flares or other lighted device placed so as to properly warn all persons of such excavations.

§ 174-18. Building materials in streets; permits.

- A. No person shall place or cause to be placed in any street materials for building or any other purposes without a permit to do so, in writing, from the Mayor or Board of Trustees.
- B. No permit shall be for a longer period than one month nor shall it authorize the obstruction of more than 1/3 of the sidewalk or more than six feet in width of the roadway adjoining the lot upon which such materials are to be used or the placing of such materials nearer than four feet to any street railway track.
- C. In special and peculiar cases, the Board of Trustees may, upon proper application and proof of necessity and upon conditions to be prescribed by it, grant special permits for a limited time.
- D. Any person receiving such permit shall cause proper barriers and guards to be erected around such materials sufficient to secure public safety. All materials and rubbish arising therefrom shall be removed from the street upon the expiration of the term of said permit or upon revocation thereof.

10. Editor's Note: The former unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

- E. Any permit may be revoked at any time by said Mayor or by the Board of Trustees.¹¹

§ 174-19. Riding on sidewalks.

- A. All persons are forbidden to ride a motorcycle, bicycle, tricycle or similar vehicle on any of the public sidewalks of the Village of Ballston Spa.
- B. Every person riding a motorcycle, bicycle, tricycle or similar vehicle between one hour after sunset and one hour before sunrise shall have attached thereto or carried therewith a light to be plainly seen 200 feet ahead, and every person riding a motorcycle, bicycle, tricycle or similar vehicle shall give an alarm by bell, whistle or otherwise which may be heard 100 feet distant when about to meet or pass pedestrians or other vehicles. All persons riding motorcycles, bicycles, tricycles or similar vehicles are forbidden to coast or proceed by inertia or momentum with the feet off the pedals or to carry children under five years of age upon bicycles. All cyclists shall observe such rules of the road as are established by the Highway Law.
- C. The provisions of Subsection A hereof shall not apply to children under 10 years of age or to persons who cannot walk by reason of being invalids or disabled.¹²

11. Editor's Note: The former unnumbered paragraph dealing with penalties and Sections 32, 33, 34, 45 and 48 of the Ordinances of the Village of Ballston Spa, dealing with cellarways and stairways, interference with barriers, grade of the streets, animals on sidewalks, and sliding and ball playing, respectively, which immediately followed this section, were deleted 5-13-1996 by L.L. No. 1-1996.

12. Editor's Note: The former unnumbered paragraph dealing with penalties and Section 53 of the Ordinances of the Village of Ballston Spa dealing with leaving horses or automobiles upon streets, which immediately followed this subsection, were deleted 5-13-1996 by L.L. No. 1-1996.

§ 174-20. Curbing specifications; reimbursement. [Added 6-26-1945]

- A. Whenever curbs are constructed on the streets of said Village with the consent of the Board of Trustees of material approved by the Board, the following specifications shall apply:
- (1) Standard cross section of curb.
 - (a) The minimum top width shall be five inches.
 - (b) The minimum bottom width shall be eight inches.
 - (c) The depth shall be 24 inches.
 - (d) The top corner on the face shall have a one-inch-radius.
 - (e) The back shall be neatly rounded.
 - (2) Concrete. Class-A concrete shall be used, with the back of the curb vertical, the face of the curb battered, and curbs shall be built in sections as in sidewalk construction by using steel dividing plates at intervals of not more than five feet, with a one-half-inch expansion joint every 50 feet.
 - (3) Curbing. Standard curbing shall be set with six-inch exposure and 18 inches buried; other than standard dimension, curbing shall be set in accordance with specifications for specific cases.
- B. The owner or occupant of the premises adjoining such curb who shall have constructed the same will be paid by the Board of Trustees from the Street Fund of the current year the sum of \$1.75 for each linear foot of such curbing and \$2.25 for each square foot of replacement sidewalks. Such payment will be allowed only on curbs constructed after July 1, 1983, and all said curbs must be approved by the Street Commissioner, and bills of items of the cost thereof

must accompany all claims for such payment. The Board of Trustees may from time to time amend said rates by resolution. [Amended 9-13-1949; 5-13-1969; 10-25-1983 by L.L. No. 3-1983; 11-10-2003 by L.L. No. 2-2003]

§ 174-21. Maintenance of sidewalks and curbing; notice; action upon noncompliance. [Added 8-11-1970]

- A. All sidewalks and curbing within said Village shall be kept and maintained in a safe and proper manner by the property owners adjacent to all such sidewalks and curbing.
- B. Whenever any said sidewalk or curbing shall, in the opinion of the Mayor and the Board of Trustees, be deemed by them to be unsafe or in a state of disrepair, the Mayor and the Board of Trustees shall so notify said adjacent landowner and direct said landowner to replace or repair any such sidewalk or curbing.
- C. Upon the failure of any adjacent landowner to replace or repair a defective or unsafe sidewalk and/or curbing within 30 days of receipt of written notice pursuant to Subsection B aforesaid, the Village of Ballston Spa shall replace or repair any such sidewalk and/or curbing, and the cost thereof shall be added to the next succeeding Village tax bill, and the same shall be a charge upon and lien upon said adjacent real property.
- D. Any repairs or replacements made pursuant to this chapter shall be made in conformity to the Zoning chapter of the said Village.¹³

13. Editor's Note: See Ch. 205, Zoning.

§ 174-22. Notice of defects; liability. [Added 7-14-1990 by L.L. No. 1970]

- A. No civil action shall be brought or maintained against the Village of Ballston Spa for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or in consequence of the existence or accumulation of snow or ice upon any street, highway, bridge, culvert, sidewalk or crosswalk unless written notice of the existence of such condition relating to the particular place had theretofore actually been given to the Board of Trustees of the Village of Ballston Spa and there had been a failure or neglect on the part of said Village to cause such condition to be corrected or such snow or ice to be removed or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice.
- B. Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by an existing requirement or statute of limitations nor to waive any existing limitation now applicable to any claim or cause of action against the Village of Ballston Spa.

§ 174-23. Penalties for offenses. [Added 5-13-1996 by L.L. No. 1-1996]

Any person violating any provision of this chapter shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

SUBDIVISION OF LAND

Chapter 178

SUBDIVISION OF LAND

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VILLAGE OF BALLSTON SPA CODE

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

GENERAL REFERENCES

Moving of buildings — See Ch. 95.
Unsafe buildings — See Ch. 99.
Fair housing — See Ch. 114.
Fire prevention — See Ch. 117.
Flood damage prevention — See Ch. 120.
Streets and sidewalks — See Ch. 174.
Zoning — See Ch. 205.

ARTICLE I
Declaration of Policy

§ 178-1. Authority of the Planning Board to approve plats.

By authority of the resolution adopted February 12, 1963, by the Village Board of Trustees pursuant to the provisions of Article 7 of the Village Law, the Planning Board of the Village of Ballston Spa has the power and authority to approve plats for subdivisions within the incorporated area of the Village of Ballston Spa.

§ 178-2. Purpose; conflicts with other provisions.

- A. It is declared to be the policy of the Village Planning Board to consider land subdivision as part of a plan for the orderly, efficient and economical development of the village. Land to be subdivided shall be of such character that it can be used for building purpose without danger to health or peril from fire, flood or other menace. Proper provision shall be made for drainage, water, sewerage and other needed improvements. The proposed streets shall compose a convenient system conforming to the Official Map¹ of the village as it may be adopted and to the Official Map of the county as it may be adopted and shall be properly related to the proposals shown in the Village Comprehensive Plan adopted by the Planning Board September 20, 1965, and as it may be amended.

¹ Editor's Note: The Official Map is on file in the village offices.

Streets shall be of such width, grade and location as to accommodate to prospective traffic, to afford adequate light and air and to facilitate fire protection. In proper cases, park areas of suitable location, size and character for playgrounds or other recreational purposes shall be provided.

- B. Should any of these regulations conflict with or be inconsistent with any provision of the Village Law, such provision of the Village Law shall apply.
- C. In order that land may be subdivided in accordance with this policy, these regulations are adopted.

ARTICLE II Terminology

§ 178-3. Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

BOND — A performance bond duly issued by a bonding or surety company approved by the Village Board of Trustees or a performance bond duly issued by the owner accompanied by security in the form of cash, certified check or United States Government bearer bonds deposited with the Village Board of Trustees in the full amount of the obligation.

COMPREHENSIVE PLAN — The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the village. The "Village Comprehensive Plan" shall, among other things, serve as a basis for land use regulation, infrastructure development, public and private

investment and any plans which may detail one (1) or more topics of a village "comprehensive plan."

EASEMENTS — A property right giving the owner or holder thereof the right of access to land for a specified purpose.

ENGINEER — The duly designated engineer of the village or, if there be no such official, the licensed engineer employed by or assigned to the Planning Board.

LOTS:

- A. CORNER LOT — A lot situated at the junction of and adjacent to two (2) or more intersecting streets when the interior angle of intersection does not exceed one hundred twenty degrees (120°).
- B. DOUBLE-FRONTAGE LOTS or THROUGH LOTS — Lots with the rear and front lot lines abutting an existing or proposed street right-of-way.
- C. REVERSE-FRONTAGE LOTS — Lots with the rear lot lines abutting an existing or proposed limited-access highway or public reservation.

OFFICIAL MAP — The map established by the Village Board of Trustees under § 7-724 of the Village Law showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes and additions thereto made under the provisions of the Village Law.²

OWNER — The owner of the land proposed to be subdivided or his/her agent.

PLANNING BOARD — The duly constituted Planning Board of the Village of Ballston Spa, New York.

PLATS:

² Editor's Note: The Official Map is on file at the village offices.

- A. FINAL PLAT — A drawing prepared according to Article IV of this chapter that shows a proposed subdivision containing, in such detail as required, all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat if such preliminary plat has been so approved.
- B. PRELIMINARY PLAT — A drawing prepared in the manner prescribed in Article IV of this chapter showing the layout of a proposed subdivision, including but not limited to road and lot layout and approximate dimensions, key plan, topography and drainage and all proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as this chapter requires.

STREETS — A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, cul-de-sac, place or however otherwise designated.

- A. ARTERIAL — Those streets which are used primarily for fast or heavy traffic.
- B. COLLECTOR — Those streets which carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- C. MINOR — Those streets which are used primarily for access to abutting properties.
- D. MARGINAL-ACCESS — Those streets which are parallel to and adjacent to arterial streets and which provide access to abutting properties and protection from through traffic.
- E. CUL-DE-SACS or DEAD-END STREETS — Minor streets with one (1) end open for public vehicles and

pedestrian access and the other end terminating in a vehicular turnaround.

STREET SUPERINTENDENT — The person employed and designated by the Village Board of Trustees responsible for the maintenance of the streets in the village.

STREET TREES — Those trees in or within twenty (20) feet of the right-of-way.

STREET WIDTH — The distance between property lines measured across the street and perpendicular to its direction at the line of measurement.

SUBDIVISION — The division of any parcel of land into two (2) or more lots, blocks or sites as specified, with or without development. The term "subdivision" shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the County Clerk or register of the county.

SUPERINTENDENT OF THE SEWER DEPARTMENT — The person employed and designated by the Village Board of Trustees responsible for the operation and maintenance of the village sewer system.

VILLAGE BOARD OF TRUSTEES — The duly constituted Board of Trustees of the Village of Ballston Spa, New York.

WATER SUPERINTENDENT — The person employed and designated by the Village Board of Trustees responsible for the operation and maintenance of the village water system.

ZONING ORDINANCE and ZONING MAP — The duly adopted Zoning Ordinance³ and Zoning Map for the Village of Ballston Spa, New York.⁴

³ Editor's Note: See Ch. 205, Zoning.

⁴ Editor's Note: The Zoning Map is on file in the village offices.

ARTICLE III
Application Procedures

§ 178-4. General procedures.

- A. Whenever any subdivision of land is proposed, before any contract for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivision owner or his/her authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following procedures which include basically three (3) steps:
 - (1) Preapplication discussion.
 - (2) Preliminary plat.
 - (3) Final subdivision plat.
- B. If the number of parcels within the subdivision is three (3) or less and if no new streets are to be created, the preliminary plat step may be waived at the discretion of the Planning Board.

§ 178-5. Preapplication discussions.

- A. Before applying for conditional approval of the Preliminary plat, the owner shall confer with the Planning Board at a regularly scheduled meeting or meetings of the Planning Board about matters in general with regard to his/her proposed subdivision for the following purposes:
 - (1) To become acquainted with the Comprehensive Plan for Ballston Spa, zoning and other regulatory codes which affect the proposed development.
 - (2) To discuss the design of the proposed subdivision.
 - (3) To reach general agreement with the Planning Board as to what is to be included in the plat and

what has to be accomplished to receive final subdivision plat approval.

- (4) To discuss with the Planning Board the requirements of these regulations as they apply to the applicant's situation.
- B. For this meeting or these meetings, the applicant shall prepare a proposed subdivision plan in accordance with Article IV of this chapter. Preapplication discussions do not require formal application, fee or filing of plat with the Planning Board. The opinions of the Planning Board shall be informal. If, in the opinion of the Planning Board, the proposed subdivision does not meet with the objectives of these regulations, the owner may request continued discussions until such time that the Planning Board informs him/her that his/her general program and objectives do meet with the objectives of these regulations. However, the owner shall not be precluded from making a formal preliminary plat application if he/she so elects at any time following the initial meeting with the Planning Board.

§ 178-6. Preliminary plat procedure.

- A. On reaching conclusions regarding the general program as a result of preapplication appearances before the Planning Board, the applicant shall prepare a preliminary plat and shall file an application with the Planning Board for its approval with or without modification or disapproval.
- B. Owner procedure. Prior to filing an application for a final subdivision plat, the owner or his/her agent shall file for the approval with or without modifications or disapproval of a preliminary plat. The application shall:
 - (1) Be on forms available at the office of the Planning Board.

- (2) Be accompanied by three (3) copies of the preliminary plat in accordance with the specifications of Article IV of this chapter.
 - (3) Comply in all respects with Article V of these regulations and with provisions of Article 7 of the New York State Village Law, except where a modification may be specifically authorized by the Planning Board in accordance with Article VIII of this chapter.
 - (4) Be presented to the Clerk of the Planning Board at least ten (10) days prior to the next regular Planning Board meeting. Formal application shall be considered as being made at this meeting of the Board. The owner should be prepared to attend this meeting.
 - (5) Be accompanied by a fee to be set forth from time to time by resolution of the Board of Trustees.⁵ If the applicant subsequently elects not to file for approval of a final subdivision plat, one-half (1/2) the fee shall be returned. The purpose of the fee shall be to defray the cost of inspection and whatever engineering services may be involved on the part of the village in the installation of physical improvements as well as to defray the costs of public hearings.
- C. It shall be the owner's responsibility to ascertain whether his/her proposals as submitted on the preliminary plat and subsequently on the final subdivision plat will conform with the Public Health Law of the State of New York, although certification to this effect is not formally required until submission of the final subdivision plat. It shall also be his/her responsibility to determine that he/she will be able to file any necessary performance bonds and tender appropriate offers of cession upon submission of the final

⁵ Editor's Note: The fee schedule is on file in the village offices.

subdivision plat, although such items are not yet formally required.

D. Planning Board procedure.

- (1) The Clerk of the Planning Board shall issue a receipt for the preliminary plat at the formal application for approval of the preliminary plat.
- (2) The Planning Board shall hold a public hearing within sixty-two (62) days after the receipt of a complete preliminary plat by the Clerk of the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the village at least five (5) days before such hearing.
- (3) The Planning Board will carefully study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan and of the Village Official Map⁶ as it may be adopted and amended.
- (4) Following review of the preliminary plat and other material submitted for conformity thereof to these regulations, discussions with the owner on changes deemed advisable and the kind and extent of improvements to be made and a public hearing in accordance with these regulations, the Planning Board shall, within sixty-two (62) days of the public hearing, approve with or without modification or disapprove such application. Failing to so act within the prescribed time period, approval of such

⁶ Editor's Note: The Official Map is on file at the village offices.

preliminary plat shall be deemed automatic. Notwithstanding the foregoing provisions of this section, the period in which the Planning Board must take action on such preliminary plat may be extended by mutual consent of the owner and the Planning Board. The Planning Board shall communicate to the owner, in writing, its approval with the conditions of such approval, if any, or, if disapproved, shall express its disapproval and its reasons therefor. Upon receipt of such approval, the owner may then proceed to make the required physical improvements in accordance with Article VI of this chapter.

- (5) Within five (5) days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, a copy of which shall be filed in the Clerk's office and a certified copy mailed to the owner.

§ 178-7. Final subdivision plat procedure.

A. Owner application procedure.

- (1) Within six (6) months or mutually agreed upon extension of the approval with or without modification or disapproval of the preliminary plat by the Planning Board, the owner shall file with the Planning Board for approval of a final subdivision plat. The application shall:
 - (a) Be on forms available at the Planning Board office and be accompanied by the fee specified in § 178-6 if the preliminary plat step has been waived.
 - (b) Include the entire subdivision or the section thereof affected by the application.

- (c) Be accompanied by the original and three (3) copies of the final subdivision plat, construction detail sheets and other information as described in Article IV of this chapter.
 - (d) Comply in all respects with the preliminary plat as approved.
 - (e) Be presented to the Chairman of the Planning Board at least two (2) weeks prior to a regular meeting of the Board. However, for the purpose of fixing the date and time of submission, the final subdivision plat shall be officially submitted at the regular meeting. The owner should be prepared to be represented at that meeting.
- (2) In the event that a final subdivision plat is not submitted to the Planning Board within six (6) months of the approval with or without modification or disapproval of the preliminary plat or mutually agreed upon extension of time, the application shall be considered withdrawn, and any previous approval or waivers of required improvements by the Planning Board shall be considered lapsed.

B. Planning Board procedure.

- (1) Upon receipt of the final subdivision plat and if and when a County Official Map is established, the Clerk of the Planning Board shall notify the County Planning Board and the County Superintendent of Highways in accordance with § 239-k of the General Municipal Law. Such notification shall be within ten (10) days of receiving advance copies of the final subdivision plat.
- (2) The Village Planning Board shall issue a receipt of submission at the first meeting of the Planning Board following submission of the final subdivision plat to the Clerk in accordance with these regulations.

- (3) Final plats which are in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this chapter, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within sixty-two (62) days of its receipt by the Clerk of the Planning Board.
- (4) Final plats which are not in substantial agreement with the approved preliminary plats. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this chapter, the following shall apply:
 - (a) Final plats not in substantial agreement with approved preliminary plats may require further review under the State Environmental Quality Review Act.⁷
 - (b) The Planning Board shall hold a public hearing on such final plat not later than sixty-two (62) days after the receipt of the final plat. The hearing shall be advertised at least once in a newspaper of general circulation in the village at least five (5) days before such hearing.
 - (c) The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within sixty-two (62) days after the date of the public hearing. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions of

⁷ Editor's Note: See Article 8 of the Environmental Conservation Law.

this section, the period in which the Planning Board must take action on such final plat may be extended by mutual consent of the owner and the Planning Board.

- (5) Final plats when the preliminary plat is waived. When no preliminary plat is required to be submitted, the following shall apply:
 - (a) Such plat shall be clearly marked "final plat" and shall conform to the definition and requirements of Article IV of this chapter. The Planning Board shall hold a public hearing within sixty-two (62) days after the receipt of a complete final plat by the Clerk of the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation of the village at least five (5) days before such hearing.
 - (b) The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within sixty-two (62) days after the date of the public hearing. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions of this section, the period in which the Planning Board must take action on such final plat may be extended by mutual consent of the owner and the Planning Board.
- (6) In the event that the Planning Board fails to take action on a final plat within the time prescribed herein or for such extended period established by mutual consent of the owner and the Planning Board, the plat shall be deemed approved, and a certificate of the Clerk of the village as to the date of the submission and the failure to take action within

such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

- (7) Conditional approval of final plats.
 - (a) Certification of plat. Upon resolution granting conditional approval of a final plat, the Planning Board shall empower a duly authorized officer to sign the plat, subject to completion of any requirements as may be stated in the resolution. Within five (5) days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in such Clerk's office. A copy of this resolution shall be mailed to the owner, which copy shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat.
 - (b) Duration of approval. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as completed.
- (8) Notwithstanding the foregoing provisions of this section, the Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances thereof, which time shall not exceed two (2) additional periods of ninety (90) days each.

§ 178-8. Expenses of experts.

- A. With respect to any subject matter over which the Planning Board has jurisdiction under Article 7 of the Village Law of the State of New York or any other statute, the Board is empowered to charge as additional fees to the applicant all costs of any engineers, architects, surveyors, attorneys or other experts which the Board finds reasonably necessary to engage for the village in order to reach a reasoned decision concerning the application. The Board may require the posting of adequate security for the payment of such additional fees.
- B. However, the Board shall not impose such additional fees except on written notice to the applicant of intention to do so. Within ten (10) days of such notice, the applicant shall have the right to:
 - (1) Withdraw the application; or
 - (2) Propose that the applicant and Board utilize the services of mutually agreeable experts other than those of the village or applicant, the cost of which to be paid by the applicant.
- C. The Board shall have the right to impose as additional fees on the applicant all costs contemplated by this section except such costs as prohibited by law. Such prohibition, if any, shall not be intended to render the remaining provisions of this section void.

**ARTICLE IV
Plat Requirements**

§ 178-9. Proposed subdivision plan.

During the preapplication discussion, a proposed subdivision plan shall be presented by the owner at a meeting of the Planning Board for informal consideration and discussion. The

owner shall show or be able to provide the following information:

- A. General subdivision information to describe or outline the existing conditions of the site and the proposed developments as necessary to supplement the drawings required below. This information shall include data on existing covenants, general soil information and available community facilities and utilities and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park area and other public areas, proposed protective covenants and proposed utilities and street improvements. If only part of the subdivision is to be developed at one time, an estimated time schedule of eventual development should be submitted.
- B. A location map which shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The location map shall include development name and location, title scale, North arrow and date. Other adjacent property holdings of the owner shall also be indicated.
- C. A sketch on an existing topography survey which shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch shall show connections to existing water and sanitary sewer lines and drainage facilities, connecting piping or ditches leading to a live stream for the final disposition of the flow of surface water. The sketch may be a freehand rendering made directly on a print of the topography survey.
- D. A list of exceptions and reasons therefor to regulations, codes, laws and specifications desired by the owner for discussion and consideration.

§ 178-10. Preliminary plat.

- A. The preliminary plat shall be submitted by the owner in triplicate [three (3) copies] on durable paper and shall be clear and legible. The scale shall be not smaller than one (1) inch equals one hundred (100) feet, and the size of sheets shall be twenty-two (22) by twenty-eight (28) inches. When more than one (1) sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to an appropriate scale.
- B. The preliminary plat shall show or be accompanied by the following information:
- (1) The proposed subdivision name or identifying titles.
 - (2) The name and address of the owner and, if different than the owner, of the subdivider.
 - (3) The date, North point and scale.
 - (4) A key map at an appropriate scale showing location and boundaries of previous subdivision platting if this is a resubdivision project. The names of owners of record of all abutting properties, the location and names of streets within one hundred (100) feet of the subdivision boundary and all property held by the applicant within one thousand (1000) feet of the subdivision boundary should be identified.
 - (5) The location of essential features such as existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, streets, sewers, water mains, culverts, drains, bridges and rights-of-way in and adjacent to the subdivision located as shown on the Official Maps of the village, town and county if they exist or as they may be adopted.
 - (6) Topography with indicated elevations referred to established United States Government or approved local bench marks where they exist within one-half ($\frac{1}{2}$) mile of the boundary of the subdivision in

sufficient detail to describe significant topographic features. A topographic map of the village with four-inch intervals is available through the Planning Board.

- (7) Proposed public improvements, highways or other major improvements planned by public authorities for future construction on or near the proposed subdivision.
- (8) The location, names and dimensions (including widths) of proposed streets, easements, parks or other public open spaces. Location of sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings shall be included.
- (9) All areas proposed to be dedicated to public use and the conditions of such dedications and all areas specifically reserved to the owner and for which formal offers of cession to the public are not made.
- (10) Any changes in the zoning regulations proposed by the owner for the area to be subdivided.
- (11) Cross sections and profiles of all streets and cross sections of any unusual differences in elevations between streets and adjoining lots with reference to the same bench marks used in Subsection B(6) of this section. Lots lower in elevation than the street shall be specifically identified.
- (12) Connections with the existing water supply.
- (13) Connections with the existing sanitary sewer system.
- (14) Provisions for collecting and discharging surface drainage giving location, size and invert elevations of storm or combined sewers. Where drainage is to be a natural watercourse, lake, swamp, sink or roadside or drainage ditch, the elevation of water in such watercourse or ditch at recognized flood stage

shall be shown. The Engineer will assist in determining such recognized flood state.

- (15) The location of existing gaslines, fire hydrants, electric and telephone poles and street lights and the recommended future locations of these services.
- (16) Subsurface conditions on the proposed subdivision, including location and results of tests made to ascertain surface soil, rock and groundwater table conditions, depth to groundwater unless test pits are dry at a depth of five (5) feet below finished grade and location and results of soil percolation tests if individual sewage disposal methods are contemplated. However, due regard shall be had to the effects of cut and fill which may make such data obsolete. Anticipated areas of cut and fill shall be noted upon the preliminary plat.
- (17) The number of lots, each designated on the plat by a lot number.
- (18) Proposed lot lines with approximate dimensions and areas, and including minimum building setback lines.
- (19) The nature of any deed restrictions or protective covenants whereby the owner proposes to regulate to land use in the subdivision and otherwise protect the development.
- (20) When the preliminary plat covers only a part of the owner's entire adjacent holdings, a scaled drawing with topography of the prospective future street system of the entire adjacent holding shall be submitted to the Planning Board.
- (21) The location of existing monuments and proposed new monuments.
- (22) An overlay of the preliminary plat showing the existing location and species of street trees to be retained and those to be cut down.

- (23) Whenever there are no existing woodlands and unless exempted by the Planning Board, an overlay of the preliminary plat showing the proposed location and species of street trees to be planted.

§ 178-11. Final subdivision plat.

- A. The final subdivision plat submitted in triplicate for approval and subsequent recording shall be clearly and legibly drawn in black waterproof ink on Mylar or black line prints on tracing cloth or equivalent material. The scale shall not be greater than one hundred (100) feet to one (1) inch and the size of the sheet shall be twenty-two (22) inches by twenty-eight (28) inches. When more than one (1) sheet is required, an index sheet of the same size shall be filed showing the entire subdivision at an appropriate scale.
- B. The final subdivision plat shall show the following:
- (1) The proposed subdivision name or identifying title, date, true North point and scale.
 - (2) The name and address of owner and name, license number and seal of the land surveyor or licensed professional engineer.
 - (3) The names or identifying titles of adjacent subdivisions and the names of owners of adjacent acreage.
 - (4) The name of each existing or proposed street or highway with the location and dimensions (including width) described appropriately by the length of all straight lines, the deflection angles, radii and length of curves, the central angles of all curves, tangent distances and tangent bearings in sufficient detail to be reproduced upon the ground.
 - (5) The location purpose and dimensions (including width) of each easement.

- (6) The purpose for which sites, other than residential lots, are dedicated or reserved, their location and dimensions in sufficient detail to be reproduced upon the ground.
 - (7) The minimum building setback line on all lots and other sites.
 - (8) Dimensions, bearings and angles of intersection for each lot line as necessary for the location of each lot line in the field, plus individual lot areas.
 - (9) A number to identify each lot or site in numerical order through the entire subdivision.
 - (10) Suitable primary control points or descriptions and ties of such control points to which all dimensions, bearings, angles and similar data given on that plat shall be referred.
 - (11) The location and description of all existing or proposed permanent monuments.
 - (12) The boundary lines of the subdivision with accurate distances, bearings and angles as necessary in sufficient detail to be reproduced upon the ground.
- C. Additional information and submissions shall include:
- (1) Profiles and cross sections of all proposed streets, drains and sewers with elevations referred to established United States Government or approved local bench marks where they exist within one-half ($\frac{1}{2}$) mile of the boundary of the subdivision.
 - (2) Offers of cession by the owner dedicating streets, rights-of-way and any sites for public uses and notation of the streets, highways and parks specifically reserved to the owner and for which formal offers of cession to the public are not made. If no land is to be ceded to the village for public park or recreation purposes, the owner shall submit a certified check in an amount computed according to

§ 178-16 of this chapter and agreed upon by the owner and the Village Board of Trustees.

- (3) Water supply and sewage disposal arrangements with details and certification of approval by the appropriate public health agency and/or other appropriate public agencies.
- (4) A certificate by a licensed professional engineer acting for the village and bearing the approval of the Village Attorney as to form, sufficiency and manner of execution and the survey and plat and proof that the owner has installed all improvements in accord with the requirements of these regulations and with the action of the Planning Board giving approval with or without modification or disapproval of the preliminary plat or certificate by the Village Attorney showing that bond or certified check has been posted, which is available to the village and is of an amount commensurate with that deemed necessary to cover costs and potential damages by the Village Engineer.⁸
- (5) Certificates by the Village Attorneys approving as to legal sufficiency all offers of cession and all agreements submitted with said plat governing the maintenance of uncaded public space shown thereon.
- (6) Certification of title showing that the applicant is the owner.
- (7) Protective covenants in forms for recording, including covenants governing the maintenance of uncaded public spaces or reservations.
- (8) Other data. Such other certificates, affidavits, endorsements or other agreements as may be

⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

required by the Planning Board in the enforcement of these regulations.

ARTICLE V
General Design Requirements

The owner shall observe the following general requirements and principles of land subdivision.

§ 178-12. Streets.

- A. The arrangement, character, extent, width and location of all streets shall conform to the Comprehensive Plan and to the Official Maps of the village, town and county, if any, and shall be considered in their relation to other existing and planned streets, to topographical conditions, to public conveniences and safety and in their appropriate relation to the proposed uses of land to be served and/or abutted by such streets.
- B. Where such is not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:
 - (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - (2) Conform to a plan for the neighborhood approved or adopted by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable or undesirable.
- C. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal-access streets to have reverse frontage with screen planting contained in a nonaccess reservation along the rear property line or other such treatment as

may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- E. Where a subdivision abuts or contains a railroad right-of-way or controlled-access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way (marginal-access street) at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- F. Reserve strips controlling access to streets, water or sewage treatment plants or to other land dedicated or to be dedicated to public use shall be prohibited except where their control is definitely placed in the village under conditions approved by the Planning Board.
- G. Cross (four-cornered) streets shall be avoided insofar as practicable in residential zone areas restricted to one-, two- or three-family dwellings.
- H. Street jogs shall be avoided, and where no other system shall suffice, center-line offsets shall not be less than one hundred fifty (150) feet.
- I. A tangent shall be introduced between reverse curves and shall be of at least one hundred (100) feet in length on minor and collector streets and of such length as may be deemed necessary by the Planning Board for arterial streets.
- J. When continuing street lines of collector streets deflect from each other at any one (1) point by more than ten degrees (10°), they shall be connected by a curve with a radius at the inner-street right-of-way line of not less than three hundred fifty (350) feet; where continuing street lines of arterial streets deflect from each other by

more than five degrees (5°), they shall be connected by a curve with a radius of not less than eight hundred (800) feet.

- K. Streets shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle of intersection be less than seventy-five degrees (75°). Any change in street alignment to meet this requirement shall occur at least one hundred (100) feet from the intersection.
- L. Street right-of-way lines at street intersections shall be rounded with a radius of twenty-five (25) feet or with a greater radius where the Planning Board may deem it necessary. The Planning Board may permit comparable cutoffs or chords in place of rounded corners.
- M. Street right-of-way widths.

- (1) Street right-of-way widths shall be as shown on the Official Map⁹ and where not shown thereon, shall not be less than as follows:

Street Type	Right-of-way Width (feet)
Arterial	120
Collector	84
Minor and marginal-access	60

- (2) In exceptional circumstances, to permit optimum use of land, short streets of a minimum width of fifty (50) feet might be permitted by the Planning Board.

- N. Existing street rights-of-way within the subdivided property shall be widened as shown on the Official Map,¹⁰ if any, to achieve the width appropriate to the type of street.

⁹ Editor's Note: The Official Map is one file at the village offices.

¹⁰ Editor's Note: The Official Map is on file at the village offices.

- O. Partial-width streets shall be prohibited regardless of location within or along the boundary of a subdivision.
- P. Culs-de-sac shall not be longer than eight hundred (800) feet and shall be provided with a turnaround at the closed end having a street right-of-way line diameter of at least one hundred forty (140) feet.
- Q. Street grades shall not exceed the following, with due allowance for vertical curves, and with not less than two hundred (200) feet between changes of grade:

Street Type	Maximum Grade (percent)
Arterial	4
Collector	6
Minor and marginal-access	7 (except that grades up to 10% may be permitted on short runs)

- R. Sight distance over grades shall not be less than two hundred (200) feet. Sight distances around curves shall not be less than two hundred (200) feet.
- S. Grades at street intersections shall be held to a maximum of three percent (3%) for a distance of one hundred (100) feet in any direction from the point of intersection of the street center lines.
- T. Street drainage ditch grades shall not be less than one and zero tenths percent (1.0%). Drainage structures and adequate ditches shall be provided by the owner to prevent ponding or damage to public or private property.
- U. Limitation of access to streets shall be as follows:
 - (1) Minor streets: no limitation.
 - (2) Collector streets: no limitation.
 - (3) Arterial streets: restricted as far as practicable.

- V. Street names shall be cleared with the Village Planning Board and with the Village Board of Trustees to avoid duplications or use of similarly sounding or spelled names. Housing numbers should follow the standard practice of house numbering in the village, if any.

§ 178-13. Easements.

- A. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall not be less than twenty (20) feet wide.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way of not less than twenty (20) feet in width conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.
- C. If a street is being dedicated in sections, a temporary turnaround easement of one hundred twenty (120) feet in diameter must be granted at its end. Such easement will be automatically terminated when the street is extended.

§ 178-14. Blocks.

- A. The lengths, widths and shapes of blocks shall be determined with due regard to:
- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (2) Zoning requirements as to lot sizes and dimensions.
 - (3) Needs for convenient access, circulation, control and safety of street traffic.
 - (4) Limitations and opportunities of topography.

- B. Block length generally shall not exceed one thousand two hundred (1,200) feet nor shall they be less than three hundred (300) feet unless unusual topographic conditions make it impractical to limit said distances, and, under such circumstances, the Planning Board may vary such distances. Generally, the block depth shall be at least twice the minimum lot depth permitted in the Zoning Ordinance.¹¹
- C. Intersections with arterial streets should be held to a minimum and preferably spaced at least one thousand two hundred (1,200) feet apart.
- D. Pedestrian crosswalks not less than ten (10) feet in width, property line to property line, shall be required where deemed essential to provide circulations or access to schools, playgrounds, shopping centers, transportation and other community facilities and generally where block lengths are in excess of eight hundred (800) feet.
- E. Sidewalks shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

§ 178-15. Lots.

- A. The size, width, depth, shape, orientation and yards of lots shall be not less than specified in the Zoning Ordinance¹² for the district in which the lots are located and shall be appropriate for the type of development, the use contemplated and the economic feasibility of the contemplated or future utilities.
- B. Land subject to flooding shall not be platted for residential occupancy nor for such other uses as may

¹¹ Editor's Note: See Ch. 205, Zoning.

¹² Editor's Note: See Ch. 205, Zoning.

increase danger to life or property or aggravate the flood hazard.

- C. Residential lot dimensions where not served by public sewer shall be such to meet the requirements of Article VI of this chapter.
- D. In case a tract is subdivided into larger parcels than ordinary building lots and especially where lots are more than double the minimum required area for the zoning district, such parcels shall be arranged so as to allow the opening of future streets, logical further subdivisions and for the economy of establishing future utilities.
- E. Corner lots for residential use shall have sufficient extra width to permit appropriate building setback from both streets.
- F. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street or highway.
- G. Double-frontage and reverse-frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement at least twenty (20) feet wide across which there shall be no right of access shall be provided along the rear line of such lots abutting such a major traffic artery or other disadvantageous use.
- H. Side lot lines shall be substantially at right angles or radial to street right-of-way lines.
- I. Off-street parking shall be provided and other requirements shall be met in compliance with the area and bulk regulations in the Zoning Ordinance.¹³

¹³ Editor's Note: See Ch. 205, Zoning.

§ 178-16. Public sites and open places.

- A. The owner shall dedicate to the village land usable for recreational purposes equal in size to five percent (5%) of the owner's tract. This land shall be used by the village for parks, playgrounds or for other specific public recreational uses as deemed desirable by the Planning Board. However, if the Planning Board should consider an owner's tract too small and that the dedication of five percent (5%) of the total area is not of a size that would make it usable for a public purpose, the Village Board of Trustees shall direct the owner to make a monetary payment to the village in lieu of land. This payment must be equal to five percent (5%) of the market value of the total tract prior to subdivision and can not be used by the village for any purpose other than the purchase or improvement of land to be used for such public uses serving the neighborhood as indicated above.
- B. Usable areas or areas bordering streams, lakes or other watercourses can be given special consideration by the Planning Board in excess of the five-percent minimum. The Planning Board may recommend that the Village Board of Trustees accept these areas as a gift or purchase them should they be desirable for public open spaces.
- C. Where such sites and open spaces are not shown on the Comprehensive Plan and where deemed essential by the Planning Board, upon consideration of the particular type of development proposed in the subdivision and especially in large-scale neighborhood unit developments, the Planning Board may recommend that the Village Board of Trustees require the dedication or reservation of areas in excess of the five-percent minimum. Under such conditions a monetary payment at fair-market value prior to subdivision will be made to the owner to compensate his/her loss in excess of the five-percent contribution.

§ 178-17. Street trees.

- A. Existing trees within the subdivision shall be preserved insofar as is possible, and an appropriate overlay of the preliminary plat showing the proposed location and species of street trees to be retained and those to be cut down shall be submitted as described in Article IV of this chapter (see also Article VI of this chapter).
- B. Street trees not less than one (1) on the front of each lot and not more than fifty (50) feet apart between street intersections nor more than sixty (60) feet from a street intersection shall be required in new subdivisions whenever there are no existing woodlands unless exempted by the Planning Board. Before the trees are planted, an appropriate overlay of the preliminary plat as described in Article IV of this chapter shall be submitted to the Planning Board for study and recombination, and the Board shall prevent the planting of certain species that are subject to pests or disease or which might eventually tend to become nuisances.
- C. No trees, hedges, shrubs, series of walls, etc., shall be placed within the street right-of-way or permitted outside a corner radius of fifty (50) feet which would obstruct vision from motor cars.

ARTICLE VI
Required Improvements

§ 178-18. General requirements.

Following receipt of conditional approval by the Planning Board of the preliminary plat and prior to approval of the final subdivision plat in accordance with these regulations, the owner shall cause to be completed certain physical improvements within the proposed subdivision at his/her own expense or, in lieu thereof, post a performance bond with the submission of the application for approval of the final subdivision plat in accordance with these regulations. The final

determination as to the need of any of the physical improvements listed in § 178-18 within a residential subdivision shall be the prerogative of the Planning Board with the advice of the Engineer. When such needs have been determined as essential, this Article applies. For nonresidential subdivisions, physical improvements shall be as determined by the Planning Board with the advice of the Engineer in accordance with Article VII. Modifications of this chapter may be made by the Planning Board in accordance with Article VIII.

§ 178-19. Physical improvements.

- A. Monuments shall be placed at all block corners, angle points and points of curves in streets and at intersections and intermediate points as required by the Engineer. The material, size and length will be approved by the Engineer in accordance with standards approved by the Village Board of Trustees.
- B. Lot corner markers shall be permanently located in the ground at the finished grade. The material, size and length shall be approved by the Engineer in accordance with standards approved by the Village Board of Trustees.
- C. Street cross sections shall be approved by the Engineer and the Street Superintendent in accordance with standards approved by the Village Board of Trustees, the Street Superintendent and the Planning Board.
- D. Grading, center-line gradients, pavement base, wearing surface, curbing, gutters, storm sewers and other drainage and sidewalks shall be approved by the Engineer and Street Superintendent in accordance with standards approved by the Village Board of Trustees and the Street Superintendent.
- E. Street signs shall be approved by the Engineer in accordance with standards approved by the Village Board of Trustees. (Unless otherwise stipulated, street signs will be furnished and installed by the village.)

- F. Street lighting shall be approved by the Engineer in accordance with standards approved by the Village Board of Trustees.
- G. Street trees shall be approved by the Engineer and the Planning Board in accordance with Article V of this chapter and standards approved by the Village Board of Trustees. (The village has a program of planting street trees at village expense so that this requirement will usually be waived.)
- H. Water mains, including hydrants, shall be approved by the Engineer and the Water Superintendent in accordance with standards approved by the Village Board of Trustees.
- I. Sanitary sewers shall be approved by the Engineer and the Superintendent of the Sewer Department in accordance with standards approved by the Village Board of Trustees. Where such standards are in disagreement with standards recommended by the appropriate public health agency, those standards which establish the higher requirements shall prevail.
- J. Fire alarm signal devices shall be approved by the Engineer in accordance with standards approved in accordance with § 7-730, Subsection 8 of the Village Law. (Until a special fire alarm signal system is installed generally throughout the village, this requirement will be waived.)
- K. If gaslines are to be installed, they shall be installed before the streets are paved and their locations approved by the Engineer in accordance with standards approved by the Village Board of Trustees.

ARTICLE VII

Special Requirements for Nonresidential Subdivisions

§ 178-20. General procedural requirements; fees.

- A. It is recognized that the owner, in creating nonresidential subdivisions, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Board shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in Article III and to show the entire tract to be subdivided with necessary improvements and as many parcels as he/she cares to show, but at least two (2). Then, from time to time, as prospective buyers express interest in lots sized to their required specifications and following informal discussions with the Planning Board if the owner so requests, the owner may submit directly at a regular meeting of the Planning Board an amendment to the approved final subdivision plat for consideration. Regular procedural requirements of the Planning Board following receipt of a final subdivision plat shall then apply.
- B. A fee in an amount to be set forth from time to time by resolution of the Board of Trustees to cover advertising costs of a public hearing shall accompany this application.

§ 178-21. Additional special requirements.

In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Planning Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

- A. Proposed nonresidential street layout, blocks and parcels shall be suitable in area and dimensions to the types of development anticipated.
- B. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to arterial or collector streets in such a way that the number of intersections with such arterials or collectors shall be minimized.
- C. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at intersections shall be at least fifty (50) feet. Curb radii at driveway intersections shall be at least twenty-five (25) feet.
- D. The owner shall ensure that the nonresidential subdivision as a whole shall be self-sufficient with regard to providing necessary off-street parking. The owner, at his/her discretion, may make parking self-sufficiency a requirement of individual lots.
- E. With respect to physical improvements, special requirements may be imposed by the Planning Board with the advice of the Engineer within the nonresidential subdivision.
- F. Every effort shall be made to protect adjacent residential areas from potential nuisance from the nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary (See the Zoning Ordinance¹⁴ for minimum requirements).

¹⁴ Editor's Note: See Ch. 205, Zoning.

ARTICLE VIII
Modifications

§ 178-22. Extraordinary hardship.

Where the Planning Board finds that because of unusual circumstances of shape, topography or other physical features of the proposed subdivision or because of the nature of adjacent developments extraordinary hardship may result from strict compliance with these regulations, it may change the regulations according to § 7-728 of the Village Law and as authorized by the Village Board of Trustees so that substantial justice may be done and the public interest secured; provided, however, that no such change shall be granted which will have the effect of nullifying the intent and purpose of the Official Map¹⁵ (as it may be adopted), the Zoning Ordinance¹⁶, these regulations or any other pertinent rules, regulations or laws of the village. In granting changes and modifications, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so changed or modified.

¹⁵ Editor's Note: The Zoning Map is on file in the village offices.

¹⁶ Editor's Note: See Ch. 205, Zoning.

TAXATION

Chapter 182

TAXATION

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[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Fire Fighter Exemption
[Adopted 9-9-1952¹]

§ 182-1. Exemption granted.

After five years of continuous service, active members in good standing of any volunteer fire, hose, protective or hook and ladder company or fire department of the Village of Ballston Spa, New York, upon personal application, shall be granted an

(Cont'd on page 18203)

¹ Editor's Note: This ordinance was passed by referendum 9-9-1952.

exemption from taxation in the amount of five hundred dollars (\$500.) on any assessment for village purposes in addition to any exemption otherwise authorized by law on the following conditions:

- A. The foreman of any such company shall, at least once a year, notify the Village Clerk, in writing, of the list of members who have abided by the constitution and bylaws of said company and of those who are members in good standing.
- B. An exemption, once granted, shall continue until revoked.

ARTICLE II

Utility Tax

[Adopted 9-26-1967 as L.L. No. 1-1967]

§ 182-2. Imposition of tax.

A tax equal to one per centum (1%) of its gross income or of gross operating income, as the case may be, from and after September 1, 1967, is hereby imposed upon every utility doing business in the Village of Ballston Spa.

§ 182-3. Definitions.²

Words and phrases used in this Article, unless otherwise noted, shall have the same meanings as ascribed to them in § 186-a of the Tax Law.

§ 182-4. Recordkeeping requirements.

Every utility subject to tax under this Article shall keep records of its business and in such form as the Village Treasurer may require, and such records shall be preserved for

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

a period of three (3) years, except that the Village Treasurer may consent to their destruction within that period or may require that the records be kept longer.

§ 182-5. Filing of return; payment required. [Amended 10-24-1967 by L.L. No. 2-1967]

- A. Every utility subject to tax hereunder shall file annually, on or before March 15, a return for the twelve (12) calendar months ending December 31 preceding such return date or any portion thereof for which the tax imposed hereby is effective, which return shall state the gross income or gross operating income for the period covered. Returns shall be filed with the Village Treasurer on a form to be furnished by him/her for such purpose and shall contain such other data, information or matter as the Village Treasurer may require to be included therein. Every return shall have annexed thereto a certification by the head of the utility making the same or of the owner or of a copartner thereof or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.³
- B. At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed by this Article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 182-6. Failure to file or filing incorrect returns.⁴

In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from the Village Treasurer or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he/she is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. The Village Treasurer shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within ninety (90) days after the giving of notice of such determination, apply to the Village Treasurer for a hearing or unless the Village Treasurer, of his/her own motion, shall reduce the same. After such hearing, the Village Treasurer shall give notice of his/her decision to the person liable for the tax.

§ 182-7. Review of final determination.⁵

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules as provided by § 5-530 of the Village Law of the State of New York. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Village Treasurer and such officer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Rules as provided by § 5-530 of the Village Law of the State of New York.

§ 182-8. Notice.⁶

Any notice authorized or required under the provisions of this Article may be personally served or mailed to the person for whom it is intended by registered mail, return receipt requested, to the last address given in the last return filed under this Article, or, if no return has been filed, then to such address as may be obtainable. Any period of time which is determined according to the provisions of this section by the giving of notice shall commence to run from the date of return of the receipt.

§ 182-9. Penalties and interest.⁷

Any person failing to file a return or corrected return or to pay any tax or any portion thereof within the time required by this Article shall be subject to a penalty of five per centum (5%) of the amount of tax due, plus one per centum (1%) of such tax for each month of delay or fraction thereof, except the first month, after such return was required to be filed or such tax became due.

§ 182-10. Refunds.⁸

If, within ninety (90) days from the giving of notice of any determination or assessment of any tax or penalty, the person liable for the tax shall make application for a refund thereof and the Village Treasurer or the court shall determine that

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided or of his/her own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding in the manner provided by § 5-530 of the Village Law of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this Article. An application for a refund made as hereinbefore provided shall be deemed an application for the revision of any tax or penalty complained of, and the Village Treasurer may receive additional evidence with respect thereto. After making his or her determination, the Village Treasurer shall give notice thereof to the person interested, and he or she shall be entitled to commence a proceeding to review such determination as provided by § 5-530 of the Village Law.

§ 182-11. Tax to constitute part of operating costs.

The tax imposed by this Article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 182-12. Failure to pay tax or penalty; enforcement.

Whenever any person shall fail to pay any tax or penalty imposed under the provisions of this Article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer.

§ 182-13. Powers of Village Treasurer.

In the administration of this Article, the Village Treasurer shall have the power to make such reasonable rules and regulations not inconsistent with law as may be necessary for the exercise of his/her powers and the performance of his/her duties and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his/her official duty under this Article and to subpoena and require the attendance of witnesses and the production of books, records, papers and documents.

ARTICLE III
Veteran's Tax Exemption
[Adopted 12-22-1981 as L.L. No. 4-1981]

§ 182-14. Legislative purpose.

Pursuant to the provisions of § 458 of the New York State Real Property Tax Law as heretofore adopted and amended by the Legislature of the State of New York, the purpose of this Article is to preserve the ratio which each veteran's exemption from taxation on real property bears to the total assessed value of the real property for which such exemption has been granted whenever such total assessed value increases or decreases due only to a change in the manner of assessing.

§ 182-15. Definitions and word usage.⁹

The meanings of words and expressions as used in this Article shall be identical to their meanings as used in § 458, as amended, of the Real Property Tax Law of the State of New York.

⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 182-16. Conditions for change of exemption.

If the ratio between the exemption granted under § 458 of the Real Property Tax Law of the State of New York and the total assessed value of the real property for which such exemption has been granted increases or decreases due only to a change in the manner of assessing other than a court ordered full value assessment in the village, the amount of the exemption heretofore or hereafter granted shall be increased or decreased in such subsequent year in the same proportion as the total assessed value has been increased or decreased. Such adjustment shall be made by the Assessor in the manner provided in Paragraph 3 of Subdivision 1 of § 458 of the Real Property Tax Law of the State of New York and no application therefor need be filed by or on behalf of any owner of any eligible property.

ARTICLE IV**Alternative Veteran's Tax Exemption
[Adopted 9-27-1984 by L.L. No. 6-1984]****§ 182-17. Purpose.**

The purpose of this article is to provide that no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 182-18. Denial of exemption.

Pursuant to the provisions of Subdivision 4 of § 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law for purposes of real property taxes levied for the Village of Ballston Spa.

ARTICLE V
Senior Citizen Tax Exemption
[Adopted 5-13-1996 by L.L. No. 1-1996]

§ 182-19. Exemption granted.

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 older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

§ 182-20. Maximum income level.

The maximum income level for exemption shall be as set forth in the table below:

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$0 to \$16,499	50%
\$16,500 to 17,499	45%
\$17,500 to \$18,499	40%
\$18,500 to \$19,499	35%
\$19,500 to \$20,399	30%
\$20,400 to \$21,299	25%
\$21,300 to \$22,199	20%
\$22,200 to \$23,099	15%
\$23,100 to \$23,999	10%

ARTICLE VI

**Effect of Nonreimbursed Medical Expenses
on Senior Citizens Exemption
[Adopted 11-23-1998 by L.L. No. 3-1998]**

§ 182-21. Purpose.

The purpose of this article shall be to allow the exclusion of all medical and prescription drug expenses which were actually paid and not reimbursed or paid by insurance from definition of income for purposes of the senior citizen exemption pursuant to § 467 of the Real Property Tax Law of the State of New York.

§ 182-22. Legislative intent.

Pursuant to the provisions of § 467 of the New York State Real Property Tax Law as heretofore adopted by the Legislature of the State of New York, the purpose of this article is to allow the exclusion of medical and prescription drug expenses which were actually paid and were not reimbursed or paid by insurance from definition of income for purposes of the senior citizen exemption.

§ 182-23. Word usage.

The meanings of words and expressions as used in this article shall be identical to their meanings as used in § 467 of the Real Property Tax Law of the State of New York.

§ 182-24. Conflict with other provisions.

Insofar as the provisions of this article are inconsistent with the provisions of any other local law or act, the provisions of this article shall be controlling.

ARTICLE VII
**Persons With Disabilities and Limited
Income Tax Exemption**
[Adopted 12-14-1998 by L.L. No. 4-1998]

§ 182-25. Exemption granted.

Real property owned by one or more persons with disabilities or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereinafter defined, is limited by reason of such disability, shall be exempt from taxation to the extent of 50% of the assessed valuation thereof as hereinafter provided.

§ 182-26. Definitions.

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

DISABILITY:

- A. A person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the Federal Social Security Act or is certified to receive railroad retirement disability benefits under the Federal Railroad Retirement Act or has received a certificate from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind.
- B. An award letter from the Social Security Administration or the Railroad Retirement Board or a

certificate from the State Commission for the Blind and Visually Handicapped shall be submitted as proof of disability.

SIBLING — A brother or a sister, whether related through half blood, whole blood or adoption.

§ 182-27. Computation of exemption.

Any exemption provided by this article shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption from the same municipal tax purpose pursuant to both this article and § 467 of the Real Property Tax Law.

§ 182-28. Nonexemption for school purposes.

Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

§ 182-29. Income limits; income considered.

No exemption shall be granted if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$3,000, or such other sum not less than \$3,000, nor more than \$18,500, as may be provided by the local law, ordinance or resolution adopted pursuant to this section. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife, is absent from the property due to divorce, legal separation or

abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from self-employment but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the Federal Foster Grandparent Program, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance.

§ 182-30. Exemption for residential purposes only.

No exemption shall be granted unless the property is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this article.

§ 182-31. Exemption for legal residence of disabled person.

No exemption shall be granted unless the real property is the legal residence of and is occupied in whole or in part by the disabled person, except where the disabled person is absent from the residence while receiving health-related care as an inpatient or a residential health care facility, as defined in § 2301 of the Public Health Law, provided that any income accruing to that person shall be considered income for purposes of this article only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

§ 182-32. Time of submission.

Disability must be submitted only in the year exemption pursuant to this article is first sought or the disability is first determined to be permanent.

§ 182-33. Real property held in trust.

Notwithstanding any other provision of the law to the contrary, the provisions of this article shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to § 182-25 of this article, were such person or persons the owner or owners of such real property.

§ 182-34. Percent of exemption allowed.

The exemption shall be as follows:

Annual Income	Percentage of Assessed Valuation Exempt from Taxation
\$0 to \$16,499	50%
\$16,500 but less than \$17,499	45%
\$17,500 but less than \$18,499	40%
\$18,500 but less than \$19,499	35%
\$19,500 but less than \$20,399	30%
\$20,400 but less than \$21,299	25%
\$21,300 but less than \$22,199	20%
\$22,200 but less than \$23,099	15%
\$23,100 but less than \$23,999	10%

§ 182-35. Word usage.

The meaning of words and expressions as used in this article shall be identical to their meanings as used in § 459-c of the Real Property Tax Law of the State of New York.

Chapter 183**TAX SEARCHES**

§ 183-1. Fee for service.

§ 183-2. Multiple searches.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 12-1-1960; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Assessments — See Ch. 5.
Taxation — See Ch. 182.

§ 183-1. Fee for service.

After the date of this chapter, a fee as set forth from time to time by resolution of the Board of Trustees shall be charged by the village for every written tax search delivered on request to any person other than a village official acting in an official capacity.

§ 183-2. Multiple searches.

Where more than one (1) such search is required by the virtue of the fact that several parcels are separately assessed on the assessment roll, the above fee shall be charged for each parcel separately searched and separately certified by the Village Clerk or Deputy Clerk. If, however, such parcels are contiguous and a blanket search and certification is made, then such fee shall be as set forth from time to time by resolution of the Board of Trustees for such blanket search and certification.

Chapter 186**TREES**

§ 186-1. Planting of trees.

§ 186-2. Notice; trimming of trees.

§ 186-3. Protection of trees.

§ 186-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 5-25-1943 as Sections 41 through 44 and Section 186 of the Ordinances of the Village of Ballston Spa. Amendments noted where applicable.]

§ 186-1. Planting of trees.¹

It shall be unlawful for any person, persons, firms, associations, copartnerships or corporations to plant a poplar or soft maple tree within any street, highway, alley or lane or within fifty (50) feet of any sewer or water main or in any public place in the village. No such tree shall be planted anywhere within the Village of Ballston Spa where the roots of which will penetrate over, on or under the surface of any street, highway, alley, lane or other public place of the village.

§ 186-2. Notice; trimming of trees. [Amended 7-26-1955]

Every owner or occupant of premises within the Village of Ballston Spa shall, within ten (10) days after a written notice from the Board of Trustees so to do has been served upon him/her either personally or by mail, trim the tree or trees in

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

front of his/her premises so that the branches thereof shall not be less than ten (10) feet from the surface of the ground.²

§ 186-3. Protection of trees.³

It shall be unlawful for any person or persons to remove, mutilate, cut the bark of or in any manner injure any shade tree occupying any of the public streets, thoroughfares and public places in the Village of Ballston Spa.⁴

§ 186-4. Penalties for offenses.⁵

Any person, firm or corporation who or which shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) and/or imprisonment for fifteen (15) days. Each day during or on which a violation of this chapter shall occur shall be deemed to be a separate and distinct offense.

² Editor's Note: Former Subsections 42(b) and (c), dealing with the cost of removal and penalties, respectively, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴ Editor's Note: Original Section 44, Removal of trees, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁵ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

VEHICLES AND TRAFFIC

Chapter 192

VEHICLES AND TRAFFIC

[Traffic legislation for the Village of Ballston Spa is currently under review by the Board of Trustees. Upon completion of such review, said legislation will be included in this chapter.]

Chapter 196**VEHICLES, OFF-ROAD**

- § 196-1. Legislative intent.**
- § 196-2. Definitions.**
- § 196-3. Restrictions.**
- § 196-4. Exceptions.**
- § 196-5. Penalties for offenses.**
- § 196-6. Impoundment; confiscation.**
- § 196-7. Enforcement.**

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

GENERAL REFERENCES

Vehicles and traffic — See Ch. 192.

§ 196-1. Legislative intent.

The purpose of this chapter is to protect the public health, welfare, safety, peace and tranquillity by regulating the operation of motorcycles, snowmobiles and limited-use off-road vehicles within the Village of Ballston Spa. It is also the purpose of this chapter to prevent those inhabitants of the Village of Ballston Spa who wish to operate and use motorcycles, snowmobiles and limited-use off-road vehicles from trespassing on public or private property in the Village of Ballston Spa, from annoying inhabitants and from creating a public nuisance.

§ 196-2. Definitions.

As used herein, the following words shall have the meanings set forth below:

LIMITED-USE MOTORCYCLE — An unenclosed limited-use vehicle having only two (2) or three (3) wheels, with a seat or saddle for the operator. A "limited-use motorcycle" having the maximum performance speed of more than twenty (20) miles per hour but not more than thirty (30) miles per hour shall be a Class A limited-use motorcycle. A "limited-use motorcycle" having a maximum performance speed of more than twenty (20) miles per hour shall be a Class B limited-use motorcycle. A "limited-use motorcycle" having a maximum performance speed of not more than twenty (20) miles per hour shall be a Class C limited-use motorcycle.

LIMITED-USE OFF-ROAD VEHICLE — A vehicle other than one currently licensed to be operated or driven upon a public highway, which is propelled by any power other than human power.

MOTORCYCLE — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

SNOWMOBILE — A self-propelled vehicle designed to travel on snow or ice, steered by skis or runners and supported, in whole or in part, by one (1) or more skis, belts or cleats.

§ 196-3. Restrictions.

- A. It shall be unlawful for any person to drive or operate any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle on the private lands of another person within the Village of Ballston Spa without written permission of the owners or occupants of

said property. The written permission must be in the possession of the persons operating the motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle and must be presented upon demand to any peace officer or police officer so demanding.

B. The following are prohibited within the Village of Ballston Spa at all times:

- (1) The operation of any motorcycle, limited-use motorcycle, snowmobile or off-road limited-use vehicle in such a manner as to disturb or interfere with the peace and tranquillity of persons by creating loud, unnecessary or unusual noise.
- (2) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road 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 the vehicle.
- (3) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle at a rate of speed greater than reasonable or proper under the surrounding circumstances.
- (4) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle, with or without written permission, within one thousand (1,000) feet of any dwelling other than the dwelling house of the operator.
- (5) The operation of any motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle on any lands leased, owned or controlled by the Village of Ballston Spa, except as provided by local law. This shall not be construed to prohibit lawful operation of vehicles on public streets or thoroughfares.

§ 196-4. Exceptions.

- A. Section 196-3 shall not apply in those instances where a duly licensed operator of a duly licensed motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle is entering the public highway from a private driveway.
- B. This chapter shall not apply to police and emergency vehicles.

§ 196-5. Penalties for offenses.

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 two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or both.

§ 196-6. Impoundment; confiscation.

- A. Notwithstanding § 196-5, any enforcement officer of the Village of Ballston Spa Police Department who shall encounter any person operating a motorcycle, limited-use motorcycle, snowmobile or limited-use off-road vehicle in violation of this chapter shall remove said vehicle to a place designated by the Chief of Police. The owner or duly designated agent of the owner of such vehicle may regain the 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 vehicles 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.

§ 196-7

VEHICLES, OFF-ROAD

§ 196-7

§ 196-7. Enforcement.

The Village of Ballston Spa Police Department shall enforce the provisions of this chapter.

Chapter 200

WATER AND SEWERS

ARTICLE I

General Water and Sewer Regulations

- § 200-1. Tapping restrictions; fees.**
- § 200-2. Extension or addition; permit required.**
- § 200-3. Connection to water; fees.**
- § 200-4. Service pipe materials.**
- § 200-5. Installation and maintenance of service pipes; lien.**
- § 200-6. Responsibility for opened trench; protection against accidents.**
- § 200-7. Notice; inspection of open trenches.**
- § 200-8. Control of water supply; liability.**
- § 200-9. Injury to water and sewer systems.**
- § 200-10. Acceptance of water regulations.**
- § 200-11. Installation of meters; measurement.**
- § 200-12. Repair of meters.**
- § 200-13. Location of meters.**
- § 200-14. Discontinuance of service; renewal.**
- § 200-15. Inspection of meters.**
- § 200-16. Responsibility for charges; lien.**
- § 200-17. Failure of meter to register.**
- § 200-18. Charges in case of leaks.**
- § 200-19. Water rates.**
- § 200-20. Reading of meters.**

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- § 200-21. Billings statements; payment of charges.
- § 200-22. Examination of premises.
- § 200-23. Prohibited uses of water supply.
- § 200-24. Service renewals under proposed pavements.
- § 200-25. Valves.
- § 200-26. Hydrants.
- § 200-27. Domestic sewers.
- § 200-28. Outside sewerage facilities.
- § 200-29. Roof and stormwaters.
- § 200-30. Interference of sewer system.
- § 200-31. Laying of sewer and water pipes.
- § 200-32. Catch basins.
- § 200-33. (Reserved)
- § 200-34. Penalties for offenses.

ARTICLE II
Sewer System

- § 200-35. Annual charge imposed.
- § 200-36. Sewer rates.
- § 200-37. Collection of rates; discrepancies.
- § 200-38. Acceptance of sewer regulations.
- § 200-39. Examination of meters.
- § 200-40. Disposition of funds.

WATER AND SEWERS

ARTICLE IIA

Industrial Wastewater, Other Materials and Substances

ARTICLE IIB

Industrial Wastewater Permit

ARTICLE IIC

Industrial Wastewater Enforcement and Penalties

ARTICLE III

Multiple Residences

- § 200-41. Water service charge.
- § 200-42. Sewer service charge.
- § 200-43. Conflicts with other provisions.

ARTICLE IV

Portable Sanitary Waste Facilities

- § 200-44. Prohibition.
- § 200-45. Definitions.
- § 200-46. Penalties for offenses.

ARTICLE IVA

Water Conservation Policy

- § 200-46.1. Intent; types of water restrictions.
- § 200-46.2. Voluntary water restriction.
- § 200-46.3. Mandatory water restrictions.

ARTICLE V

Administration of Water Conservation Policy

- § 200-47. Authority granted.
- § 200-48. Publication of notice.

§ 200-49. When effective.

ARTICLE VI
Termination of Service

§ 200-50. Termination of nonpayment.

§ 200-51. Notice.

§ 200-52. Restoration of service.

§ 200-53. Consent to termination.

§ 200-54. Restoration of services not required.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 174.

ARTICLE I
General Water and Sewer Regulations

[Adopted 5-25-1943 as Sections 152, 154 through 173 and 175 through 185 of the Ordinances of the Village of Ballston Spa]

§ 200-1. Tapping restrictions; fees. [Amended 7-26-1955; 11-11-1975]

- A. No person, other than employees of the Village of Ballston Spa, New York, shall tap any main or water or sewer pipe nor tap any pipe laid for the purpose or with the intent of supplying water or sewer facilities to themselves or to other persons or premises or for other purposes than those for which such pipes were first permitted to be laid.

- B. No water or sewer main may be tapped after November 1 and before April 1 in each year except as may be permitted for emergencies. [Amended 5-13-1996 by L.L. No. 1-1996]
- C. Any person, firm or corporation desiring to tap or caused to be tapped any sewer main or pipe within the Village shall first pay to the Village of Ballston Spa a tapping fee and, in addition thereto, there shall be paid the cost of any materials used. Said tapping fee shall be in an amount as set forth from time to time by resolution of the Board of Trustees.¹ [Amended 5-13-1996 by L.L. No. 1-1996]

§ 200-2. Extension or addition; permit required. ²

No person, including plumbers, shall make any extension of, addition to or connection with any of the water or sewer pipes of the Village or make repairs or alterations to any such water or sewer pipes for any reason without first obtaining a permit signed by the Village Clerk and approved by the Superintendent of the Water Department or the Superintendent of the Sewer Department, and all such work shall be done under the personal supervision of the respective department.³

§ 200-3. Connection to water; fees.

- A. All applications for the introduction of water to any premises or for the extension of any pipe or pipes for the conveyance of such water shall be signed by the property owner or his/her agent and shall state fully and fairly all and several of the various uses to which the water is to be

1. Editor's Note: The fee schedule is on file in the Village offices.

2. Editor's Note: The following former sections, which immediately preceded this section, were deleted 5-13-1996 by L.L. No. 1-1996: Section 152, Subsection d, dealing with penalties; Section 153, Opening Sewers.

3. Editor's Note: The original unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

supplied and used, and whenever hereafter any other use of the water or additional service, pipes or plumbing fixtures is required, a further application must be made as aforesaid.

- B. A double or duplex house or other building must be supplied with two separate water service lines.
- C. Upon written application for a new or replacement water service connection, fees shall be paid to the Village of Ballston Spa for tapping the main, including corporation cock, curb cock and curb box, and in addition thereto, payment for the cost of copper tubing and other materials used. These fees shall be as set forth from time to time by resolution by the Village of Ballston Spa. **[Amended 5-26-1947; 7-12-1955; 7-26-1955; 5-13-1996 by L.L. No. 1-1996]**
- D. Prior to the connection to the Village of Ballston Spa water system, all outside users, not within an approved water district, must deposit in escrow with the Village Clerk the sum of \$300 for residential and \$400 for commercial uses. This sum shall be held by the Village for the duration of the service, including transfer of ownership of the serviced property. In the event of default on any billing statement, the Village may apply a portion or all of the escrowed moneys to the delinquent account. **[Added 10-23-2000 by L.L. No. 2-2000]**

§ 200-4. Service pipe materials. [Amended 5-13-1996 by L.L. No. 1-1996]

- A. Each new and each replacement water service from the main to the curb cock shall be of Type-K copper tubing, size 3/4 inch up to and including two inches. All services over two inches must be of ductile iron pipe. All pipe between the curb cock and the meter, wherever located, shall be of the same quality and approved by the Superintendent of the Water Department. Each new or replacement service shall have supplied by the property

owner a suitable backflow prevention device as approved by the Water Department.

- B. Each service pipe hereafter attached must be supplied with a curb cock and curb box of the type approved by the Water Department, the same to be installed and located flush with the sidewalk near the curblin, the said curb cock subject at all times to the control of the Water Department.

§ 200-5. Installation and maintenance of service pipes; lien.

- A. The owner of property into which water is introduced by a service pipe shall be required to install and maintain in perfect order, at his/her own expense, said service pipe from the principal main to the meter on or for his/her premises, including all fixtures therein provided for delivering or supplying water for any purpose. In case such service and fixtures are not so kept in repair, the Water Department may make all necessary repairs and renewals or parts thereof. The expense of such work and all materials and labor required therefore shall be paid by the property owner and until paid shall be a lien upon the property where such services were rendered and such material furnished.
- B. The owners of the premises where pipelines are in service for fire protection shall maintain such service pipes in perfect order over their entire length from the street main into the premises, and they shall be responsible for any damage that may be caused by leakage or the breaking or bursting of such pipes unless such damage has been caused through some fault of the Water Department.
- C. On all service connections up to and including six-inch, a cutting-in tee and valve shall be used; on all service connections over six inches, a tapping sleeve and valve shall be used.

- D. Service pipe will be required to be laid not less than four and one-half (4 1/2) feet below the surface of the earth at any point to the inside of the foundation wall of the building into which the water service is introduced and, in case the final grade of the street or sidewalk has been officially determined and established, then said service pipe shall be laid at a depth of not less than four and one-half (4 1/2) feet below such established grade at all points so that when the street and walk are graded, there shall be not less than four and one-half (4 1/2) feet covering of earth over the pipe at any point.⁴

§ 200-6. Responsibility for opened trench; protection against accidents.

In the case of any excavation in any street or public grounds for the introduction of any water or sewer pipe or connection under the authority of a permit from the Water or Sewer Departments where work is not done by one of said Departments, the owner and the plumber shall each be held responsible for the trench opened by them. Red lights, barricades and all such other means of protection against accidents must be provided by such person or persons.

§ 200-7. Notice; inspection of open trenches.

Where trenches are opened for the laying of service pipes and such service pipes installed, said trenches, materials and workmanship shall be inspected by the Water or Sewer Department before the same are backfilled. The owner or the plumber performing such work shall notify the Water or Sewer Department that such trench is ready for inspection.

4. Editor's Note: The original unnumbered paragraph dealing with restrictions on tapping, which immediately followed this subsection, was deleted 5-13-1996 by L.L. No. 1-1996.

§ 200-8. Control of water supply; liability.

- A. The Board of Trustees or the Water Superintendent under its direction shall have full right at all times whenever in their opinion the public good or necessity requires or demands it to regulate, diminish or entirely cut off the supply of water from any and all parties taking water and to make all such regulations and rules for the use or for diminishing the use thereof as they shall think proper.
- B. The Water or Sewer Department of the Village of Ballston Spa shall not be liable for any damages which may result to any person or premises from shutting off of the water from any main or service, whether inside or outside of the corporate limits of the Village, for any purpose whatever, even in cases where no notice is given.

§ 200-9. Injury to water and sewer systems.

- A. Any person responsible for any injury to any main, pipe, hydrant or other water or sewer facility shall reimburse the Village therefore and for the loss of water caused thereby. He/she shall also be responsible for any damage caused by such escaping water.
- B. All persons supplied with water shall keep the stop cocks and service pipes for and upon their premises in good repair and protected from frost and so provided with stop and waste cocks just inside the cellar wall as to allow the pipes to be emptied and must keep the same free from water when the safety of such pipes requires it. No continuous flow of water to guard against frost or for any other purpose will be allowed.

§ 200-10. Acceptance of water regulations.

Every person who shall be supplied or whose property shall be supplied with water by the Water Department of the Village of Ballston Spa, whether such property supplied shall be inside or outside of the corporate limits of the Village, shall be deemed to

have accepted and approved the rules of the Village regulating the supplying of water. Whenever the word "consumer" shall be used in this Article, it shall mean the owner or owners of the premises. The continuance of the consumer to take water after any amendment or change of this Article shall be deemed an acceptance of such amendment or change.

§ 200-11. Installation of meters; measurement. [Amended 5-13-1996 by L.L. No. 1-1996]

All water shall be measured through meters furnished and installed by the Village of Ballston Spa, and each water service line shall be supplied with a separate meter. All meters on services inside the corporate limits of the Village shall be furnished and installed at the expense of the Water Department when the meter required is not over five-eighths by three-fourths ($5/8 \times 3/4$) inch; when the meter required is over five-eighths by three-fourths ($5/8 \times 3/4$) inch, the consumer shall pay the difference in cost between the five-eighths-by-three-fourths-inch meter and whatever size meter is installed.

§ 200-12. Repair of meters.

- A. The Water Department shall keep all meters in repair without cost to the consumer, except for such repairs as are made necessary by the negligence of the consumer. Repairs made necessary by meters freezing will be considered the result of negligence on the part of the consumer, and charges for such repairs will be assessed and billed to the owner of the property affected.
- B. The Water Department shall, at its option, replace a damaged meter with a new meter of the remote-reader type, and the property owner will be billed for the meter. When it is deemed necessary, obsolete meters will be removed and new meters of the remote-reader type replaced at no cost to the property owner. [Added 5-13-1996 by L.L. No. 1-1996]

§ 200-13. Location of meters.

- A. All water meters shall be set just inside the basement wall of the building supplied. When this is not possible, the property owner shall construct, or cause to be constructed, a vault to contain said meter. This vault shall be located between the sidewalk and the building supplied and shall be constructed under the supervision of the Water Department.
- B. Wherever the meter is set, the space occupied by the meter and the meter box shall at all times be kept free from rubbish or obstructions of all kinds. The owner and tenant shall provide ready and convenient access to the meter at all times.

§ 200-14. Discontinuance of service; renewal. [Amended 5-13-1996 by L.L. No. 1-1996]

- A. When a discontinuance of service is desired, a notice of at least 24 hours shall be given, in writing, to the Village Clerk. Where the supply of water shall have been discontinued either through action of the Village or at the request of the property owner or his/her agent, such service shall not be resumed until written application is made therefor to the Village Clerk by the property owner or his/her agent accompanied by a fee in an amount to be set forth from time to time by resolution of the Board of Trustees.⁵ Such application shall be made at least 24 hours before the time specified for resumption of service. Water rents will continue in force until removal of the meter by the Village. All persons, including plumbers, are prohibited from removing or disconnecting water meters.
- B. When the water service is discontinued permanently, all lead or galvanized iron service pipes shall be disconnected from the main and not reused.

5. Editor's Note: The fee schedule is on file in the Village offices.

§ 200-15. Inspection of meters. [Amended 5-13-1996 by L.L. No. 1-1996]

Upon written application of any property owner or his/her agent taking water from the Village water supply to the Water Department and accompanied by a fee in an amount to be set forth from time to time by resolution of the Board of Trustees, the Water Department shall remove said meter and take the same to an independent testing facility to be tested. Results shall be kept on file at the Water Department and a copy given to the property owner. If upon such inspection the meter is found to be more than 2% fast, said Water Department shall return to the consumer the above inspection fee and make such reduction in the current bill as the facts warrant. If, however, the meter does not over register more than the above-mentioned 2%, the Water Department shall retain the above inspection fee as its expense of the testing.

§ 200-16. Responsibility for charges; lien.

All charges for water, service pipe installation, repairs, damages caused by the carelessness or neglect, penalties, etc., shall be made against the premises supplied, and the owner of said premises shall be held responsible therefor. Such charges, if not paid, shall constitute a lien on the property benefited.

§ 200-17. Failure of meter to register.

If the meter stops or fail to register, the consumer will be billed at the average consumption for the corresponding period of the previous year as shown by the meter readings.

§ 200-18. Charges in case of leaks.

All water that passes through a meter shall be charged for whether used, wasted or lost by leakage. No abatement of the charges for water rents shall be allowed on account of the vacancy of any premises supplied with water unless the

consumer has requested such water supply be turned off as heretofore provided and the meter removed.

§ 200-19. Water rates. [Amended 4-27-1986 by L.L. No. 2-1986; 4-26-1987 by L.L. No. 2-1987; 4-23-1989 by L.L. No. 4-1989]

A. The following water rates are hereby established:
[Amended 5-12-1997; 7-24-2006]

Water Rate Table in Dollars Per Unit

Usage (gallons)	Rate (per thousand gallons)
0 to 30,000	\$36 (\$1.20) minimum
30,001 to 50,000	\$1.07
50,001 to 100,000	\$1.02
100,001 to 150,000	\$0.96
150,001 to 200,000	\$0.86
200,001 and above	\$0.84

B. The foregoing rates shall apply to services inside the corporate limits of the Village. To all services outside the corporate limits an additional 300% shall be charged.
[Amended 5-13-1996 by L.L. No. 1-1996]

§ 200-20. Reading of meters. [Amended 4-12-1993; 5-13-1996 by L.L. No. 1-1996; 5-27-1997 by L.L. No. 2-1997]; 9-8-2003⁶]

All water meters shall be read twice in each year, in January and July, by the property owner. If meters are not read in two consecutive periods, the Department of Public Works will read

6. Editor's Note: This resolution provided for an effective date of the July 2004 billing.

the meter for a fee in the amount set forth from time to time by resolution of the Board of Trustees.⁷

§ 200-21. Billings statements; payment of charges.

- A. A separate bill shall be rendered for each meter. After each such reading of meters, statements shall be rendered showing both gross and net amount of the same.
- B. Such statements are payable on the following terms:
 - (1) If paid within the first 20 days after the date of the bill, the net amount shall be due.
 - (2) If paid within the next 30 days, the gross amount shall be due.
 - (3) Thereafter, the gross amount shall be due, plus a penalty of 1% per month for each month or fraction thereof such statement remains unpaid.⁸

§ 200-22. Examination of premises.

Every person using water from the water system shall permit the Superintendent, his/her assistants or agents or person in charge of water meters to enter upon the premises at all reasonable hours to examine the manner and extent to which the water is used and to inspect and read the water meters. Refusal to allow such persons to enter will be sufficient reason for the discontinuance of such water service.

7. Editor's Note: The fee schedule is on file in the Village offices.

8. Editor's Note: Original Section 174 of the Ordinances of the Village of Ballston Spa, Cutting off supply, which immediately followed this subsection, was deleted 5-13-1996 by L.L. No. 1-1996.

§ 200-23. Prohibited uses of water supply. [Amended 5-13-1996 by L.L. No. 1-1996]

Any person who shall bathe in any reservoir, well or other source which supplies the Village water system or who shall cast or throw any wood, dirt, earth or any other substance into such reservoir, well or other source of Village water supply or in any manner interfere with the structure of such reservoir, well or supply or the hydrants, pipes or other property connected therewith or take any ice therefrom or angle or fish therein shall be liable to a penalty as set forth in this Article for each offense, and any person who shall in any manner interfere with or trespass upon any of the property appertaining to said water system in any manner not hereinbefore specified shall be liable to a penalty as set forth in this Article.

§ 200-24. Service renewals under proposed pavements. [Amended 5-13-1996 by L.L. No. 1-1996]

On all streets where it is proposed to construct new pavements or to relay existing pavements, all steel, lead and galvanized iron water pipes shall be replaced with copper tubing at the expense of the property owner.

§ 200-25. Valves.

- A. No person, except a duly authorized employee of the Water Department, shall open, close or interfere with any valve or gate in any water main, conduit or street pipe. The type of all valves to be installed underground must first be approved by the Water Department.
- B. Any person who has disturbed or displaced a valve box so that the valve stem cannot be reached by a key or who has covered a valve box or manhole cover of a valve chamber with dirt, paving, plank or other material shall immediately replace the valve box or remove the obstruction.

§ 200-26. Hydrants.

- A. All street fire hydrants or hydrants for private fire protection from unmetered service lines are under the control of the Water Department. No person, except an authorized agent or employee of the Water Department or a person permitted by the Water Department to take water therefrom, shall operate, use or disturb any hydrant or any part thereof or take any water therefrom under any circumstances whatever. **[Amended 5-13-1996 by L.L. No. 1-1996]**
- B. In case any damage to a street hydrant is done by any person having a permit to take water from said hydrant, the holder of the permit shall pay such damages and all costs and expenses that may be incurred by reason thereof on demand to the Water Department.
- C. No person shall use any fire hydrant for construction or other purposes without first obtaining a permit for such use from the Water Department and making any advance payment demanded by said Department. All hydrants used for any construction purposes such as sewers, buildings, paving, etc., must have reducing couplings attached to the nozzles of the hydrants with an independent valve for regulating the supply.
- D. The main valve of the hydrant must be opened at full at the beginning of work each day and remain open until the stoppage of work at night. The water supply shall be regulated by an independent valve. The hydrant shall be operated only by a proper hydrant wrench which shall be obtained from the Water Department.
- E. Water must not be allowed to run except when used. No leaking hose, pipe or pipe joints will be permitted. All persons using hydrants shall immediately obey any instructions or orders that may be issued by the Water Department to regulate the use of hydrants.

- F. If required by the Water Department, a meter shall be applied to the connection made with the hydrant at the expense of the party using the same, and said party shall pay for all water by meter measurements at the stipulated rates.

§ 200-27. Domestic sewers. [Amended 5-13-1996 by L.L. No. 1-1996]

All persons are prohibited from connecting any lateral with the Village sewer system without first receiving permission from the Board of Trustees, and all such connections must be under the supervision of the Superintendent of the Sewer Department.

§ 200-28. Outside sewerage facilities. [Amended 5-13-1996 by L.L. No. 1-1996]

The use of outside closets, outhouses and cesspools within the Village limits is prohibited. All buildings containing such facilities shall be connected with the Village water and sewer systems.

§ 200-29. Roof and stormwaters. [Amended 5-13-1996 by L.L. No. 1-1996]

No roof or stormwaters from wash racks or wastewater from bottling works shall be discharged into the sewers of the Village, except into the stormwater sewers.

§ 200-30. Interference of sewer system.

No unauthorized person shall in any way interfere with or open any manhole connected with the sewer system of this Village or remove or break any of the covers thereof.⁹

§ 200-31. Laying of sewer and water pipes.

No sewer pipe or water main shall be laid in any street, lane or alley in this Village that has not been accepted as a public highway by this Village.

§ 200-32. Catch basins. [Amended 5-13-1996 by L.L. No. 1-1996]

No person or corporation shall sweep, throw or deposit or cause to be swept, thrown or deposited any dirt, refuse or rubbish of any kind into any catch basin in this Village.

§ 200-33. (Reserved) ¹⁰**§ 200-34. Penalties for offenses. [Added 5-13-1996 by L.L. No. 1-1996]**

Any person, firm or corporation who or which shall violate any of the provisions of this article or any rule or regulation made pursuant thereto shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Each day during or on which a violation of this article shall occur shall be deemed to be a separate and distinct offense.

9. Editor's Note: The original unnumbered paragraph dealing with penalties, which immediately followed this section, was deleted 5-13-1996 by L.L. No. 1-1996.

10. Editor's Note: Former § 200-33, Extensions of water system, added 8-12-1958, was repealed 11-11-1996 by L.L. No. 5-1996.

ARTICLE II
Sewer System
[Adopted 10-28-1952]

§ 200-35. Annual charge imposed.

- A. An annual charge is hereby imposed upon every person, firm or corporation whose premises are served by the sanitary sewer system of the Village of Ballston Spa, either directly or indirectly, for the use and support of the facilities of said sanitary sewer system and for connection therewith.
- B. Prior to the connection to the Village of Ballston Spa sanitary sewer system, all outside users, not within an approved sewer district, must deposit in escrow with the Village Clerk the sum of \$200 for residential and \$300 for commercial uses. This sum shall be held by the Village for the duration of the service, including transfer of ownership of the serviced property. In the event of default on any billing statement, the Village may apply a portion or all of the escrowed moneys to the delinquent account. [Added 10-23-2000 by L.L. No. 2-2000]

§ 200-36. Sewer rates. [Amended 4-30-1971; 4-23-1989 by L.L. No. 4-1989; 6-26-2007 by L.L. No. 5-2007]

The sewer rates shall be as follows:

Sewer Rate Table

Minimum- Maximum Usage (gallons)	Rate
0 to 30,000	\$24
30,001 to 50,000	\$0.74 per thousand gallons
50,001 to 100,000	\$0.70 per thousand gallons

Sewer Rate Table

Minimum- Maximum Usage (gallons)	Rate
100,001 to 150,000	\$0.66 per thousand gallons
150,001 to 200,000	\$0.58 per thousand gallons
200,001 and above	\$0.56 per thousand gallons

§ 200-37. Collection of rates; discrepancies.

- A. Bills for such sewage rental shall be levied on each lot or parcel of land having any sewer connection connected to the Village sewage system and shall be based upon the quantity of water used therein or thereon as the same is measured by the water meter or meters there in use, if there be any, and, if there be none, then a meter or meters shall be installed under the supervision of the Sewer Commissioner in order to measure the quantity of water discharged into said sewage system.
- B. In the event that any person affected by the terms of this article shall, by competent proof, show to the Board of Trustees that a substantial variance exists between the amount of water used by such person and the amount of sewage discharged into the sanitary sewer system, the Board may, at such persons request, install in the premises of such person a meter to register the amount of the sewage discharged from said premises, and, thereafter, sewage rental bills shall be rendered for said premises on the basis of the reading of said separate sewage meter.
- C. In the further event that any person, firm or corporation is using Village water which is presently metered and is also obtaining water from other sources and discharging the same into the sanitary sewer system, then said person,

firm or corporation shall allow the installation of a sewage meter in said premises to measure the quantity of sewage

discharged, and bills for said sewage rental shall be rendered on the basis of said sewage meter readings.

- D. A separate bill shall be rendered for each meter when there is more than one water meter or more than one sewage meter by reason of the fact that there is more than one dwelling or manufacturing unit in any one building or on any one premises.
- E. The bills for sanitary sewage services shall be rendered and collected in the same manner and at the same time as is presently provided for the rendition and collection of water bills.¹¹
- F. The net amount of the bills when rendered shall be payable within 20 days from its date, for the next 30 days the gross amount shall be due, and, thereafter, a penalty of 1% a month on such gross amount shall be levied up to a maximum of 12% in penalties.

§ 200-38. Acceptance of sewer regulations.

Every person who shall be supplied or whose property shall be supplied with sewage service by connection with the Village sanitary sewage system shall be deemed to have accepted and approved the rules of the Village and regulations which regulate the use of and charges for said sewage system, and the continuance of the consumer or owner to use such system after any amendment or change of this article applying thereto shall be deemed an acceptance of such amendment or change.

§ 200-39. Examination of meters.

Every person discharging into said sewer system shall permit the Sewer Superintendent or his/her agents to enter upon the premises at all reasonable hours to examine the meter or

11. Editor's Note: Original Section 191 of the Ordinances of the Village of Ballston Spa, which immediately followed this subsection and dealt with cessation of water supply service, was deleted 5-13-1996 by L.L. No. 1-1996.

11 - 15 - 2007

ARTICLE IIA

Industrial Wastewater, Other Materials and Substances**[Adopted 9-24-2001 by L.L. No. 3-2001¹²]**

ARTICLE IIB

Industrial Wastewater Permit**[Adopted 9-24-2001 by L.L. No. 3-2001¹³]**

ARTICLE IIC

Industrial Wastewater Enforcement and Penalties**[Adopted 9-24-2001 by L.L. No. 3-2001¹⁴]**

ARTICLE III

Multiple Residences**[Adopted 3-22-1983 by L.L. No. 2-1983]****§ 200-41. Water service charge.**

The water service charge for any multiple-residence structure located within the Village of Ballston Spa shall be \$45 per dwelling unit, residence unit or apartment located within any multiple-residence structure or complex having 90 or more such dwelling units, residences or apartments located within any such multiple-family-residence structure or complex during the year following the issuance of a certificate of occupancy for such structure or complex, which rate shall then increase to \$60 per unit for the second year following the issuance of such

12. Editor's Note: A complete copy of this local law is on file in the office of the Village Clerk.

13. Editor's Note: A complete copy of this local law is on file in the office of the Village Clerk.

14. Editor's Note: A complete copy of this local law is on file in the office of the Village Clerk.

certificate of occupancy and \$70 per unit in the third and all subsequent years.

§ 200-42. Sewer service charge.

The sewer service charge for any multiple-residence structure located within the Village of Ballston Spa shall be \$45 per dwelling unit, residence unit or apartment located within any multiple-residence structure or complex having 90 or more such dwelling units, residences or apartments located within any such multiple-family-residence structure or complex during the year following the issuance of a certificate of occupancy for such structure or complex, which rate shall then increase to \$60 per unit for the second year following the issuance of such certificate of occupancy and \$70 per unit in the third and all subsequent years.

§ 200-43. Conflicts with other provisions.

All provisions of any prior enacted local law or legislation inconsistent with this Article as the same applies to multiple-family residences of 90 or more units only are hereby repealed.

ARTICLE IV
Portable Sanitary Waste Facilities
[Adopted 12-8-1987 by L.L. No. 6-1987]

§ 200-44. Prohibition.

The service or storage of portable toilets, outhouses, porta-johns or similar temporary or permanent facilities for the purpose of collecting sanitary waste is expressly prohibited within the Village of Ballston Spa.

§ 200-45. Definitions.

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

PORTABLE TOILET, OUTHOUSE AND PORTA-JOHNS —
Includes any permanent or temporary structure facility for the collection of human sanitary waste not directly connected by appropriate piping to the sanitary sewerage collection system maintained by the Village of Ballston Spa.

§ 200-46. Penalties for offenses. [Amended 5-13-1996 by L.L. No. 1-1996]

Any violation of this Article shall constitute an unclassified misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both. Each day that a portable toilet, outhouse, porta-john or similar facility is serviced or stored within the Village of Ballston Spa shall constitute a separate violation of the provision of this Article.

ARTICLE IVA**Water Conservation Policy**

[Adopted 8-13-2001 by L.L. No. 2-2001]

§ 200-46.1. Intent; types of water restrictions.

- A. The Village reserves the right, in periods of drought or emergency or when deemed essential to the protection of the public health, safety and welfare, to restrict, curtail or prohibit the use of water for secondary purposes, such as sprinkling, car washing or filling swimming pools. In addition, the Village shall have the right to fix the hours and periods when water may be used for such purposes.
- B. The Village reserves the right to limit the amount of water furnished to any consumer should circumstances warrant such action, without prior agreement, or may discontinue or interrupt water used for secondary purposes, should it

become necessary after rendering reasonable notice to the consumer.

- C. Interruptions in services caused by emergencies will occur from time to time. Prior notification of such interruptions will be attempted but will not be required of the Village, and the right is reserved by the Village to repair mains as needed.
- D. There are two types of water restrictions: voluntary water conservation and mandatory water conservation. Depending on the severity of the emergency, the Village Board in conjunction with the Superintendent of Public Works will determine what type of restriction to implement.

§ 200-46.2. Voluntary water restriction.

When it is decided that drought or emergency conditions are of moderate concern to the water system, Village water customers will be asked to voluntarily limit the use of water for secondary purposes, such as lawn sprinkling, car washing or filling swimming pools.

§ 200-46.3. Mandatory water restrictions.

- A. When it is decided that drought or emergency conditions are of significant concern to the water system, Village water customers will be required to limit the use of water for secondary purposes, including lawn sprinkling, car washing or filling swimming pools.
- B. The mandatory water restriction will be announced to the public via publishing in the official newspaper, announcement over local radio stations and posting of a notice in nine conspicuous public locations.
- C. The Village will enforce the mandatory water restriction with Village Department of Public Works personnel. First-time violators will be issued a written notice that

they are out of compliance with the mandatory water restriction and will be asked to comply. Repeat violators will be issued a citation with potential fines of up to \$250 per incident. Continued violations could justify the Village to possibly consider the discontinuance or interruption of water service to the customer in violation.

ARTICLE V

Administration of Water Conservation Policy [Adopted 6-14-1988]

§ 200-47. Authority granted.

The Mayor of the Village of Ballston Spa be and hereby is empowered to restrict, limit or prohibit the sprinkling or watering of lawns and gardens as well as all other nonessential water usages at such time as he/she deems appropriate and for such periods of time as he/she may elect whenever the Village water supply is reduced by any cause or condition.

§ 200-48. Publication of notice.

The Mayor shall publish in the official Village newspaper or papers a notice setting forth the date and time of commencement of any such restriction, limitation or prohibition and the nature of any such restriction, limitation or prohibition.

§ 200-49. When effective.

Any restriction, limitation or prohibition promulgated hereunder shall remain in full force and effect until repealed by the Mayor, which repeal shall be accomplished by publication of notice of such repeal in the official Village newspaper or papers.

ARTICLE VI
Termination of Service
[Adopted 7-26-1988 by L.L. No. 1-1988]

§ 200-50. Termination of nonpayment. [Amended 7-14-1997]

- A. The Commissioner of the Department of Public Works shall, quarterly, bring before the Board all delinquent accounts. Delinquency shall be defined as all accounts unpaid for a period in excess of 30 days from the due date of the user fee or bill.
- B. The Board shall then direct the Attorney for the Village to send out correspondence advising the user that he or she must pay the outstanding bill within 30 days of the date of the notice or, in the alternative, personally appear before the regularly scheduled Village Board meeting prior to the lapse of the 30 days and seek an extension of the time period.
- C. Failure to pay or appear and obtain an extension will result in automatic termination of the service by the Commissioner of the Department of Public Works after the lapse of the 30 days or any Board-granted extension thereof.

§ 200-51. Notice.

The passage of 30 days from due date of any water or sewer bill shall be deemed to be actual notice to the water or sewer user of the intent of the Village of Ballston Spa to terminate such service for nonpayment.

§ 200-52. Restoration of service.

- A. Upon the payment of all outstanding water and/or sewer bills, the cost of disconnecting service and the reasonable cost of restoring such service, the Village of Ballston Spa may, in its unbridled discretion, restore water and/or

sewer service to any user who has been terminated pursuant to § 200-50 above.

- B. Nothing contained herein shall require the Village of Ballston Spa to restore water and/or sewer service to any user whose service was terminated pursuant to the terms hereof.

§ 200-53. Consent to termination.

The owner of record of the premises served by such water and/or sewer service as shown on the records of the Department of Public Works of the Village of Ballston Spa shall be deemed to have consented to the termination of such service by his/her or its failure to pay any water or service bill within 30 days of the due date thereof.

§ 200-54. Restoration of services not required.

The Village of Ballston Spa is not required to restore water and/or sewer service to any premises to which such service has been terminated for nonpayment of water or sewer user fees.

Chapter 205

ZONING

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Within Parking Areas

[HISTORY: Adopted by the Board of Trustees of the
Village of Ballston Spa 5-20-1994 by L.L. No. 2-1994.
Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 50.
Moving of Buildings — See Ch. 95.
Unsafe Buildings — See Ch. 99.
Fire prevention — See Ch. 117.
Flood damage prevention — See Ch. 120.
Gasoline stations — See Ch. 129.
Solid waste — See Ch. 170.
Storm sewers — See Ch. 172.
Streets and sidewalks — See Ch. 174.
Subdivision of land — See Ch. 178.
Vehicles and traffic — See Ch. 192.
Water and sewers — See Ch. 200.

ARTICLE I
General Provisions

§ 205-1. Title.

This chapter shall be known and may be cited as a "Local Law Relating to Zoning for the Village of Ballston Spa."

§ 205-2. Purpose.

The zoning law and zoning districts established herein, set forth and as outlined upon the Zoning Map,¹ are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Ballston Spa.

§ 205-3. Scope.

No building, structure or land or part thereof shall hereafter be used, no building, structure or part thereof shall be erected, moved or altered, and no building permit shall be issued unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

1. Editor's Note: The Zoning Map is on file in the Village offices.

ARTICLE II
Terminology**§ 205-4. Use and interpretation of words.**

- A. For the purposes of this chapter certain words and terms used herein shall have the meanings given in this Article. Except where specifically defined herein, all words shall carry their customary meanings. Words used in the present tense include the future tense, words used in the singular include the plural and the plural the singular unless the context clearly indicates the contrary.
- B. The word "shall" is mandatory and not permissive.
- C. The word "building" includes the word "structure" and refers to all other structures of every description except fences and walls, regardless of dissimilarity to conventional building forms.
- D. The word "lot" includes the word "plot" or "parcel."
- E. The word "person" includes a corporation as well as an individual.
- F. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

§ 205-5. Definitions.

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

ACCESSORY USE — A term applied to a use, building or other structure, clearly incidental or subordinate, but customary to the principal use, located on the same lot with the principal use.

ADULT CABARET — Any cabaret, restaurant, tavern, bar or similar establishment which features "go-go" dancers, exotic dancers, strippers, male or female impersonators, nude,

"topless" or "bottomless" or similar entertainers, employees or proprietors.

ADULT ENTERTAINMENT CENTER — Any commercial or business establishment which, by the nature of its product, service, displays or the like, either by prevailing practice or by state or federal statute, excludes minors, or any other business that sells or displays sexually provocative adult-oriented products and/or clothing, or any business engaged in the sale of exotic smoking accessories. **[Amended 4-23-2007 by L.L. No. 3-2007]**

ADVERSE EFFECT ON VALUE OF EXISTING PROPERTY — Competent proof indicating comparable examples that the planned change would reduce the fair market value of an existing property, including the property of the applicant. **[Added 6-12-1984]**

ALLEY — A service way which affords generally a secondary public means of vehicular access or pedestrian access to abutting property.

ALTERATION, GENERAL — Any change to a structure which is not merely a repair or replacement of an existing part, or any change which would:

- A. Enlarge or diminish the livable area of the structure or any part thereof.
- B. Change the number of dwelling units contained in any structure.
- C. Cause a change in the location of, or the height of, the exterior walls or roof of the structure.
- D. Cause a change in any exit or entrance facilities.
- E. Cause a change in use.

ALTERATION, STRUCTURAL — Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

AMUSEMENT PARK — An area of land developed with uses designed to provide commercial outdoor recreation, entertainment or amusement to persons using such facilities.

APARTMENT HOUSE — A building arranged, intended or designed to be occupied by three or more families living independently of each other and having separate kitchen facilities.

APPROPRIATE ARCHITECTURAL STANDARDS — The existence of drawings, diagrams and other preliminary work, as well as a compliance with fire and building codes and a schedule of construction and costs. The need for such standards should relate directly to the magnitude of the planned improvements. **[Added 6-12-1984]**

AREA, BUILDING — See "building area."

ATTIC — That space of a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as (1/2) story in determining the permissible number of stories.

BANK — An establishment where the primary purpose is for the custody, loan, exchange or issue of money, for the extension of credit and for facilitating the transmission of funds.

BASEMENT — A story partly below ground but having at least 1/2 of its height above the average grade of the adjoining ground. A basement shall be counted as one story in determining the permissible number of stories.

BED-AND-BREAKFAST — Owner-occupied, one-family dwelling used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, containing at least three but not more than five bedrooms for such lodgers. The owner must live on the premises. **[Amended 10-25-1999 by L.L. No. 7-1999]**

BOARDINGHOUSE — A building arranged or used for lodging for compensation, with or without meals, and not occupied as a

one-family unit. A rooming house shall be deemed a "boardinghouse."

BUILDING — Any roofed structure permanently affixed to the land intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY — See "accessory use."

BUILDING AREA — The total floor area of each building, including open or enclosed porches or car ports, but excluding steps, uncovered porches, open fire escapes, awnings and canopies, bay windows, window sills, cornices, eaves and other similar architectural features.

BUILDING, COMPLETELY ENCLOSED — A building separated on all sides from adjacent open space or other buildings by fixed interior walls or party walls, pierced only by windows and doors, and covered by a permanent roof.

BUILDING, DETACHED — A building entirely surrounded by open space on the same lot.

BUILDING HEIGHT — The vertical distance measured from the mean finished grade at the foundation to the highest point of such building or structure.

BUILDING LINE — The closed traverse upon a lot which exactly encloses the exterior limits of a building or other structure, including bay windows, covered porches or any projections thereof which are in aggregate over 50 square feet in area.

BUILDING, PRINCIPAL — A building in which the primary use of the lot on which the building is located is conducted.

BUILDING, SEMIDETACHED — A building attached by a party wall to another building, normally of the same type on another lot, but having one side yard.

BULK — A term used to describe the size, volume, area and shape of buildings and structures and the physical relationships thereof.

BUSINESS DISTRICT ZONE — Route 50 from VanBuren Street, north to North High Street and all areas currently designated as "Central Business District." **[Added 10-23-2006 by L.L. No. 6-2006]**

CARPORT — A roofed structure, with or without enclosing walls, used for the storage of one or more automobiles.

CELLAR — A story partly below ground but having greater than at least 1/2 of its height below the average grade of the adjoining ground. A cellar shall not be counted in determining the permissible number of stories.

CLUB OR LODGE — A building or portion thereof, or premises, owned or operated by a corporation, association, person or persons for social, recreational or athletic activities, but not primarily for profit or to render a service which is customarily carried on as a business.

COMMERCIAL MOTOR VEHICLE — Any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

- A. The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;
- B. The vehicle is designed to transport more than 15 passengers, including the driver; or
- C. The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary of the United States Department of Transportation under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1813).

CONDOMINIUM — A multifamily project of one-family dwelling units which may consist of one, a part or more than one building wherein the real property title and ownership are

vested in an owner who has an undivided interest with others in the common usage areas and facilities which service the development. The means of administration and maintenance of common areas are mutually entered into by the respective owners.

COURT, INNER OR INTERIOR — A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

COURT, OUTER OR EXTERIOR — A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway or yard.

COVERAGE — The lot area or percentage of lot area covered by the building area, including accessory buildings and structures.

CONDITIONAL USE OR USE BY SPECIAL PERMIT — A use that would not be appropriate generally or without restriction through the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not be detrimental to public health, safety or general welfare.

CUBICAL CONTENTS — The overall size and geometric shape of a structure.

DAY — The period between 6:00 a.m. and 6:00 p.m.

DECK — A flat, floored, roofless area attached or adjacent to a building.

DEGENERATION OF PROPERTY — Failure to maintain the property; making alterations which are unsafe, are detrimental to the building fabric, interfere with the diagnosis of water damage or other structural deterioration, cause overcrowding or over-utilization of space or which cause a decrease in the value of an existing property to a point where it would not be reasonable to expect further financial investment in such property. **[Added 6-12-1984]**

DUMP — See "junkyard."

DUPLEX — A building containing two dwelling units. See "dwelling, two-family."

DWELLING — A building designed or used principally as the living quarters for one or more families. See "residence."

DWELLING, MULTIPLE-FAMILY — A building or portion thereof containing three or more dwelling units.

DWELLING, ONE-FAMILY — A building containing only one dwelling unit.

DWELLING, TWO-FAMILY — A building containing two dwelling units.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family, including provisions for sleeping, eating, cooking and sanitation, other than a trailer. For the purpose of calculating required usable open space or required parking space for boarding, rooming, fraternity, sorority houses and the like, an additional dwelling unit shall be counted for every two bedrooms, or fraction thereof, occupied by residents not included as a member of the family which occupies the principal dwelling unit.

EXCAVATION — The digging and/or removal of topsoil, subsoil rock and/or stone not exceeding 1,000 cubic yards on an annual basis. Any amount in excess of this volume removed on an annual basis shall be subject to the requirements of the New York State Mined Land Reclamation Law, Article 23 of the Environmental Conservation Law.

EXCESSIVE DISSIMILARITY OR SIMILARITY — A proposed change which, when made, will appear so atrocious that the change will be expected to affect the value of neighboring properties by making the view from those properties unpleasant. Excessive similarity is not meant to apply to row houses, which were built as an architectural unit. **[Added 6-12-1984]**

FACADE — The exterior wall of a building which fronts the street and is exposed to public view.

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 or gratuitous guests.

FEE — All references to "fee" shall mean the schedule of fees as from time to time adopted by the Board of Trustees.²

FENCE — Any artificially constructed barrier made of wood, metal or similar solid material, or a vegetation that provides a full or partial visual barrier in all seasons of the year.

FILLING STATION — See "gasoline service station."

FINISHED GRADE — Elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade, for purposes of computing height of buildings and other structures or for other purposes, shall be the mean elevation at which the finished surface of the surrounding lot intersects the front walls or supports of the building or structure or intersects those walls or supports facing the street.

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

A. In particular, the "floor area" of a building or buildings shall include:

2. Editor's Note: The fee schedule is on file in the Village offices.

- (1) Basement space.
- (2) Elevator shafts and stairwells at each floor; floor space used for mechanical equipment, with structural headroom of seven feet six inches or more.
- (3) Attic spaces (whether or not a floor has actually been laid) providing structural headroom of seven feet six inches or more; interior balconies and mezzanines, enclosed porches and accessory uses, but not including space used for accessory off-street parking.

B. The "floor area" of a building shall not include:

- (1) Cellar space, except that cellar spaces used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- (2) Accessory water tanks and cooling towers.
- (3) Exterior stairs.
- (4) Exterior fire escapes.
- (5) Terraces, uncovered or open porches and outside balconies.
- (6) Accessory off-street parking spaces.
- (7) Accessory off-street loading berth.

GARAGE, PRIVATE — A building or enclosed space primarily designed or used for the storage of one or more motor vehicles and other personal property, provided that no business, occupation or service is conducted for profit therein, and no space is let for any purpose except for the storage of one or two automobiles.

GARAGE, PUBLIC — Any building or part thereof used for the storage, hiring, renting, selling, greasing, washing, servicing or repair of motor vehicles, which is operated for gain.

GASOLINE SERVICE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline, oil or other motor vehicle fuel and which may include facilities for washing, lubricating, cleaning or otherwise servicing motor vehicles, but not for painting.

HOME OCCUPATION — An accessory use of an owner-occupied dwelling unit for gainful employment which is clearly incidental and subordinate to the use of the dwelling unit as a residence, is carried on solely within the main dwelling and does not alter or change the exterior character or appearances of the dwelling and is created and operated by the occupant with no more than one outside employee. No offensive odors, noise, vibration, dust, heat or glare shall be produced if the occupation is to qualify as a home occupation. Specific regulations can be found in Schedule A.³

HOTEL OR INN — A building or any part thereof which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances.

INAPPROPRIATENESS OF DESIGN — A planned change which would be expected to be inadequately constructed (e.g., improper footings), to clash with the visual surroundings, to detract from existing architectural elements of a structure or to fail to comply with other codes. **[Added 6-12-1984]**

INCONSISTENCY WITH ARCHITECTURAL STYLE — A clash of visual impacts, rather than a need to conform exactly to an architectural style. **[Added 6-12-1984]**

JUNKYARD — Any open area where waste materials are bought, sold, exchanged, stored, processed or handled; materials shall include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. Also includes a parcel of land, or part thereof, used for the collection, dismantling, storage and salvaging of appliances, vehicles or other machinery. The storage on a lot of two or more unregistered motor vehicles or the major parts thereof or any

3. Editor's Note: Schedule A is located at the end of this chapter.

appliance or any other waste described above shall be deemed to make the lot a "junkyard." The temporary storage, sorting, shipping and/or receiving of recycled materials mandated by state or local law is specifically excluded from this definition.

LODGE — See "club."

LOT — A parcel of land considered as a unit, occupied or capable of being occupied by one building and accessory buildings or uses or by a group of buildings united by a common use, interest and ownership; and including such open spaces, parking and loading spaces as are required by this chapter; and having its principal frontage upon a public/private street.

LOT, CORNER — A lot abutting more than one street. "Corner lots" will have a minimum of frontage on all streets on which the lot abuts. There will be front setbacks from all streets on which the lot abuts and sideline setbacks from all remaining property lines.

LOT COVERAGE — See "coverage."

LOT FRONTAGE — A lot line which is coincident with a street line.

LOT LINE — A line dividing one lot from another lot or from a street or alley.

LOT, THROUGH — A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH — The horizontal distance between side lot lines measured at the required front lot line.

MOBILE HOME — A factory-finished movable dwelling unit designed and built on a frame and wheels, to be towed on its own chassis, which is used, designed to be used and/or capable of being used as a residence, and which is intended to be occupied as living quarters.

MOBILE HOME LOT — A designated site of specific total land area for the accommodation of one mobile home and its occupants within a mobile home park.

MOBILE HOME PARK — Any parcel of land which is planned and improved for the placement of two or more mobile homes for occupancy for a least 30 days continuously.

MOBILE HOME STAND — A durable surface located on a mobile home lot which is capable of supporting, and on which is to be placed, a mobile home.

MONETARY INSTITUTION — See "bank."

MOST APPROPRIATE DEVELOPMENT — New or additional construction which will better the zoned land use of the area and preserve the architectural and historical nature of the area. **[Added 6-12-1984]**

MOTEL — A building or group of buildings containing individual living and sleeping accommodations primarily consisting of one-bedroom-and-bath units, each of which is provided with a separate exterior entrance and a parking space, and is offered principally for rental and use by motor vehicle travelers on a transient basis only.

MOTOR VEHICLE — Any passenger vehicle, van, truck, truck-trailer, trailer or semitrailer propelled or drawn by mechanical power.

MOTOR VEHICLE REPAIR SHOP — A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles.

NONCONFORMING BUILDING — A building or structure existing at the time of enactment of this chapter which does not conform to the area regulations of the district or zone in which it is situated.

NONCONFORMING BULK — A building or structure lawfully existing at the time of enactment of this chapter which does not

conform to the bulk regulations of the district or zone in which it is situated.

NONCONFORMING LOT — A lot existing at the time of enactment of this chapter which does not conform to the area and other dimensional regulations of the district or zone in which it is situated.

NONCONFORMING USE — Any use of a building, other structure or tract of land otherwise lawfully established but which does not conform to the use requirements for the district in which such use is located either at the effective date of this chapter or as a result of subsequent amendments thereto.

NURSERY SCHOOL — Any place, however designated, operated for the purpose of providing daytime care or instruction for four or more children from two to five years of age, inclusive, and operated on a regular basis, including kindergartens, day nurseries and day-care centers, except New York State licensed day-care facilities.

NURSING OR CONVALESCENT HOME — Any dwelling used for the accommodation and care of persons for whom nursing services are available.

OPEN SPACE — Land not covered by buildings or parking lots, open storage, mining operations or any other use that visually obscures the natural or improved landscape, except for recreational facilities.

OWNER OCCUPANCY — The true owner as listed on the Village assessment rolls is required to physically occupy the property. **[Added 10-25-1999 by L.L. No. 7-1999]**

PARKING SPACE — An off-street space available for the parking of one motor vehicle and having an area of not less than 162 square feet, exclusive of passageways and driveways thereto, and having direct access to a street or alley.

PAVED AREA SETBACK — The distance between the property line and paved areas on the site.

PERSONAL PREFERENCE AS TO TASTE OR CHOICE —
Any determination which is unaccompanied by a reasonable written explanation using the standards set forth in the Historic Zoning Law.⁴ [Added 6-12-1984]

PORCH — A roofed, open or enclosed structure projecting from the outside wall of a building which is not fit for human habitation on a year-round basis.

PREMISES — A lot, together with all the buildings and uses thereon.

PROFESSIONAL AND PERSONAL SERVICE USES —
Business activities carried on directly between individuals within the following categories:

- A. Business functions auxiliary to production and distribution (e.g. real estate, insurance, bookkeeping).
- B. Labor that does not produce a tangible commodity (e.g. beauty/barber shops, musical and dance instruction, doctor's, lawyer's and accounting offices and other professional offices).

PUBLIC UTILITY — Any public service device governed under the jurisdiction of the Public Service Commission and Cable Television Commission, including water, sewer, gas, telephone, television and electric. Also including public utility structures such as electric lines and poles, gas mains, water mains, telephone and telegraph lines and poles and transmission towers.

RECREATIONAL VEHICLE — A mobile unit designed and built for recreational travel, camping or vacation use on land, water or air, which is equipped to provide portable, temporary shelter. The term includes, but is not limited to, campers, motor homes, travel trailers and truck-mounts.

RESIDENCES (RESIDENTIAL) — A building, or any part of a building, which contains living and sleeping accommodations

4. Editor's Note: See Art. VIII, Historic Districts, of this chapter.

for permanent occupancy. "Residence," therefore, includes all one-family and two-family residences, row houses, apartment houses, boarding, rooming, fraternity and sorority houses. However, "residences" shall not include transient accommodations such as hotels, motels and travel trailers.

RETAIL BUSINESS USE — Any commercial enterprise involved in the sale of goods or merchandise to members of the public who are generally intended to be the consumers of these goods. This would include, but is not limited to, clothes cleaners, liquor stores, florist shops, pet stores, supermarkets, photo-finishing stores, copy centers, hardware stores, antique shops, restaurants, and food service establishments. This specifically excludes any adult entertainment center uses. **[Amended 4-23-2007 by L.L. No. 3-2007]**

ROOMING HOUSE — See "boardinghouse."

ROW HOUSE — A building consisting of a series of two or more one-family attached residential dwelling units having common party walls between each dwelling unit.

SATELLITE ANTENNA — A round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than 135 square feet in area as measured from the edges of the parabolic antenna, while commercial dish antennas are usually those larger than 135 square feet in area and typically used by broadcasting stations.

SCHOOL, PRIVATE — A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools, but is not supported by local tax revenues derived from private property and normally involves the payment of tuition for a student's attendance.

SEEN FROM THE PUBLIC STREETS — Facades and sides of structures that are generally parallel to any street and not primarily hidden from view by another structure. **[Added 6-12-1984]**

SELF-SERVICE STORAGE FACILITY — A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

SETBACK — The required minimum horizontal distance between the principal building line and lot line.

SIGN — Any structure, or part thereof, or any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business. Each display surface shall be considered to be a "sign."

SIGN, ADVERTISING — A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

SIGN AREA — The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border, but excluding the supports if they are not used for advertising purposes. Curved, spherical or any other shaped sign face shall be computed on the basis of actual surface area, and all faces of the sign shall be counted in computing the surface area. The copy of signs composed of individual letters, numerals or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices.

SIGN, BILLBOARD — Any advertising or business sign which contains a display area in excess of 50 square feet.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted or a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, FLASHING — An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

SIGN, HISTORIC — Signs are designated "historic" upon the finding that they exhibit unique characteristics that enhance the streetscape or the historic identity of the Village or neighborhood. For example, an historic sign could be an animated sign, ghost sign or landmark sign, the continued existence of which is encouraged and is beneficial to the public good because of the sign's contribution to the historical or cultural character of the streetscape and the community at large. The Village Historic District Commission shall make all final determinations as to whether or not a sign is considered historic.

SIGN, ILLUMINATED — Any sign containing or designed to exhibit by use of an artificial source of light.

SIGN, PORTABLE — Any sign that is designed to be transported, including but not limited to signs with wheels removed; with chassis or support constructed without wheels; designed to be transported by trailer or wheels; converted to A- or T-frame signs; attached temporarily or permanently to the ground, structure or other signs; mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operations of that business; menu and sandwich boards; searchlight stands; and hot-air or gas-filled balloons or umbrellas used for advertising.

SIGN, TEMPORARY — Any sign, including a display, banner or other advertising device constructed of cloth, canvas, fabric, wood or other temporary material, with or without a structural frame and intended for a limited period of display of no more than 30 days, including decorative displays for holidays or public demonstrations.

STORY — That portion of a building, other than the cellar, included between the surface of any floor and the surface of the

next floor above it, or, if there be no floor above it, then the space between any floor and the ceiling next above it. See "attic" or "basement."

STREET — An existing public thoroughfare which affords the principal means of vehicular access to abutting properties.

STRUCTURE — Anything constructed or erected with the exception of fences and walls, the use of which requires location on the ground or attachment to something having location on the ground.

SWIMMING POOL — Any body of water or receptacle for water having a depth at any point greater than two feet, and is used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground outside any building.

TOWNHOUSE — See "row house."

TRAILER PARK OR TRAILER CAMP — A parcel of land which is used or intended to be used for the parking of two or more travel trailers.

TRAILER, PRIVATE UTILITY — A wheeled, non-self-propelled vehicle, designed or used primarily for the hauling and transportation of materials, equipment or personal property, not exceeding one ton in capacity.

TRAVEL TRAILER — Any portable vehicle which is designed to be transported on its own wheels; which is designed and intended to be used for temporary living quarters for travel, recreation or vacation purposes; and which may or may not include all of the facilities included in a mobile home.

USE — The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied, or any occupation, business activity or operation conducted or intended to be conducted in a building or other structure or on land.

VITAL HUMAN SERVICES — Any health-related services such as doctors, dentists, physical therapists, hair and skin care and other necessary human services. [Added 10-23-2006 by L.L. No. 6-2006; amended 4-23-2007 by L.L. No. 3-2007]

YARD, FRONT — An open unoccupied space extending the full width of the full lot and situated between the front line of the principal building and the property line. On a corner lot, a "yard" shall be provided on each street equal in depth to the required front yard on such streets.

YARD, REAR — An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches.

YARD, REQUIRED — An open space on the same lot with a building, extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located.⁵

YARD, SIDE — An open space on the same lot situated between the principal building and the side line of the lot and extending from the front yard (or from the front lot line if there is no required front yard) to the rear yard (or rear lot line if there is no required rear yard).

ARTICLE III District Boundaries

§ 205-6. Establishment of districts.

For the purposes of this chapter the Village of Ballston Spa is hereby divided into the following zoning districts:

R-1	Residential District
R-2	Residential District

5. Editor's Note: See Schedule B, Area and Bulk Regulations, at the end of this chapter.

CBD	Central Business District
C	Commercial District
M	Industrial District
CEE	Cultural/Economic Enhancement [Added 7-24-2000 by L.L. No. 1-2000]
AD	Adult-Oriented or Adult Use [Added 12-22-2003 by L.L. No. 5-2003]

§ 205-7. Zoning Map. ⁶

The boundaries of such districts are hereby established on a map entitled "Zoning Districts, Village of Ballston Spa," dated May 20, 1994, which map accompanies and, with all explanatory matter thereon, is hereby made a part of this chapter. Such map may be referred to as the "Zoning Map."

§ 205-8. Purpose of districts.

- A. Residential Zoning Districts R-1 and R-2 are planned to increase the values of buildings and property used for permanent living occupancy and to meet the purposes as stated in Article I of this chapter.
- B. Buildings used for purposes other than permanent occupancy should be constructed and maintained in the other districts as described below, except that nonresidential special permit uses may be allowed as outlined in Schedule A.⁷
 - (1) The Central Business District is planned to include various appropriate types of nonresidential buildings and property that can serve the residents of the entire Village and which are permitted by Article IV of this chapter.

6. Editor's Note: The Zoning Map is on file in the Village offices.

7. Editor's Note: Schedule A is located at the end of this chapter.

- (2) The Commercial Zoning District is planned to include nonresidential buildings and property that serve businesses.
- (3) The Industrial Zoning District is similarly nonresidential and restricted particularly to manufacturing uses.
- (4) The Cultural/Economic Enhancement Zone is a nonresidential nonretail zone which shall include a mixture of high tech manufacturing, office uses, low-impact industrial uses and cultural development areas. Notwithstanding Schedule A of this chapter, permitted uses shall be limited to electrical manufacturing or repairs, office use, professional use, storage, schools of instruction and light industrial uses. [Added 7-24-2000 by L.L. No. 1-2000]

C. Area and bulk regulations for the five zoning districts can be found in Schedule B.⁸

§ 205-9. Interpretation of district boundaries.

Where uncertainty exists as to the location of any boundaries shown on the Zoning Map,⁹ the following rules shall apply:

- A. District boundary lines are shown on the Village Zoning Map and generally coincide with lot lines shown on the real property tax maps prepared for the Saratoga County Board of Supervisors, dated May, 1992.
- B. Where uncertainty exists in determining the precise location of any district boundary line, the Zoning Board of Appeals shall interpret the intent and purpose of the Zoning Map.

8. Editor's Note: Schedule B is located at the end of this chapter.

9. Editor's Note: The Zoning Map is on file in the Village offices.

§ 205-9.1. R-2S Residential District Seniors. [Added 8-26-1996 by L.L. No. 3-1996]

- A. The Village of Ballston Spa Zoning Law and the Zoning Map of the Village of Ballston Spa as set forth therein be and the same hereby is amended by changing the area described in the annexed Appendix A¹⁰ from District R-1 Residential such as now zoned to a new district, Section R-2S Residential District Seniors (hereinafter R-2S).
- B. The R-2S District will contain 10 two-story eight-unit buildings, to be used for private residential purposes, and occupancy, by persons 55 years of age or older, and their spouses. Occupancy for less than 72 hours by any guest of any occupant of the property shall be allowed. The approximate location of the buildings and access to the site and the location of parking shall be in accordance with the approved sketch plan, annexed hereto as Appendix B,¹¹ provided that the applicable setback in the R-2S Zone will be a twenty-five-foot front setback, a fifteen-foot side setback and a twenty-five-foot rear setback. In the event that common access with the owner of property immediately on the north is not possible, access shall be at the northernmost boundary of the property. A sidewalk will be installed by the applicant along the west side of Fairground Avenue as a pedestrian link to the downtown area of the Village, as shown on Appendix B,¹² provided that any necessary easements and/or rights of access to properties over which the sidewalk will be placed are obtainable. Parking is authorized for up to 95 cars, with the actual number of parking spaces to be determined during the site plan review process. Parking shall be substantially as set forth in Appendix B.¹³
- C. Except as herein provided, the site plan review process as set forth in Article VII of this chapter will be applicable.

10. Editor's Note: Appendix A is on file in the Village offices.

11. Editor's Note: Appendix B is on file in the Village offices.

12. Editor's Note: Appendix B is on file in the Village offices.

13. Editor's Note: Appendix B is on file in the Village offices.

- D. Water will be supplied by the Village of Ballston Spa water system. Sanitary sewerage will be provided by connection to the Saratoga County Sewer District System.
- E. An engineering review escrow shall be established to cover the time associated with the technical review of this project, in an amount to be established by Clough, Harbour & Associates, the Village Engineers.

ARTICLE IV Use Regulations

§ 205-10. Listing of uses by zoning district.

A listing of permitted uses, special permit uses and prohibited uses by zoning district can be found in Schedule A.¹⁴

§ 205-11. Interpretation of uses.

Where uncertainty exists in determining which uses are allowed in each of the districts based on Schedule A, the Zoning Board of Appeals shall interpret the use table in Schedule A¹⁵ and make the final determination.

ARTICLE V Sign Regulations

§ 205-12. General considerations.

All signs shall be erected and constructed in a fashion so as not to obstruct traffic, cause visual blight or detract from the value of property adjacent to that property upon which said sign is erected. All signs shall be compatible within the context of its visual and physical environment. In making such

14. Editor's Note: Schedule A is located at the end of this chapter.

15. Editor's Note: Schedule A is located at the end of this chapter.

determination, consideration shall be given but need not be limited to the following elements:

- A. Size, bulk and mass.
- B. Texture and materials.
- C. Colors.
- D. Coexist well with other signs in the block.
- E. Lighting and illumination.
- F. Orientation and elevation.
- G. General and specific location.
- H. Proximity to streets and other properties.
- I. Design and content.
- J. Character of structural members.

§ 205-13. General sign regulations.

- A. Permits required and details to be specified. No person shall construct or place any sign or other structure upon or over, or which shall hang upon or project over, any street or sidewalk in the Village of Ballston Spa without a permit. Application shall be made, in writing, to the Building Inspector and shall include a scaled drawing showing all details of the size of sign, location and manner of attachment to the building or elsewhere on the premises. Said drawing shall first be reviewed by the Building Inspector to determine if the proposed sign is in accord with the sign design criteria adopted by the Village Board of Trustees, as may be amended from time to time. With respect to advertising flags, there shall be no advertising of products or merchandise, and said flags shall be used for the purpose of indicating to the general public a business location and availability to serve the public. Said criteria may be obtained at the Village Hall

for review. In the event that the applicant and the Building Inspector cannot agree on the sign design, said application shall be denied and forwarded to the Village of Ballston Spa Planning Board, which is hereby charged with the responsibility of administering and carrying out the interests of this article. **[Amended 5-28-2002 by L.L. No. 2-2002]**

- B. Unsafe and unlawful signs. If the Building Inspector shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this section, he/she shall give written notice to the permittee thereof in accordance with Article XII of this chapter. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 10 days after such notice, the Building Inspector is hereby authorized to exercise any and all remedies provided for in this chapter for a violation hereof.
- C. Removal of certain signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such sign may be found within 30 days after written notification from the Building Inspector, and, upon failure to comply with such notice, the Building Inspector is hereby authorized to exercise any and all remedies provided for in this chapter for a violation hereof.
- D. Nonconforming signs. A sign in existence on the date of enactment of this chapter which does not conform to the requirements of this Article may continue to be used. Such nonconforming sign shall not survive a change in title, change in use or sign replacement. If such sign is altered in any way, it shall be made to conform to this article.

- E. (Reserved)¹⁶
- F. Advertising signs that are oversize and of the type referred to as "billboards" are not allowed in any district.
- G. Advertising signs are only permitted for the purpose of directing persons to a Village hotel in a C District or CBD District and shall be limited in size to 16 square feet in area.

§ 205-14. Specific types of signs.

- A. Exempt signs. The following types of signs may be erected and maintained without permits or fees, provided that such signs comply with the general requirements of this chapter and other conditions specifically imposed by the regulations:
 - (1) Construction signs. One sign, not exceeding 10 square feet in all zoning districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress. The location shall be decided by the Building Inspector.
 - (2) Signs advertising an event or activity specifically authorized by the Village Board of Trustees.
 - (3) Holiday decorations. Holiday decorations, including lighting, are exempt from the provisions of this chapter and may be displayed in any district without a permit.
 - (4) Historical signs. Markers, tablets, statues, memorial signs and plaques, names of buildings and dates of erection when cut into masonry surface or when constructed of bronze, stainless steel or similar

16. Editor's Note: Former Subsection E, regarding signs advertising products or services not pertaining to the premises, was repealed 6-24-2002 by L.L. No. 4-2002.

material, and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet in area.

- (5) On-premises directional signs for the convenience of the general public identifying public parking areas, fire zones, entrances and exits and similar signs not exceeding four square feet per face and four feet in height. Business names shall not be allowed.
- (6) Temporary-type signs. Temporary-type signs shall not be illuminated and shall be limited to a maximum size of 16 square feet in area and four feet in height. Such signs may not be erected for periods of longer than 30 days. Signs erected longer than 30 days shall be considered in violation of this chapter and shall be subject to enforcement action as specified in Article XII. The names and legal address of persons responsible for the erection of the temporary sign must be clearly indicated on the sign or sign support.
- (7) Gasoline station signs. Gasoline station signs attached to gasoline pumps and displaying the price of fuel shall not exceed two square feet in area.
- (8) Nonilluminated window signs and posters not exceeding 33% of the window surface area.
- (9) Sandwich board signs. Sandwich board signs shall be two feet wide by three feet tall and may be placed upon the sidewalk only in front of the business for which it advertises and (in other locations) with the consent of the property owner where the sign is to be placed. Said signs shall only be placed so as to not interfere or obstruct pedestrian traffic or create other hazards. Sandwich board signs shall be removed daily at the close of business unless there is a specific event, and only in such case the sign may be located seven days prior to the event and shall be removed immediately upon the conclusion of the

event. The term "specific event" shall mean an occasion which occurs no more than once a month and lasts not more than two days. For the purposes of this section, not-for-profit, charitable, religious and municipal organizations may continue to use a nonconforming-sized sign that is already in existence as of the date of the adoption of this subsection. **[Added 5-28-2002 by L.L. No. 2-2002]**

- (10) Advertising flags. Advertising flags shall not exceed three feet by five feet. The installation or display of any flag shall not be less than nine feet off the ground at the advertisement's lowest point and shall be securely and safely fastened to the building. No advertising flag shall advertise a specific product or merchandise, and said advertising flag shall be used for the purpose of indicating to the general public a business location and availability to serve the public. These requirements shall not apply to the American Flag. Not-for-profit, charitable, religious or municipal organizations may continue to use any advertising flag or banner in existence as of the date of the adoption of this subsection. Advertising flags which become weather worn, tattered, torn or display other signs of deterioration, as determined by the Building Inspector, must be removed. **[Added 5-28-2002 by L.L. No. 2-2002]**

- B. Window signs. Any window sign must be affixed to, placed behind or painted on the interior of the glass of a window. The total sign area may not exceed 33% of the total glass area of the window.

§ 205-15. Prohibited signs.

- A. No signs shall be placed near an intersection that for any reason will cause a traffic hazard, interfere with, mislead or confuse traffic.
- B. Digital time and temperature signs are prohibited.

- C. No sign or part thereof shall contain or consist of flashing, intermittent, rotating or moving lights.
- D. (Reserved)¹⁷
- E. Roof signs shall not be permitted in any district.
- F. No sign or part thereof may rotate or move back and forth.
- G. No sign of any type shall project into the public right-of-way.
- H. No sign shall have a source of illumination directed toward a public street or adjacent property.
- I. No more than one sign per business unit is allowed in a CBD District.
- J. No more than two signs per business unit are allowed in a C or M District.

§ 205-16. Professional or business signs other than in the CBD and C Districts.

Professional or personal business signs indicating the name, address and/or occupation is permitted, provided that such sign is attached to the building or, with its supports, is at least 10 feet inside the property line. Maximum size shall be limited to eight square feet in area. Illumination must not be flashing or intermittent, and constant lighting must not produce an undesirable glare into the street or onto any adjacent property. All other pertinent general sign regulations apply.

§ 205-17. Signs permitted in the CBD and C Districts.

- A. Business signs must pertain only to a permitted use, service or product sold on the premises on which they are located.

17. Editor's Note: Former Subsection D, regarding portable signs, was repealed 6-24-2002 by L.L. No. 4-2002.

- B. Signs attached to a building shall not project more than four feet beyond the building line and must have a minimum height clearance of nine feet.
- C. Signs either hanging or flush shall not be located higher than the lintel line of the first-floor business.
- D. No vertical sign shall be higher than the lintel line of the story to which it pertains.
- E. Signs shall not exceed the height of the building.
- F. Signs shall be limited to a maximum of 16 square feet in area. Any oversize sign will require a variance. Any illumination of any sign must be approved by the Building Inspector.

§ 205-18. Signs permitted in the Historic District.

Signs in the Historic District are subject to all existing sign regulations. An application for a permit with applicable drawings submitted to the Building Inspector is subject to review by the Historic District Commission outlined in §§ 205-34 through 205-43 of this chapter.

**ARTICLE VI
Site Plan Review**

§ 205-19. Purpose of site plan review.

In all districts, site development plan (referred to hereinafter as "site plan") approval by the Planning Board shall be required for:

- A. The erection or enlargement of all buildings in all districts other than one-, two- or three-family residences or uses accessory thereto.
- B. All uses of vacant land other than use customarily accessory to one-, two- or three-family residences.

- C. Any change in use, tenancy or intensity of use, except that of one-, two- or three-family residences, which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or other Village services as determined by the Building Inspector.
- (1) In all cases where any amendment of any site plan is proposed, the applicant must also secure the approval of the amendment by the Planning Board. If the action is subject to site plan approval, no building permit may be issued until an approved site plan or amendment of any such plan is secured by the applicant and presented to the Planning Board. In the event that a building permit is denied, the application, therefore, shall be referred to the Planning Board who shall determine, in the first instance, whether or not the action is subject to site plan review. No certificate of occupancy may be issued for any building or use of land within the purview of this subsection unless the building is constructed or used or the land is developed or used in conformity with an approved site plan or an amendment of any such plan.
- D. Initial determination of whether any such erection, enlargement, uses or changes have occurred or will occur respecting any particular premises shall be made by the Building Inspector. If the Building Inspector finds the same will occur, he/she shall refuse issuance of any requested or necessary building permit. If the Building Inspector finds the same have already occurred, he/she shall issue appropriate notice and proceed with enforcement in the manner described in Article XII.

§ 205-20. Objectives.

In reviewing site plans, consideration shall be given to the public health, safety, welfare, comfort and convenience of the public in general, of the residents of the proposed development and of the immediate neighborhood in particular. Appropriate

conditions and safeguards as may be required to further the expressed intent of this chapter and the accomplishment of the following objectives in particular may be prescribed by the Planning Board.

- A. That all proposed traffic accessways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- B. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use, and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, loading bays and building services.
- C. That the drainage system and layout proposal will afford an adequate solution to any drainage problems.
- D. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets, and that the general landscaping of the site is such as to enhance the character of the Village and is in character with that generally prevailing in the neighborhood.
- E. That sewage disposal facilities and water supply are adequate.
- F. That all living trees over eight inches in diameter, measured four feet above the base of the trunk, shall be retained to the maximum extent possible.
- G. That building facades are compatible with the surrounding area.
- H. That site lighting and signage are proper.
- I. That the site plan is in conformance with appropriate portions of this chapter.

- J. That the architectural features and the location of dimensions of buildings are compatible with those of the surrounding area. [Added 6-22-1998 by L.L. No. 1-1998]
- K. That there is adequate screening from the general public for any proposed adult use, as defined in § 205-47 of the Code. [Added 12-22-2003 by L.L. No. 5-2003]

§ 205-21. Procedures.

- A. At least two weeks in advance of the Planning Board meeting, a complete site plan application shall be submitted to the Planning Board, together with the appropriate fee in accordance with the fee schedule established by the Village Board of Trustees.¹⁸ The Board shall make a determination as to the completeness of the application. Until an application is deemed complete, the Planning Board shall take no action on the project. The Board shall act on the complete site plan application no later than the date of the second regular meeting after submission of the complete application.
- B. Any approval issued by the Board shall be effective so long as the applicant secures a building permit within 120 days of such issuance.

§ 205-22. Submission requirements.

The applicant will be required to submit seven copies of a complete application for site plan approval with seven copies of the site plan. The site plan shall be drawn to a scale not smaller than one inch to 40 feet and shall show the following:

- A. The name of the development, date, North point, scale, name and address of the owner, name of persons responsible for preparation of the site plan, Tax Map lot and block number.

18. Editor's Note: The fee schedule is on file in the Village offices.

- B. The location, showing adjacent property owners, location, height and size of all existing and proposed buildings on the lot and immediately adjacent thereto, existing and proposed elevation of building and curbs and lot dimension.
- C. Provisions for off-street parking and off-street loading. All parking spaces shall be numbered, and the total number of spaces and total square footage of parking shall be shown on the site plan. The site plan shall identify both customer and off-street parking spaces.
- D. Boundaries of the property, building setback lines, easements and the location and type of utilities, both above and below ground, if any.
- E. Existing and proposed drainage facilities and sewer and waterlines, including dimensions and type of material.
- F. Proposed and existing highway, street and interior curbing, including type of construction materials.
- G. The location and width of proposed driveway and curb cuts.
- H. The location of all existing driveways within 200 feet of the lot.
- I. Directional arrows on pavement indicating flow of traffic.
- J. Proposed screening and landscaping, site lighting and commercial and direction signage (i.e., traffic control signs).
- K. The total area of the site and coverage of the site by all buildings.
- L. A written description of any commercial or industrial operations in sufficient detail to indicate the effects of those operations in producing noise, glare, vibration, smoke, fumes, gas, dust, odor, fire hazards and explosion

hazards, including reference to applicable federal and state regulations.

- M. The proposed number of shifts to be worked and the maximum number of employees on each shift.
- N. Building elevations, which are necessary to demonstrate the height, bulk and architectural appearance of any structures.
- O. Any other data or evidence that the Planning Board may require in order to make a determination.

§ 205-23. Powers of Planning Board.

The Planning Board is hereby authorized and empowered to require any changes, additions and/or deletions to the plan submitted by an applicant or to impose any condition or to require any applicant to do anything to take any step with respect thereto that will bring the proposed plan into conformity with the expressed objectives of this chapter. The results of the Planning Board's decisions shall be submitted to the Zoning Board of Appeals and Building Inspector/Zoning Enforcement Officer for their information. The Planning Board may waive any submission requirement under § 205-22 which it may deem unnecessary or inappropriate to the particular application.

ARTICLE VII Regulations on Area and Bulk

§ 205-24. Schedule of area and bulk regulations.

Regulations governing lot area and lot width; front, side and rear yards; lot coverage and building height are as specified in Schedule B,¹⁹ and additional regulations are as follows:

19. Editor's Note: Schedule B is located at the end of this chapter.

- A. Reduction of lot area. The minimum yards and open spaces, including lot area per dwelling unit, required by this chapter for any building existing at the time of adoption of this chapter or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building nor shall any lot be reduced below the district requirements of this chapter.
- B. Corner lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. The area of the yard not fronting on a street shall meet the side yard setback for that district.
- C. Visibility at street corners. On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than 2.5 feet in height shall be erected, placed or maintained nor shall branches or foliage of trees be permitted less than 10 feet from the ground so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and straight line joining said lines at points 50 feet distant from the point of intersection measured along said lines.
- D. Height.
- (1) It shall be unlawful for any person, firm, corporation or governmental subdivision to build, erect, cause to be built or cause to be erected any building or structure or any addition to any existing building or structure which would exceed the maximum building height for each zoning district as shown in Schedule B, Area and Bulk Regulations.²⁰
 - (2) In the event that any person, firm, corporation or governmental subdivision attempts to erect any building or structure or any addition to any existing

20. Editor's Note: Schedule B is located at the end of this chapter.

building or structure in violation of this chapter, any such person, firm, corporation or governmental subdivision shall cease, desist and halt all such construction immediately upon being so notified by the Building Inspector of the Village of Ballston Spa.

- (3) Any building, structure or addition to any existing building or structure which shall be erected in violation of the terms of this chapter shall be considered a public nuisance.
- (4) It shall be unlawful for any person, firm, corporation or governmental subdivision to occupy or cause to be occupied any building or structure or addition to any existing building or structure constructed in violation of the terms of this chapter, and any person, firm, corporation or governmental subdivision which shall occupy or cause to be occupied any such structure or addition thereto shall be removed therefrom by the Building Inspector of the Village of Ballston Spa and/or his/her designees, and the expenses of any such removal shall be borne by the owner of any such nonconforming building structure or addition to such building or structure.

§ 205-25. Accessory structures.

A. Unattached accessory buildings may be erected in residential districts, provided that the following criteria are met:

- (1) Height. Maximum height of accessory buildings shall be one story or 15 feet, whichever is greater.
- (2) Location. Accessory buildings may be erected within rear and side yards in accordance with the following requirements: **[Amended 9-23-2002 by L.L. No. 5-2002]**

- (a) Rear yard: five feet from the rear property line and 12 feet from any side lot line.
 - (b) Side yard, street side of corner lot: 12 feet from the side lot line.
 - (c) Not closer than 15 feet to a principal building, whether in a rear yard or a side yard.
 - (3) Lot coverage. In computing lot coverage, the total footprint of the principal buildings and accessory structures shall be used.
- B. Accessory buildings may be erected in nonresidential districts, provided that the following criteria are met:
- (1) They are nondwelling structures.
 - (2) Such accessory buildings shall comply with front and side yard requirements, if any, for the principal building to which they are accessory.
 - (3) Such accessory buildings shall not be closer to any rear property line than 10 feet.
 - (4) Maximum height shall be one story or 15 feet.
- C. Satellite antenna are allowable under the following conditions:
- (1) Satellite dishes may be placed in side and rear yards only.
 - (2) Satellite dishes located on accessory buildings may be a maximum of 10 feet above the maximum elevation of the roof.
 - (3) Satellite dishes on the primary structure of a lot are prohibited.
 - (4) Satellite dishes must meet the rear and side yard setback requirements listed in § 205-25A(2).

§ 205-26. Height exceptions.

- A. The height limitations of this chapter, as shown in Area and Bulk Schedule B,²¹ shall not apply to church spires, belfries, cupolas and domes which are not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above roof level nor to a parapet wall or cornice nor to radio or television receiving antennas, transmission towers and cables or other similar structures, provided that they do not exceed the height limit by more than five feet.
- B. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended, and no such uses shall, in their aggregate coverage, occupy more than 10% of the roof area on which they are located. Any such proposed structure exceeding 100 feet in height, including receiving antennas and/or transmission towers, shall be permitted only by special permit issued by the Zoning Board of Appeals. In addition, no advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.

§ 205-27. Transition requirements for district boundaries.

- A. Where two districts abut on the same street between two intersecting streets and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less-restricted district a front yard equal in depth to the average of the required depth in the two districts.

21. Editor's Note: Schedule B is located at the end of this chapter.

- B. Where the side or rear yard of a lot in a residential district abuts a side or rear yard of a lot in a nonresidential district, there shall be provided along abutting rear or side lot lines in the nonresidential district a transitional yard of 100 feet or a transitional yard of 50 feet, plus an opaque fence or evergreen plantings deemed sufficient by the Village Planning Board to screen views between districts. Such plantings and/or fences should be a minimum of five feet in height when installed. Any such fences, walls or plants shall be maintained in such condition to fully provide the visual screening of business uses from residential uses.

§ 205-28. Existing undersized lots.

- A. No building or dwelling shall be erected on a nonconforming lot when said owner owns a contiguous lot(s) and the total area of such lot(s) is equal to or greater than the minimum lot area required for that district with the exception of certain lots in R-1 and R-2 Zoning Districts as noted in § 205-28(B) below.
- B. Any lot in the R-1 or R-2 Zoning Districts held in single and separate ownership prior to the adoption of the zoning ordinance for the Village of Ballston Spa of October 25, 1966, or any amendment thereto, including this chapter, whose area and/or width and/or depth are less than the specified minimum lot requirements for that district, may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:
- (1) Such lot in the R-1 or R-2 Zoning Districts shall have a minimum area of 5,000 square feet and a minimum lot width of 50 feet at the setback line.
 - (2) The following minimum yard dimensions must be maintained in the R-1 and R-2 Zoning Districts: side yards, eight feet; front and rear yards, 25 feet.

- (3) The lot must be in compliance with all other bulk requirements for that zoning district.

§ 205-29. Yards.

- A. Side yards for attached buildings. Side yards for semidetached houses or row houses shall be required at the ends of the total structure.
- B. Double frontage. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.
- C. Distance between principal buildings. Where two or more principal residential buildings are to be located on the same lot in District R-2, the exterior walls shall be separated from the nearest point on any adjacent building by a horizontal distance of a minimum of 30 feet.
- D. Encroachment in required yards. The space in any required yard shall be open and unobstructed except as follows:
 - (1) Window sills, belt courses, eaves and other similar architectural features shall be permitted to project no more than three feet.
 - (2) Awnings and canopies shall be permitted to project no more than six feet.
 - (3) Open fire escapes shall be permitted to project a maximum of six feet into required side yards or courts but shall not project into required front yards or required open areas and shall not be placed on walls facing toward a street.

§ 205-30. Courts.

- A. Outer court. In addition to district limitations, an outer court shall have a minimum width of not less than 15 feet.
- B. Inner court. An inner or enclosed court shall have a minimum horizontal dimension that is not less than the height of the highest wall bounding such court and in no case less than 25 feet. Two open and unobstructed passageways, each at least eight feet high and 10 feet wide, shall be provided at ground level.
- C. Interior angles. Court walls containing windows shall not be permitted to join with other such walls at interior angles of less than 60°.

§ 205-31. Off-street parking.

- A. Off-street parking shall be required for all buildings constructed after the effective date of this chapter. Each off-street space shall consist of at least 162 square feet per car with a minimum width of nine feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Minimum off-street parking requirements are specified in Schedule C.²²
- B. For uses not specified in Schedule C,²³ the Zoning Board of Appeals shall, on appeal and after recommendation of the Planning Board, establish parking requirements consistent with those specified in Schedule C.
 - (1) For any building having more than one use, parking space shall be required as provided for each use.
 - (2) Floor areas, for the purposes of computing parking requirements, shall be the sum of the horizontal area within exterior walls of the several floors of a

22. Editor's Note: Schedule C is located at the end of this chapter.

23. Editor's Note: Schedule C is located at the end of this chapter.

building, excluding basement, cellar and attic areas used for storage.

- (3) Required parking spaces for residential uses shall be located on the same lot as the principal use.
- (4) Parking spaces required for other uses may be located within 400 feet of the principal use to which they are accessory, and such spaces shall conform to all regulations of the district in which they are located.
- (5) Where permitted, parking or storage of unregistered or inoperative road vehicles, other than recreational vehicles, for a period of more than seven days shall be in the rear yard only.
- (6) In no event shall any part of the parking lot areas, lawn or other required open space be used for the storage or abandonment of any articles or goods or the storage of trucks or trailers.

§ 205-32. Development and maintenance of off-street parking and loading areas.

- A. Except as otherwise noted below, for nonresidential uses there shall be one berth for 5,000 square feet to 15,000 square feet of floor area and one additional berth for each additional 25,000 square feet or fraction thereof. For wholesale establishments: one berth for each 10,000 square feet of floor area or fraction thereof.
- B. In the CBD and Commercial Districts, off-street parking areas where they exist may be used for loading or unloading, provided that no more than one space shall be used for each 2,000 square feet of usable floor area or any part thereof.
- C. The location, number, size and design of loading and unloading areas for nonresidential uses and the access ways thereto shall require the approval of the Planning

Board of the Village of Ballston Spa prior to the issuance of a building permit or a certificate of occupancy by the Building Inspector.

- D. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required.
- E. Each required loading berth may be open or enclosed and shall have the following minimum dimensions: 35 feet long, 12 feet wide and 14 feet high. Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area or accessway.
- F. Screening. Off-street parking or loading areas shall be screened from adjoining residential lots by walls, fences or hedges of sufficient height as determined by the Planning Board.
- G. Every parcel of land hereafter used as a public or private parking area or loading area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
 - (1) Minimum distances and setbacks. No off-street parking areas for more than five vehicles or off-street loading area shall be closer than 10 feet to any dwelling, school, hospital or any other institution for human care located on an adjoining lot. If the off-street parking area is located adjacent to a residential district, a minimum ten-foot paved area setback from the property line shall be required.
 - (2) Surfacing. With the exception of properties used solely for residential dwellings, any off-street parking or loading area shall be surfaced with an asphaltic or portland cement binder pavement or similar durable and dustless surface which shall be so graded and drained as to dispose of all surface water accumulated within the area and shall be so

arranged and marked as to provide for the orderly and safe loading, parking and storage of vehicles.

- (3) Lighting. Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to reflect the light away from the adjoining premises in any residential district.
- (4) Modification of requirements. The Zoning Board of Appeals may authorize, on appeal, a modification, reduction or waiver of the foregoing requirements if it should find that in the particular case appealed the peculiar nature of the use or the exceptional situation or condition justifies such action.

H. The Planning Board of the Village of Ballston Spa shall approve the design of all parking areas under their authority outlined in Article VI of this chapter. To assist applicants in the layout of parking areas within generally acceptable practices. Schedule D²⁴ includes typical drawings that illustrate the geometric design of the lanes and stalls. These sketches are a guide which shall be used by the Planning Board during their review of the adequacy of parking areas within the Village of Ballston Spa.

§ 205-33. Accessways.

- A. Access to lots. A lot to be used for building purposes shall have lot frontage on a public street.
- B. Access to parking areas. Unobstructed and direct accessways between a street and a parking area shall be provided. There shall be a minimum of:
 - (1) One accessway at least 10 feet wide for parking areas with five spaces or less.
 - (2) One accessway at least 15 feet wide for parking areas having six to 20 spaces.

24. Editor's Note: Schedule D is located at the end of this chapter.

- (3) Two accessways with separate curb cuts at least 20 feet wide each for parking areas with over 20 spaces.
- C. Access to loading berths. Accessways at least 10 feet in width shall connect all loading berths or areas to a street. Such accessways may be coincidental with access roadways or driveways to parking areas.

ARTICLE VIII Historic Districts

§ 205-34. Purpose; district boundaries.

- A. Purpose and intent. Pursuant to the provisions of § 7-700 of the Village Law of the State of New York which empowers the Village Board to regulate and restrict certain areas as national historic landmarks, special historic sites, places and buildings for the purpose of conservation, protection enhancement and perpetuation of these places of natural heritage, it is hereby declared that the preservation of structures of historic, architectural and aesthetic value is a public purpose of the Village of Ballston Spa. The purpose and intent of this Article is to:
 - (1) Safeguard the heritage of the Village of Ballston Spa by preserving districts and landmarks in the Village which reflect elements of its cultural, social, economic, political, artistic and architectural history.
 - (2) Promote the use of Historic Districts and landmarks for the educational, pleasure and welfare of the citizens of the Village.
 - (3) Stabilize and enhance property values.
 - (4) Establish a Historic District Commission to help carry out the purposes of this chapter.
 - (5) Create Historic Districts in the Village of Ballston Spa.

- B. Boundaries of Historic Districts. The map entitled "Zoning Districts, Village of Ballston Spa," as referenced in § 205-7 of this chapter notwithstanding, the boundaries of the Historic District shall include all parcels of land which abut East and West High Streets from the intersection of East High Street with Eastern Avenue westerly to the creek which flows under West High Street into the Gordon Creek (including the continuation of Charlton Street south of West High Street); Beach Street; Pleasant Street from its intersection with the easterly line of Beach Street westerly to Milton Avenue; Milton Avenue from its intersection with Pleasant Street southerly to its intersection with East and West High Streets; Church Avenue from its intersection with East and West High Streets southerly to 20 Church Avenue, commonly known as the "Verbeck House." Parcels of land abutting the above streets shall include all adjoining parcels under common ownership as of May 24, 1999. **[Amended 5-24-1999 by L.L. No. 1-1999]**

§ 205-35. Creation and organization of Historic District Commission.

- A. There is hereby created an Historic District Commission (hereinafter called the "Commission") which shall consist of five members who shall serve without compensation, who shall be residents of the Village of Ballston Spa and of which two members shall reside in an Historic District.
- B. The members of the Commission shall be appointed by the Mayor and approved by the Village Board. The term of office of each member shall be three years, except that the initial appointments of one member shall be for one year, of two members for two years and of two members for three years. The Village Board of Trustees shall have the power to remove any member for good cause shown after a public hearing. Whenever a vacancy shall occur on the Commission, the Mayor shall appoint a person with the

concurrence of the Village Board to serve the unexpired term thereof.

- C. The Commission shall adopt, amend or repeal rules for the transaction of its business which shall include provisions for the appointment from time to time from its members a Chairman and Vice Chairman, the holding of regular meetings, definition of quorum and manner of voting, maintenance of its records and any other rules and regulations necessary or appropriate to the performance of its functions.
- D. The Commission shall prepare a list of architectural and other criteria appropriate to the development of each Historic District to serve as a guide for persons contemplating work within an Historic District and to serve as an aid to the Commission in reviewing applications.

§ 205-36. Duties and powers of the Commission.

- A. Within 72 hours after filing, it shall be the duty of the Building Inspector to refer to the Commission plans for any building within an Historic District for which a permit is sought. The Commission shall review all applications for building permits relating to Historic Districts. In such review, the Commission shall give consideration to any factors it may deem pertinent, including:
 - (1) The historic or architectural value and significance of any structure.
 - (2) Its relationship to the historic value and architectural styles and types of buildings in the surrounding area.
 - (3) The appropriateness of exterior design, arrangement, textures, nature and quality of materials and general appearance.

- (4) Excessive similarity to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street and within 250 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:
- (a) Apparently identical facade.
 - (b) Substantially identical size and arrangement of either doors, windows, portico or other openings or breaks in the facade facing the street, including reverse arrangement.
 - (c) Other significant identical features of design, provided that a finding of excessive similarity exists, but further that it is of such a nature as to be expected to provoke one or more of the harmful effects set forth in § 205-36 above.
[Amended 5-24-1999 by L.L. No. 1-1999]
- (5) Excessive dissimilarity or inappropriateness in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street and within 250 feet of the proposed site in respect to one or more of the following features:
- (a) Cubical contents.
 - (b) Gross floor area.
 - (c) Height of building or height of roof.
 - (d) Other significant design features such as material or quality of architectural design.

B. The Commission shall have the power to:

- (1) Administer oaths and compel the attendance of witnesses.

- (2) Call upon and compensate experts to aid it in its duties.
- (3) Maintain a directory of architectural styles.
- (4) Conduct surveys of Village landmarks and of buildings and areas within the Historic Districts for the purpose of acquiring data concerning historic, architectural or cultural significance of such buildings and area.
- (5) Transmit to the Planning Board recommendations concerning the establishment or alteration of Historic Districts and the designation of structures or areas as landmarks.
- (6) Advise owners of landmarks or buildings or areas within Historic Districts, upon request, on the preservation and restoration of historic structures.
- (7) Do all other legally consistent acts to implement its functions and the purposes of this chapter.

§ 205-37. Standards to guide the Commission.

The Commission shall be guided by the following standards in approving or disapproving plans except where the Commission specifically finds that application of the following standards is inappropriate or would create undue hardship for the applicant:

- A. Alterations, repairs and additions. Alterations, repairs and additions to existing buildings shall either be consistent with the spirit of their architectural style or shall alter the structure to render its appearance consistent with the architectural styles existing in the Historic Districts.
- B. New construction. New construction shall be consistent in design with the architectural styles existing in the Historic Districts, except in such instances of new construction as the Commission shall determine to be inappropriate because structures adjoining the site of such proposed new

construction are of a significantly dissimilar period of architecture. In such instances, the Commission may approve such styles and periods of architecture as it deems proper for the site and in the best interest of the Historic Districts.

- C. In making its determinations under §§ 205-37A and 205-37B above, the Commission shall consider the following guidelines which shall also be considered by the applicant and included in his/her plans to the extent that they are applicable:

(1) Materials.

- (a) Retention and/or restoration of old materials are to be utilized. Removal or covering of old materials is to be prohibited wherever practicable.
- (b) Compatible materials which are either similar or visually quiet in relation to traditional ones used in the area should be utilized in new construction or when restoration of original materials is impossible. Inappropriate contemporary materials, including those which attempt fake antiquity or rusticity, should be discouraged or specifically excluded. When appropriate traditional materials cannot be duplicated, preference should be given to contemporary materials used in a straightforward manner which at the same time are not conspicuous in the traditional context of the district.
- (c) Material selection for new buildings should respond to the consideration for Historic Districts. In order to retain the visual integrity of the area, contemporary materials such as glass, curtain walls, concrete, etc., are acceptable, provided that the overall effect of

the building facade is visually quiet and compatible with historic areas.

- (2) Facade openings. Retention of original design and style of sash, doors and size of openings in a facade of an existing structure is to be accomplished wherever practicable. Restoration of such features is to be encouraged when they have formerly been altered.
- (3) Facade rhythm and proportion.
 - (a) By manipulation of architectural features, the rhythm of separate building units existing on a new street is to be carried across the facade of new structures which occupy more than one house lot. Some of the ways in which such articulation may be achieved easily on extended facades include rhythmical grouping of openings in clusters, by reveals in the wall plane or by architectural expression of a structural bay.
 - (b) The facade of structures erected on single house lots should be proportioned so that the height is compatible with those in the area.
- (4) Architectural features.
 - (a) Ornamentation in wood, masonry or metal should be preserved and repaired on all facades. In the case of missing elements, when their configuration can be established they should be restored. New infill structures may incorporate ornamental features common to the district, otherwise, decorative features should be omitted from projects of contemporary design.
 - (b) Indication of floor levels by means of opening placement and use of belt courses should be

related primarily to those generally indicated on the entire block and secondary to the two abutting structures.

- (c) Front steps and porches on existing structures should not be removed or rebuilt in a manner which may conflict with the style of the structure or neighborhood.

(5) Demolition of buildings.

- (a) Demolition in areas designated for new development will be permitted only after the developer of the site has submitted and obtained approval of his or her plans for new development, including an acceptable timetable and guarantees which may include performance bonds for demolition and completion of the project. In no case shall the time between demolition and commencement of new construction exceed six months.
- (b) In the case of structures of architectural or historical significance, the developer shall be required to show good cause as to why such structures cannot be preserved.
- (c) Moving of structures of historical or architectural value may be permitted as an alternative to demolition.

(6) Height of new construction.

- (a) Maximum building height shall not be greater than the taller of the next two abutting structures on each side of the building site.
- (b) Minimum building height of a street facade shall not be less than the lower of the next two abutting structures on each side of the building site.

§ 205-38. Regulation of structures in Historic Districts.

- A. Compliance with the requirements set forth in §§ 205-34 through 205-43 shall be necessary before any structure in an Historic District is constructed, altered, resurfaced, repaired, rehabilitated, restored, moved or demolished.
- B. Regulatory standards.
- (1) Approval of such application will be given unless the Commission finds that the proposed modification will contribute to:
 - (a) Excessive uniformity;
 - (b) Excessive dissimilarity;
 - (c) Inappropriateness of design in the exterior appearance of the proposed modification as said modification relates to the immediate area;
 - (d) Adverse effect on the value of existing property and the benefits of occupancy in the immediate area;
 - (e) Inconsistency with the architectural style of the existing structure or neighboring property;
 - (f) Discouragement of the most appropriate development of the district;
 - (g) Degeneration of the subject property of the surrounding property with attendant deterioration of conditions affecting the health, safety, comfort and general welfare of the inhabitants thereof; or
 - (h) Failure to maintain appropriate architectural standards in the construction, modification or removal of structures located within the designated district.

- (2) It is the purpose of this section to prevent these and other harmful effects of such exterior appearances of buildings as may be seen from the public streets in any neighborhood and thus to promote the health, safety, comfort and general welfare of the community, to promote the public convenience and prosperity and to conserve the value of buildings and encourage the most appropriate use of land within the following designated areas.
- (3) The Board of Trustees of the Village of Ballston Spa hereby finds that the failure to maintain appropriate architectural standards in the construction of new buildings and projects and in the modification or removal of existing buildings and failure to provide and implement a coordinated and comprehensive plan for the preservation of Historic Districts and/or Village landmarks conflicts with the purposes set forth in § 205-34. It is the purpose of this section to minimize and prevent such conflicts, to which intent there are hereby established and designated certain Historic Districts and landmarks which shall be the areas and premises designated in § 205-34B.

§ 205-39. Actions of the Commission. [Amended 5-24-1999 by L.L. No. 1-1999]

The Commission may approve without reservations or conditionally approve, subject to specific modifications, or may disapprove any application for a building permit referred to it by the Building Inspector as set forth herein, provided that a finding of excessive dissimilarity or inappropriateness shall state not only that such excessive dissimilarity exists, but further that it is of such a nature as to be expected to provide one or more of the harmful effects set forth in § 205-36 hereof, and that the finding is not based on personal preference as to taste or choice of architectural style. As speedily as possible, but within 15 days after a building plan is referred to the Commission by the Building Inspector as herein provided, the

Commission shall meet the Building Inspector, review such plans and determine whether to approve or disapprove the issuance of a building permit.

§ 205-40. Effect of Commission action.

The Building Inspector shall refuse any permit application disapproved by the Commission as provided in § 205-39 above. The Building Inspector may approve any application conditionally approved by the Commission as soon as the conditions specified in such conditional approval have been fulfilled. If the Commission shall have approved any building permit application and such application shall otherwise be in conformance with all codes and ordinances of the Village of Ballston Spa, then the Building Inspector shall forthwith issue the permit applied for. He/she shall likewise issue the permit as applied for in the case of any building permit application referred to such Commission and on which such Commission has failed to act within 15 days of such reference by the Building Inspector.

§ 205-41. Appeal to Zoning Board of Appeals.

Any person aggrieved by the action of the Commission in disapproving or approving a building permit application and of the Building Inspector in acting on such permit because of such disapproval or approval may take an appeal therefrom to the duly constituted Zoning Board of Appeals in the same manner as is provided for zoning appeals, and such Zoning Board of Appeals, after proceeding in the same manner as is provided for zoning appeals and with the same power and authority therein vested in appealing upon appeals before it under the provisions of law and this chapter and in the exercise thereof, may reverse, affirm or modify and affirm the action of the Commission and of the Building Inspector.

§ 205-42. Consultation with Planning Board.

Upon request of the Planning Board, the Commission shall consult with and advise the Planning Board with respect to any site plan on which the Commission is required to pass under provision of law or of this chapter.

§ 205-43. Exclusions.

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior feature in an Historic District which does not involve a change in design, material or outer appearance thereof.

ARTICLE IX
Mobile Homes and Mobile Home Parks

§ 205-44. Restrictions.

- A. Travel trailers and mobile homes are permitted only in the R-2 District and must be located in approved mobile home parks which are subject to the regulations found in § 205-45 of this chapter.
- B. Uninhabited travel trailers may be parked, if disconnected from all utilities, in the rear yard of the permanent home of the owner or in a fully enclosed building. All setback requirements listed in § 205-25A(2) must be met.
- C. Travel trailer parks are specifically prohibited in all zoning districts.

§ 205-45. Mobile home parks.

Mobile home parks are subject to the following regulations:

- A. Permits required. No person, partnership, association or corporation, being the owner or occupant of any land within the Village of Ballston Spa, shall use or allow the

use of such land for a mobile home park unless special permit has been obtained as herein provided.

- (1) The Zoning Board of Appeals of the Village of Ballston Spa may issue a special permit to be effective from the day of issuance until December 31 of that same year or of any future year for a mobile home park in Zoning District R-2 only if all requirements as stipulated in this section have been met.
- (2) A special permit for a mobile home park will be issued by the Zoning Board of Appeals when all of the following have been received:
 - (a) A written application from the applicant.
 - (b) The required fee as herein provided.
 - (c) Approval by the district office of the New York State Department of Health of the health conditions of the site and the proposed sanitary provisions in the plan accompanying the application.
 - (d) Approval by the Ballston Spa Planning Board.
 - (e) A certificate by the Village's Engineer that the plans conform to all standards established for mobile home parks by this chapter and a public hearing has been held as required by Article XII, § 205-70 of this chapter.
- (3) Such special permit shall not be transferable or assignable.
- (4) Any person holding a permit for a mobile home park and desiring to add additional lots to such park shall file a new application for a permit.

B. Permit renewal.

- (1) An application for the renewal of any mobile home park permit must be filed with the Zoning Board of Appeals before December 1 preceding the expiration of the permit.
- (2) The application for renewal need not be accompanied by a plan of the park unless changes have been made to it nor is it necessary that the application be accompanied by a copy of the lease unless a new lease has been entered into subsequent to the time of filing the previous application.
- (3) Upon their approval, through the same procedures established for issuing the original permit, the Zoning Board of Appeals may issue a renewal permit to be effective upon the expiration of the previous permit and to continue in force for a specified period of one or more years from the expiration date of the previous permit.
- (4) Such renewal permit shall not be transferable or assignable.

C. Permit fees. The applicant shall accompany his/her application for a permit, supplemental permit or renewal permit with a fee payable to the Village of Ballston Spa which shall not be returned unless the application is withdrawn before official action is taken thereon. Said fee shall be as set forth from time to time by resolution of the Board of Trustees.²⁵ In case of such withdrawal, the entire fee shall be returned by official action of the Village Board of Trustees. **[Amended 5-13-1996 by L.L. No. 1-1996]**

D. Application procedure for a special permit.

- (1) Each application for a mobile home park permit shall be in writing and signed by the applicant.

25. Editor's Note: The current schedule of fees is on file in the Village offices.

- (2) The application and related information shall be filed with the Zoning Board of Appeals of Ballston Spa. At such time the Zoning Board of Appeals shall determine if the application is complete in conformance with the requirements of § 205-45F(1), below.
- (3) The Zoning Board of Appeals shall transmit one copy of the complete application with plans and specifications to the Ballston Spa Planning Board and one copy of the application with plans and specifications to the Village's Engineer who shall act in conjunction with the Building Inspector.
- (4) Upon receipt of the complete application and plans from the Zoning Board of Appeals, the Planning Board shall review the general arrangement of the mobile home park, the location of streets, location and arrangement of lots, the location structures within the park, the location of entrances and exits and the location type and extent of landscaping and screening materials. The Planning Board shall return the complete application, together with its written findings, to the Zoning Board of Appeals within 30 days of receipt of the complete application. Failure to act within 30 days of receipt of the complete application shall be deemed approval.
- (5) The Village's Engineer shall check the application's compliance with the minimum standard established by this chapter and shall submit his/her written findings within 30 days of the receipt of the copy of the application and plans to the Zoning Board of Appeals.
- (6) The Zoning Board of Appeals shall review the findings of the Planning Board, the Village's Engineer and the Building Inspector and, by resolution, indicate its approval or disapproval of the application. One copy of the application, together with the permit if granted, shall be returned to the

applicants who shall be notified, in writing, of the decision rendered.

E. Submission requirements for a special permit. Each application shall be in triplicate and shall be accompanied by three complete sets of plans prepared and stamped by an appropriate licensed surveyor or professional engineer. The plans shall be drawn to a scale of no more than 40 feet to one inch, shall include the date, North point and scale and shall furnish the following information:

(1) Legal data.

- (a) The name and address of the applicant, or the name and address of each partner if the applicant is a partnership, or the name and address of each officer and director if the applicant is an association or corporation.
- (b) The location and description of the land that is proposed to be used as a mobile home park and its area.
- (c) The number of lots to be provided in such park.

(2) Physical features.

- (a) Contours at two-foot intervals.
- (b) Location of watercourses, marshes and areas subject to flooding.
- (c) Wooded areas.

(3) Existing development.

- (a) A location map which shows all land and the respective owners thereof within 300 feet of the proposed park and which shows all structures on the land which abuts the park.
- (b) The location, names and widths of all adjacent streets.

- (c) The locations of all waterlines, sewer lines, gaslines and electric lines within or adjacent to the proposed park.

(4) Proposed development.

- (a) The location and widths of all entrances, exits, streets and walkways.
- (b) The location, size and arrangement of each lot within the park.
- (c) The method and plan for electric lighting and the locations of all outside lighting and all outside electric outlets.
- (d) The location and plan of all proposed structures and improvements.
- (e) Any proposed grading and plans for landscaping.
- (f) Any proposed stormwater drainage.
- (g) Any proposed utilities and locations and means of connections to mobile homes at each lot.
- (h) Any proposed public improvements proposed by the Comprehensive Plan for the Village of Ballston Spa or by the Village Board of Trustees on or adjacent to the proposed park.
- (i) Existing zoning.

F. Standards.

(1) Site.

- (a) The park shall be located in Zoning District R-2 and in areas where grades and soil conditions are suitable for use as a mobile home park.

- (b) The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and be free at all times from stagnant pools of water.
 - (c) The park shall be at least two acres in size and have at least a one-hundred-foot frontage on a public street.
- (2) Mobile home lots.
- (a) Each mobile home park shall be subdivided and marked off into mobile home lots.
 - (b) The total number of mobile home lots in a mobile home park shall not exceed eight per gross acre.
 - (c) Each mobile home lot shall have a total area of not less than 4,000 square feet with a minimum dimension of 40 feet.
- (3) Mobile homes.
- (a) No mobile home shall be parked or otherwise located nearer than:
 - [1] Twenty-five feet from an adjacent mobile home in any direction.
 - [2] Twenty-five feet from an adjacent property line.
 - [3] Sixty feet from the right-of-way line of a public street or highway.
 - [4] Twenty feet from the nearest edge of any roadway within the park.
 - (b) Only one mobile home shall be permitted to occupy any one mobile home lot.

- (4) Mobile home stands. All mobile homes shall be placed on a support which meets the requirements of the New York State Fire Prevention and Building Code.
- (5) Accessibility.
 - (a) Each mobile home park shall be easily accessible from an existing public street or highway; and each mobile home lot shall be easily accessible from a private road within the park.
 - (b) Where a mobile home park has more than 16 mobile homes, two points of entry and exits shall be provided, but in no instance shall the number of entry and exit points exceed four.
 - [1] Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public street or highway.
 - [2] All entrances and exits shall be at right angles to the existing public street or highway.
 - [3] All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.
 - [4] All entrances and exits shall be free of any structure or material which would obstruct the visibility of a public street or highway by the driver of a vehicle entering the street or highway from the mobile home park.

- (c) Each park shall have paved streets to provide for the convenient access to all mobile home lots and other important facilities within the park.

[1] The street system shall be so designed to permit the safe and convenient circulation of vehicles within the park.

[2] Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety and proper drainage.

[3] Streets may curve, but all streets shall intersect at right angles.

[4] All streets shall have the following minimum paved widths:

[a] One-way traffic movement: 12 feet.

[b] Two-way traffic movement: 24 feet.

[5] Except in cases of emergency, no parking shall be allowed on such streets.

- (d) A paved driveway at least nine feet in width or a paved sidewalk at least four feet wide leading from the street to the intended location of the door (or doors) of the mobile home shall be provided on each mobile home lot.

(6) Parking.

- (a) One off-street parking space shall be provided for each mobile home and shall be of similar construction as the mobile home stand or the paved street and graded to prevent the existence of puddles of water. Such space shall be conveniently located to the lot it is to serve and have a minimum width of nine feet and

shall not transgress on any required front yard nor required street area.

- (b) Additional off-street parking spaces shall be provided at strategic and convenient locations for visitors and for delivery and service vehicles.

- [1] There shall be one such parking space for each two mobile home lots within the park.

- [2] Such parking space shall be provided in bays which shall provide for adequate maneuvering space.

- (7) Utilities and service facilities.

- (a) No building or other structure in a mobile home park, except a sign placed in compliance with the regulations of this chapter, shall be within 25 feet of a public street or highway.

- (b) The following utilities and service facilities shall be provided in each mobile home park and shall be in accordance with the regulations and requirements of the New York State Department of Health and Sanitary code of New York State.

- [1] All mobile home lots within the park shall be connected to the Ballston Spa Village water supply, and each mobile home shall be connected thereto.

- [2] Each mobile home lot shall be provided with a sewer connection to the Ballston Spa Village sewerage system which shall be connected to the mobile home situated on the lot to receive the waste from the shower, tub, flush toilets, lavatory and sink in such home and in such manner so

as not to provide a possible health hazard. Sewer connections in unoccupied lots shall be properly sealed to prevent the emission of any odors and the creation of breeding places for insects.

- [3] Garbage cans with tight fitting covers shall be provided in quantities to permit the temporary storage of all garbage, rubbish and recyclables. The cans shall be kept in sanitary condition at all times and shall be located no further than 200 feet from any mobile home lot. Garbage and rubbish shall be collected and disposed of as frequently as necessary to ensure that such cans shall not overflow, shall not become infested with vermin and shall not emit offensive odors.
- (c) If laundry facilities are provided, they shall be at a strategic location for the convenience of the occupants of the mobile home park. Any such facilities shall be equipped with washing machines and dryers and shall be housed in a permanent structure which shall be adequately lighted, heated, ventilated and sanitarily maintained.
- (d) Other service buildings shall be provided as deemed necessary for the normal operation of the park. Such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.
- (e) Each mobile home lot shall be provided with weatherproof electric service connections and outlets which are of a type approved by the New York State Board of Fire Underwriters.
- (f) Each mobile home park shall be provided with one public telephone.

(8) Open space and landscaping.

- (a) Each mobile home park shall provide common open space for the use of the occupants of the park.
- (b) Such open space shall be conveniently located in the park and shall have a total area equal to at least 544 square feet for each mobile home lot.
- (c) Lawn and ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways, streets, parking areas, tennis courts, swimming pools, etc.
- (d) Planting shall be provided to the extent needed to provide for the screening of objectionable views, for adequate shade and for a suitable setting for the mobile homes and other facilities.
 - [1] Views which shall be screened by planting include laundry facilities, garbage storage and collection areas, other residential uses and all abutting yards of adjacent properties.
 - [2] Other planting shall be provided along those areas within the park which front upon existing streets or highways to obstruct glare and to provide pleasant outlooks for the mobile homes.

(9) Recordkeeping.

- (a) The owner or operator of each mobile home park shall keep a written record of all persons occupying or using the facilities of the park.
- (b) This record shall include:

- [1] The name and address of the occupant of each mobile home and the dates occupied.
- [2] The name and address of the owner of each mobile home which is not occupied by such owner.
- [3] The dates the mobile home occupies the lot.

ARTICLE X
Supplementary Use Regulations

§ 205-46. Swimming pools.

- A. Swimming pools shall meet the following requirements. Unless otherwise indicated, these requirements shall apply to both above- and below-grade facilities.
- (1) Swimming pools may be installed in residential districts as an accessory to a dwelling for the private use of the owners, occupants and guests.
 - (2) All swimming pools must meet the yard setback requirements for accessory structures listed in § 205-25A(2).
 - (3) Swimming pools may be located in the side or rear yard of a lot if all other requirements can be met. Swimming pools in front yards are expressly prohibited.
 - (4) All below-grade swimming pools require a fence of at least four feet enclosing the pool area.
 - (5) A building permit must be obtained prior to the installation of a swimming pool.
 - (6) All swimming pools must be constructed in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code.

§ 205-47. Adult-oriented or adult use businesses. [Added 12-22-2003 by L.L. No. 5-2003²⁶]

A. Legislative intent; findings of fact.

- (1) Background. The Village Board of the Village of Ballston Spa has become aware of serious and substantial interest in the establishment of adult-oriented businesses in the Village of Ballston Spa and has noted an increase in the number of neighboring communities enacting legislation seeking to regulate the establishment of adult-oriented businesses. Concern over the potential adverse secondary effects associated with adult-oriented businesses led the Village Board of the Village of Ballston Spa to enact a one-hundred-eighty-day moratorium, effective November 10, 2003. During the moratorium period, the Village Board reviewed a relevant Adult Use Study, analyzing and assessing the probable adverse secondary impacts on the Village of Ballston Spa which would result from the unregulated opening and establishment of adult-oriented businesses within the Village.
- (2) Findings. Based upon a comprehensive study of the adverse secondary impacts of adult use establishments provided by the Town of Ballston, dated June 1999, as documented in accordance with the ruling of the United States Supreme Court in the matter of the City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); the Village of Ballston Spa finds that:
 - (a) There are adverse secondary impacts associated with the establishment and operations of adult-oriented businesses within a community.

26. Editor's Note: This local law also repealed former § 205-47, Adult cabarets and adult entertainment.

- (b) Among these adverse secondary impacts are a deterioration in the local quality of life; an adverse effect upon economic viability; an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby; an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior; a threat to the health and safety of children and young adults; and an undermining of the established sense of community.
 - (c) These adverse secondary impacts of the establishment and operation of adult-oriented businesses are a threat to the general health, safety and economic viability of the community.
 - (d) The unregulated establishment and operation of adult-oriented businesses would lead to the widespread imposition of adverse secondary impacts upon residents, businesses, economic viability, property values and quality of life of the Village and would therefore be detrimental to the general health, safety and economic viability of the community.
 - (e) The United States Constitution and the Constitution and laws of the State of New York grant to the Village of Ballston Spa, the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of adult-oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.
- (3) Statement of intent.
- (a) It is the express intent of the Village of Ballston Spa in adopting this section to:

- [1] Ameliorate, mitigate, reduce or prevent the widespread and unregulated imposition of the adverse secondary impacts of adult-oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.
 - [2] Protect the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.
- (b) It is not the intent of the Village of Ballston Spa in adopting this section to:
- [1] Deny any person the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.
 - [2] Impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Village under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression. These

constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by adult-oriented businesses.

- [3] Impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Village under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression.

- [4] To estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

- (4) According to numerous decisions by both federal courts and courts of the State of New York, the regulation of the location of adult businesses must be based upon a finding of the adverse secondary impact of these businesses upon the community and must be directed solely toward the mitigation of

these impacts, not be directed toward any form of speech or expression, be no broader than necessary and must provide alternative locations within the Village for adult-use businesses; the Village of Ballston Spa hereby adopts the following amendments to its Village Zoning Law.

B. Definitions.

- (1) For the purpose of this section, an adult-oriented or adult use business shall be defined as any business which:
 - (a) Is the use of land, structures or locations for an "adult-entertainment center" or as an "adult physical contact establishment," as herein defined; **[Amended 4-23-2007 by L.L. No. 3-2007]**
 - (b) Is any use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors;
 - (c) Is an establishment, location, building or structure which features topless dancers, nude dancers or strippers, male or female; and
 - (d) Is a location, building or structure used for presenting, lending or selling motion-picture films, videocassettes, DVDs, cable television or any other such visual media, or used for presenting, lending or selling books, magazines, publications, photographs or any other written materials, devices, objects or accessories distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specific anatomical areas," as defined below.
- (2) **ADULT USE BUSINESSES** — Adult use businesses, including adult bookstores, adult video stores, adult

motion-picture theaters, adult mini-motion-picture theaters, adult cabarets, adult accessory stores and adult drive-in theaters, shall be defined as follows:

- (a) **ADULT BOOK 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 matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below.
- (b) **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 matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below.
- (c) **ADULT MOTION-PICTURE THEATER** — A building with a capacity of 50 persons or more used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.
- (d) **ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

ADULT CABARET — An establishment which features live go-go dancers; exotic dancers; strippers, male or female; male or female impersonators or similar entertainers whose performances are characterized by partial or full nudity.

- (e) ADULT ACCESSORY STORES — An establishment having as a significant portion of its stock-in-trade materials, devices, objects or accessories for use by adults that relate to specific sexual activities or specific anatomical areas.
- (f) ADULT DRIVE-IN THEATER — A drive-in theater utilized for the presentation of materials distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.
- (g) ADULT PHYSICAL CONTACT ESTABLISHMENT — Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices; offices of persons licensed or authorized under the Education Law to practice massage therapy; offices of persons licensed or otherwise authorized by the Education Law as a physical therapist or physical therapist assistant; and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments under this section.
- (h) ADULT MOTEL — A motel which is not open to the public generally, but excludes minors by reason of age, or which makes available to its patrons in their rooms closed-circuit television

transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which, if presented in a public movie theater, would not be open to the public generally, but would exclude any minor by reason of age, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions or offers a sleeping room for rent for a period of time of less than 10 hours.

- (i) ADULT PEEP SHOW — A theater which presents material in the form of live shows, films or videotapes viewed from an individual enclosure for which a fee is charged and which is not open to the public generally, but excludes any minor by reason of age.
- (j) ADULT ENTERTAINMENT CENTER — As defined by § 205-5 of this chapter. **[Added 4-23-2007 by L.L. No. 3-2007]**

(3) SPECIFIED SEXUAL ACTIVITIES —

- (a) Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or
- (b) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

(4) SPECIFIED ANATOMICAL AREAS —

- (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; or
- (b) Human male genitals in a discernable turgid state, even if completely or opaquely covered.

C. Location of adult-oriented business or adult use business.

- (1) Adult-oriented businesses or adult use businesses are permitted on the following tax parcels as they appear on the Village assessment rolls: 216.31-2-2; 216.31-1-95; 216.32-1-96.1; (in no event shall said zone extend north across the Gordon Creek) 216.32-1-94.1; and 216.32-1-94.2.
- (2) Adult-oriented businesses shall not be permitted to locate less than 250 feet from another such use, and not more than one adult-oriented business shall be permitted to locate within a single building or lot.
- (3) Adult-oriented businesses shall not exceed, in total, 2,500 square feet of floor area and cellar space not used for enclosed storage or mechanical equipment.
- (4) Adult-oriented businesses shall be required to comply with all other development standards and requirements of the laws of the Village of Ballston Spa, including but not limited to district lot and bulk regulations, parking requirements, signage, facade and screening regulations as required by the Commercial District. Any laws that are inconsistent with the special requirements of this section shall be superseded by the terms herein.
- (5) Adult-oriented businesses shall not be permitted within any building where a portion of the floor area is in residential use, including nonconforming residential uses, a school, house of worship, public or private recreational facility, community center or other public facility, motel or hotel.
- (6) Adult-oriented businesses shall not be permitted to provide live entertainment on the premises which involves nude dancing that is lewd, indecent or grossly sexual 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.

- (7) Any adult-oriented business that seeks to provide booths or areas, either for the viewing of motion pictures or live performances, shall meet the following requirements:
- (a) Any and all such booths, cubicles, studios, studies and rooms for the private viewing of adult motion pictures and/or live performances or areas shall be open to public view from the common areas of the establishment. There shall not be any doors, curtains, blinds or other structures or devices that shall impede observation of the entire area of such private viewing areas from the common area of the establishment.
 - (b) Such private viewing areas shall be well lighted and readily accessible at all times and shall continuously be open to view.
 - (c) Lighting throughout an adult establishment shall be sufficient to illuminate every place to which patrons are permitted access.
- (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. All windows and doors and other openings exposing the establishment to the general public shall be covered or draped with an opaque material.

- (9) Adult-oriented businesses shall conform with all existing applicable sign regulations 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 contain nude, seminude or provocative pictures 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 be prohibited.
 - (10) Fees. The fee for the application for an adult-use permit is hereby established at \$3,000.
- D. Permit procedure. Upon payment of the appropriate fee, to be set from time to time by resolution of the Village Board of Trustees,
- (1) All adult businesses governed by this section shall require a special use permit issued by the Zoning Board of Appeals, provided all the criteria set forth in the Code of the Village of Ballston Spa are satisfied.
 - (2) Site plan review requirements are met pursuant to § 205-19 of the Code of the Village of Ballston Spa.
 - (3) Special use permits granted to adult-oriented businesses shall be nontransferable and shall be subject to renewal with the Zoning Board of Appeals on an annual basis subject to applicable fees pursuant to this section. Property owners within 500

feet of the location of a proposed adult-oriented business shall be notified, in writing, by the applicant and at the cost of the applicant, of the day, time and location of the public hearing.

- E. Should any portion of this section be deemed unconstitutional, said part shall be removed and the remainder of this law will survive with full force and effect.

§ 205-48. Floodplain management regulations.

Areas of special flood hazards within the Village of Ballston Spa have been identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study, Village of Ballston Spa, New York, Saratoga County," dated June 1, 1984. Specific regulations for floodplain management can be found in Chapter 120, Flood Damage Prevention. These regulations shall in no way conflict with any regulations contained within this chapter.

§ 205-49. Gasoline service stations and public garages.

In any district where permitted, gasoline service stations and public garages shall be subject to the following regulations:

- A. The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.
- B. No public garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, public library, playground or fire station. This distance shall be measured along the center line of the connecting street or public right-of-way.
- C. No fuel pump shall be located within 20 feet of any side lot line nor within 35 feet of any property line abutting the street.

- D. No public garage shall have an opening in the roof, side or rear walls less than 15 feet from any lot line.
- E. All waste material shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
- F. On any street which provides access to gasoline pumps, all repair facilities shall be at least 15 feet farther from the street line than the side of the gasoline pumps furthest from the street line.
- G. On any street other than that described in § 205-49F above, to which vehicular access is provided from a building, no building parts shall extend closer to the street line than 15 feet.
- H. No more than five unregistered motor vehicles shall be located on a gasoline service station or public garage site at any given time.

§ 205-50. Excavations.

- A. Excavations adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited in all districts. Excavations shall minimize objectionable dust or noise, soil erosion or noxious or injurious substance or conditions or cause public hazard.
- B. Grading operations affecting more than one acre of land shall require a grading permit from the Building Inspector.
- C. Excavation or fill operations or the construction of a retaining wall three feet or more in any location shall require a building permit from the Building Inspector.
- D. Excavations in connection with the construction on the same lot of a building for which the building permit has been issued shall be permitted in any district.

- E. Unless incidental to the construction of a building, the excavation and sale of sand, gravel, clay or other natural mineral deposit or the quarrying of any kind of rock formation shall be subject to the approval of the Zoning Board of Appeals. Before issuing a permit for such use, the Zoning Board of Appeals shall find that such activity will not endanger the stability of adjacent land nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic congestion or other condition. The Zoning Board of Appeals may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit.
- F. In the event that building construction operation is arrested prior to completion of the building and the building permit thereof is allowed to expire, the premises shall be cleared of any rubbish, building materials or other unsightly accumulations. Any excavation for a building, basement, foundation, utility or other purpose of a depth greater than two feet below grade line shall be filled and compacted at least every six inches and the topsoil replaced in layers or lifts of not to exceed six inches, or all such excavations shall be entirely surrounded by a substantial fence at least six feet high with necessary gates and locks that will effectively block access to the area. Such clearing, filling or fencing shall be completed within 30 days after the expiration date of the building permit.

§ 205-51. Junkyards.

Junkyards are specifically prohibited in all zoning districts.

§ 205-52. Sanitary disposal.

No person shall undertake to construct any new building or structure in the Village of Ballston Spa without first meeting the requirements for a system or facilities for the separate disposal of waterborne sewage, domestic or trade wastes in

accordance with applicable laws of the Village and laws of the State of New York.

§ 205-53. Protection of natural beauty.

No living tree shall be felled or destroyed and no building shall be constructed within 100 feet of the center of the creek bed of the Kayderosseras Creek or the Gordon Creek in open space areas shown on the Zoning Map of the Village of Ballston Spa dated May 20, 1994, and as it shall become amended from time to time, except by special permit of the Zoning Board of Appeals.²⁷

§ 205-54. Storage of unregistered vehicles, travel trailers and recreational vehicles.

- A. No more than one unregistered vehicle and/or any vehicle which is substantially inoperable or abandoned may be stored on a residential lot. Such vehicles shall only be stored in the rear yard of any residential lot.
- B. No more than one travel trailer may be stored on a residential lot.
- C. Parking or storage of recreational vehicles for a period of more than seven days shall be in the rear yard only.²⁸

§ 205-55. Home occupations.

- A. The purpose of this section is to allow home occupations in residential districts while still maintaining the residential character of the districts.
- B. Home occupations must meet the following criteria:

27. Editor's Note: The Zoning Map is on file in the Village offices.

28. Editor's Note: Former Section 9.13, Uses and structures within the PPB District, which immediately followed this subsection, was deleted 5-13-1996 by L.L. No. 1-1996.

- (1) Home occupations must clearly be accessory to the use of the dwelling unit as a residence, the extent of which may not exceed 25% of the gross floor area of the dwelling unit.
- (2) No more than one additional person may be employed by the home occupation.
- (3) All home occupations are subject to special permit provisions of this chapter.
- (4) There shall be no evidence of the home occupation from the exterior of the dwelling unit with the exception of one announcement or professional sign not exceeding two square feet in area. The sign may not be located in any required yard and, if illuminated, the source of light shall not be visible nor shall illumination or flashing be intermittent.
- (5) In the case of a two-family dwelling, only the owner-occupied unit may be utilized for a home occupation use.
- (6) Only one home occupation use is allowed per dwelling.
- (7) The storage of stock and/or equipment outside of the dwelling unit shall not be permitted.

C. The following uses are allowable home occupation uses:

- (1) Dressmaking or sewing.
- (2) Millinery.
- (3) Small handcrafts.
- (4) Art work.
- (5) Artist's and sculptor studio activities.
- (6) Offices.

- (a) Musician.
 - (b) Tutor.
 - (c) Writer.
 - (d) Architect.
 - (e) Physician.
 - (f) Attorney.
 - (g) Insurance agent.
- (7) Other uses as determined by the Zoning Board of Appeals to be of the same general characteristics as those listed above.

§ 205-55.1. Fences. [Added 10-23-2006 by L.L. No. 7-2006]

In addition to any other regulation contained within this Code, all fences shall be erected in such a manner so that the support columns are on the interior side of the fence.

§ 205-55.2. Retail use in the Central Business District Zone. [Added 10-23-2006 by L.L. No. 6-2006; amended 4-23-2007 by L.L. No. 3-2007]

- A. Any change of use on the ground floor of a structure located within the Central Business District Zone shall be used only for retail space with the following exceptions:
- (1) Vital human services.
 - (2) Offices by special permit.
 - (3) Churches and houses of religious worship.
 - (4) Libraries.
 - (5) Museums.

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- (6) Hotels.
- (7) Banks and financial institutions.
- (8) Parking garages.

B. Any existing use of the ground floor of a structure at the time of this section's enactment may continue until such time that the existing use is discontinued.

ARTICLE XI
Nonconforming Uses

§ 205-56. Applicability.

The provisions of this Article shall apply to all nonconforming uses or bulk legally existing on the effective date of this chapter and to uses or bulk that become nonconforming by reason of any amendment thereof and to buildings or other structures housing such uses.

§ 205-57. Continuance.

Any lawful use of any land or building existing at the time of the enactment of this chapter may be continued indefinitely except as hereinafter provided in this Article.

§ 205-58. Change to conforming use or nonconforming use.

A nonconforming use may be changed to a conforming use at any time, but shall not thereafter be changed back to a nonconforming use. No nonconforming use shall be changed to a different nonconforming use.

§ 205-59. Extension and displacement.

A nonconforming use shall not be enlarged or extended or relocated to a different position on the lot which it occupies. However, an application to the Zoning Board of Appeals may be made and a special permit granted by them for good reason for extending a lawful nonconforming use to another portion of the same building existing at the time of the adoption of this chapter, but no nonconforming use shall be extended to displace a conforming use.

§ 205-60. Maintenance and repairs.

A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public. Customary maintenance of a building or other structure containing a nonconforming use is permitted, including nonstructural repairs and minor alterations so long as they do not increase or expand the nonconforming use.

§ 205-61. Structural alterations and changes.

- A. No structural alterations are permitted in buildings that are nonconforming in use, except when required by law or when adapting or remodeling a building or other structure to a conforming use.
- B. Buildings and structures which are only nonconforming in bulk may be altered, moved, reconstructed or enlarged, provided that such change does not increase the degree of or create any new nonconforming bulk in such building and does not violate any other provisions of this chapter.

§ 205-62. Reduction in lot size.

No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this chapter.

§ 205-63. Damage of nonconforming use or bulk.

If a nonconforming use or a building or other structure of nonconforming bulk sustains an amount of damage or destruction by any cause which in amount is appraised by a New York State certified appraiser to be 50% or more of its true value, the building, other structure or tract of land shall thereafter be only eligible for, and only occupied by, a conforming use. The damaged portions of the building or other structure shall, if rebuilt or reconstructed, conform to pertinent use and bulk regulations for the zoning district in which it is located. Where damage or destruction is appraised at less than 50% of the true value of the property, the property may be repaired or rebuilt for the same, but not a different, nonconforming use.

§ 205-64. Abandonment.

When a nonconforming use has been discontinued or abandoned for a period in excess one year, it shall not therefore be reestablished, and the future use shall be in conformity with the provisions of this chapter.

§ 205-65. Removal of nonconforming use.

If any building in which any nonconforming use is conducted is terminated for a period of more than one year, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform with the regulations of the district.

§ 205-66. Validity of permit.

Any building for which a permit has been lawfully granted and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

ARTICLE XII
Enforcement and Administration

§ 205-67. Enforcement.

- A. Enforcement officer. This chapter shall be enforced by the Building Inspector, who shall be appointed by the Mayor. No building permit or certificate of occupancy shall be issued by the Building Inspector for any purpose except compliance with the provisions of this chapter.
- B. Inspection and notice of violation.
- (1) The Building Inspector is authorized to enter, inspect and examine legally any building structure, place, premises or use in the Village of Ballston Spa with regard to the provisions of this chapter and to issue a written order for the proper remedying of non-compliance or any condition found to be in violation thereof.
 - (2) The Village Police Department, the Fire Department Inspector and the Village Health Officer, at the request of the Building Inspector, shall examine or investigate legally any building, structure, use or premises with regard to any provision of this chapter and shall transmit reports and recommendations to the Building Inspector regarding any violation thereof.
 - (3) If technical personnel are needed to check performance standards in determining prohibited uses (Article IV, § 205-11) and subsequent performance after notice of violation, the Building Inspector can employ the services of such personnel with the prior approval of the Village Board or Trustees.
- C. Legal action by the Building Inspector. If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this

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 - (3) If technical personnel are needed to check performance standards in determining prohibited uses (Article IV, § 205-11) and subsequent performance after notice of violation, the Building Inspector can employ the services of such personnel with the prior approval of the Village Board of Trustees.
- C. Legal action by the Building Inspector. If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this

chapter by the expiration of the time period granted by the Building Inspector, then the Building Inspector shall take the following action to enforce the provisions of this chapter.

- (1) Notification of violations. Written notice of violation signed by the Building Inspector shall be served upon the person or persons committing such violation and/or the property owner either personally or by mail addressed to such person or persons at his or her last known address. Each week's continued violation shall constitute a separate additional violation.
- (2) Complaints. Whenever an alleged violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector who shall properly record such complaint and immediately investigate and report thereon.

D. Legal action by the taxpayers. If no action has been taken in accordance with § 205-67C within a ten-day period following written request by any person aggrieved so to proceed, then such person may appeal to the Zoning Board of Appeals.

E. Penalties for violations. Any person or corporation, whether as owner, lessee, agent or employee who shall violate any of the provisions of this chapter or who fails to comply with any order or regulation made thereunder, who erects, alters, moves or uses any building or uses any land in violation of any detailed statement or plans submitted by him/her and approved under the provisions of this chapter shall be guilty of a misdemeanor and shall be liable to a penalty of not more than \$100 per day or imprisonment for a period not to exceed six months. Each day or part of a day that such violation is permitted to exist after the expiration of the time period granted by the Building Inspector shall constitute a separate offense and shall be subject to the same penalty of \$100 per day. In

case any building is erected, altered, moved or used or land is used in violation of the provisions of this chapter, the Building Inspector may institute any appropriate action or procedures to prevent such unlawful erection, alteration or use.

§ 205-68. Building permits.

All persons proposing to construct, erect, alter, repair, extend, relocate, remove, demolish or structurally change any building, structure or portion thereof shall apply to the Building Inspector for a building permit. All applications for such permits shall be made in accordance with the Village of Ballston Spa local law for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code.²⁹ A building permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the project described therein; provided, however, that the building permit may be renewed for an additional six months upon application to the Building Inspector without the payment of an additional fee. Any additional applications or inspections will require payment of a fee prorated based on the amount of work left unfinished.

- A. For the purpose of this section, the New York State Fire Prevention and Building Code shall include the laws and regulations of the State of New York promulgated and contained within the following Codes: the Building Code of the State of New York; Energy Conservation Construction Code of New York State; Fire Code of New York State; Fuel Gas Code of New York State; Mechanical Code of New York State, Property Maintenance Code of New York State and the Plumbing Code of New York State. The Building Inspector shall apply said regulations to maintain clean, safe and sanitary condition within the Village as local conditions periodically require. **[Added 12-22-2003 by L.L. No. 4-2003]**

29. Editor's Note: See Ch. 117, Fire Prevention, Art. III, Administration and Enforcement.

- B. The Village Board of Trustees hereby directs the collection of the following fees for the issuance of a building permit: **[Added 12-22-2003 by L.L. No. 4-2003]**
- (1) Minimum fee: \$50.
 - (2) Residential: \$0.10 per square foot.
 - (3) Other than residential: \$0.15 per square foot.
 - (4) Any fees set by the Village Board of Trustees may be amended from time to time by resolution.
- C. No permit shall be required for accessory structures under 125 square feet; provided, however, that all local setback requirements are met. **[Added 12-22-2003 by L.L. No. 4-2003]**
- D. A building permit may be extended for a period of 12 months and thereafter for an additional six months for the prevailing fee. In no event shall a building permit be valid for more than 18 months. **[Added 12-22-2003 by L.L. No. 4-2003]**

§ 205-69. Certificates of occupancy.

- A. A certificate of occupancy is required for any of the following:
- (1) Occupancy and use of a building or structure hereafter erected, structurally altered, moved, extended or relocated.
 - (2) Change in the use of an existing building or part thereof.
 - (3) Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.

- (4) Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use.
- B. A certificate of occupancy may be obtained on application from the Building Inspector. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter and any established building construction codes. The Building Inspector shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Said certificate of occupancy shall be issued or denied within 10 days from the date such erection or alteration is inspected by the Building Inspector.

§ 205-70. Zoning Board of Appeals.

- A. Establishment; authority. A Zoning Board of Appeals is hereby created, consisting of five members, each to be appointed for five years, and subject to the provisions of § 7-712 of the Village Law (recodified 1992). Such Zoning Board of Appeals shall have all the powers, functions and authority pertaining to zoning boards of appeals as now or hereafter provided by the Village Board of Trustees and the laws of the State of New York.
- B. Powers and duties. The Zoning Board of Appeals is governed by and shall act in strict accordance with the procedures specified by the Village Law, this chapter and its own duly adopted rules, bylaws and forms. Upon request properly made, the Board shall perform the following functions:
- (1) Hear and decide any question properly brought before it involving the interpretation of any provision of this chapter.
 - (2) Hear and decide appeals from any decision, determination, act or failure to act of the Building

Inspector, and hear and decide all matters properly referred to it upon which it is required to pass under the provisions of this chapter. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant on any matter.

- (3) Grant variances and issue special permits in accordance with applicable provisions of this chapter.

- C. Appeals procedure. An appeal from a determination of the Building Inspector may be taken by an aggrieved person or by an officer, department or board of the Village of Ballston Spa. Such appeal shall be taken within 30 days of the date of the decision by filing with the Building Inspector and the Zoning Board of Appeals a notice of appeal specifying the grounds thereof. All appeals shall be made, in writing, on forms provided by the Board. The Building Inspector shall then transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- D. Public hearings. The Zoning Board of Appeals shall hold a public hearing on every properly presented appeal, application for a variance or application for a special permit referred to said Board or upon any matter which it is required to pass under this chapter. Notice of each public hearing shall be published in a newspaper of general circulation in the Village of Ballston Spa not less than 10 days prior to such hearing, and the decision shall be made within 62 days after the final hearing. In addition, the Zoning Board of Appeals shall send to the Saratoga County Planning Board notice of each hearing concerning matters referred to and as required by §§ 239-1 and 239-m of Article 12-B of the General Municipal Law. In the case of a hearing involving a specific location, the Zoning Board of Appeals, at least seven days prior to such meeting, shall also mail to the property owners of said

locations, as shown on the most recent Village tax records, a notice of such hearing.

- E. Findings and conclusions. After such public hearing and after reaching a decision, the Zoning Board of Appeals shall make a written report and decision on its finding of fact and conclusions of law concerning the subject matter of such hearing. In granting a special permit or a renewal or extension thereof, the Zoning Board of Appeals shall, in every case, file copies of its written report and decision with the Building Inspector, the applicant and the Village Clerk and, where appropriate, the Village Planning Board setting forth the special requirements and conditions and special findings and reasons for granting or denying the special permit, renewal or extension.

§ 205-71. Variances.

- A. Where strict application of any of the requirements of this chapter, such as in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his or her land or building, but in no other case, the Zoning Board of Appeals shall have the power, in passing upon appeals, to grant a variance to any of the regulations or provisions of this chapter relating to the area, bulk, construction or alteration of buildings, signs or structures or the use of land and buildings so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done.
- B. Application for such a variance shall clearly state the specific provisions of this chapter from which the variance is sought, the special circumstances which justify such variance and the interpretation or ruling which is desired. The appropriate fees, as specified in the fee schedule

established by the Village Board of Trustees,³⁰ shall accompany all applications for a variance.

- C. Every decision of the Zoning Board of Appeals is subject to review by the New York State Supreme Court as provided in the Village Law of the state.
- D. Criteria for granting variances. No application for a variance shall be acted on until the required public hearing has been held. The Zoning Board of Appeals shall prescribe the appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case as specified below:
- (1) Area variance. This is a variance involving dimensional deviations from the standards set forth in this chapter. When, because of the specific parcel or because of extraordinary topographic conditions or other physical conditions or location of the specific parcel, the strict application of the provisions of this chapter actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, then the granting of the variance granted by the Board shall be the minimum variance that will provide for the reasonable use of the property. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

30. Editor's Note: The current schedule of fees is on file in the Village offices.

- (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.
 - (c) Whether the requested area variance is substantial.
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.
- (2) Use variance. The granting of a use variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner, which conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:
- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a

substantial portion of the district or neighborhood.

(c) The requested use variance, if granted, will not alter the essential character of the neighborhood.

(d) The alleged hardship has not been self-created.

(3) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

E. Conditions and compliance to other provisions. In granting any variance, the Zoning Board of Appeals may prescribe any conditions that it deems to be necessary or desirable to protect the general welfare and beauty of the community as set forth in this chapter. The granting of a variance to any provisions of this chapter shall not obviate the necessity of complying in every other respect with the other provisions. Each appeal must be considered independently.

§ 205-72. Special permits.

On referral by the Building Inspector after application has been made to him/her for a building permit or on direct application, the Zoning Board of Appeals is hereby authorized to issue a special permit for any use for which this chapter requires the obtaining of such permits from the Zoning Board of Appeals, subject to applicable regulations of this chapter.

A. Special permit conditions.

(1) In granting such permit, the Board may specify appropriate conditions in harmony with the following standards:

- (a) 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.
 - (b) 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. In applying this standard, the Board will 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 neighborhood.
 - (c) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
- (2) The Board may deny permits if the proposed use fails to meet the specified standards. All provisions of this chapter relating to the Zoning Board of Appeals shall be strictly construed, provided that none of the provisions shall be deemed to limit any power of the Zoning Board of Appeals conferred by statute.
- B. Application procedure. Each application for a special permit shall state the specific provisions of this chapter

which are involved and the use for which the special permit is sought and shall be accompanied by a proposed plan showing the size and placement of any building, driveways, parking spaces, screens and fences, the existing and proposed contour lines at an appropriate scale, and other features and data required by this chapter or by any duly adopted applicable regulations. The location of the subject lot and all streets within a radius of 1,000 feet shall be shown on a separate drawing.

- C. Referrals to the Village Planning Board. At least 30 days before the date of a public hearing held in connection with any application for a special permit submitted to the Zoning Board of Appeals, the Zoning Board of Appeals shall transmit to the Village Planning Board a copy of said application and shall request the Planning Board to submit to the Zoning Board of Appeals its advisory opinion prior to the date of said hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the special permit applied for.
- D. Renewal, time limit and extension. The Zoning Board of Appeals may require, as a condition to the issuance of any special permit, that it be periodically renewed or may issue any special permit for a specific time period subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted.

§ 205-73. New York State Uniform Fire Prevention and Building Code.

Chapter 117, Fire Prevention, Article III, Administration and Enforcement, provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Village of Ballston Spa. Specific powers, duties and responsibilities are described in this chapter.

ARTICLE XIII
Amendments

§ 205-74. Amendments by Village Board of Trustees.

- A. The Village Board of Trustees, under § 7-708 of the Village Law of the State of New York, may from time to time on its own motion, on recommendations of the Planning Board or on petition, after public notice and hearing, amend, supplement, change, modify or repeal in whole or in part this chapter or the boundary of any district by this chapter.
- B. Any such proposed change in text or zoning district boundary shall first be referred to the Planning Board which shall submit a written advisory report to the Village Board within 30 days after receiving notice of proposed change from the Village Clerk. The failure to make such report within 30 days shall be deemed to be a favorable recommendation.
- C. The Planning Board shall favorably recommend adoption of an amendment of change in this chapter or in a district boundary only if:
 - (1) Such change does not conflict with the general purposes, goals and intent of this chapter.
 - (2) Such change is consistent with the Comprehensive Plan of the Village of Ballston Spa.
 - (3) Such change is in compliance with the State Environmental Quality Review process (SEQR), where applicable. The Village Board shall identify the type of action in accordance with SEQR regulations, and the time limitations otherwise applicable to the amendment process shall be extended until a determination of no significance has been made or until a draft environmental impact statement is completed.

§ 205-75. Protest petition.

If a protest against a proposed amendment, supplement, repeal or change is presented to the Village Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed change or by owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by a favorable four-fifths (4/5) vote of the Village Board.

§ 205-76. Public hearing on proposed amendment.

Before any amendment, repeal or change in the regulations or district boundaries there shall be a public notice or hearing thereon as provided by law. Such hearing may be held by the Village Board, by a committee of the Village Board or by the Planning Board on request of the Village Board. In addition to the public notice of hearing, such further written notice shall be given as required by law.

§ 205-77. Adoption of amendment.

After the public hearing and referral to and report by the Planning Board, majority vote of the members of the Village Board shall be required to amend this chapter, except as described in § 205-75, Protest petition.

§ 205-78. Procedures.

Amending or changing the provisions of this chapter or the boundary of any district shall follow the procedures set forth above and those now or hereafter provided in the laws of New York State.

§ 205-79. Previously approved and filed subdivision plats.

Previously approved and filed subdivision plats may be exempted from the provisions of this chapter or a zoning law hereafter adopted or the provisions of a change or amendment hereafter adopted to a zoning law, but such exemptions shall be consistent with the requirements of Article 7, § 7-708 of Village Law.

ARTICLE XIV
Application of Local Law

§ 205-80. Legislative intent and compliance.

- A. The provisions of this chapter are intended and shall be considered to be the minimum requirements for the protection and promotion of the public health, safety, morals, convenience and other aspects of general welfare and beauty of the community.
- B. All applicable buildings shall hereafter be used, occupied, constructed, located, relocated, altered or enlarged, and all applicable land shall be used or occupied only in compliance with the provisions of this chapter.
- C. The provisions and the zoning district boundaries shall be established and enforced in accordance with this chapter and the Village Law and suitably amended, supplemented or changed when found necessary.

§ 205-81. Conflict with other laws.

This chapter is not intended to abrogate, render invalid or interfere with the application and administration of any other lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction or other legal relationship, public or private. When this chapter imposes a greater restriction on the use of buildings or land or the heights of buildings or requires larger open spaces or makes any other

greater requirement than is imposed or required by any other law, rule or regulation or by easements, covenants or agreements, the provisions of this chapter shall govern.

§ 205-82. Existing prior permits, certificates and variances.

If by reason of an amended or supplementary provision of this chapter a nonconforming property is created for which building permit, certificate of occupancy, variance or special permit was issued prior to the effective date of such amended or supplementary provision, then the aforementioned permit, certificate, variance or special permit shall become null and void unless one of the following conditions is met:

- A. All footings have been installed; or
- B. Substantial construction or progress in accordance with required conditions has been made and is continuing as of the effective date of such amended or supplementary provisions.

§ 205-83. Petition for relief.

Any person or any officer, department, board or agency of the Village of Ballston Spa who is aggrieved by a decision, determination, act or refusal to act of a body or officer exercising judicial, quasi-judicial, administrative or corporate functions relating to this chapter may petition for judicial review and for relief in accordance with appeal procedures with the Zoning Board of Appeals or to a proper court of law in accordance with the statutes in such case made and provided.

ARTICLE XV
Facade Review
[Added 5-28-2002 by L.L. No. 3-2002]

§ 205-84. Intent and purpose.

The Board of Trustees of the Village of Ballston Spa hereby finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings erected in the business districts adversely affects the desirability of the area and neighboring areas. It is the purpose of this section to prevent these and other harmful effects of such exterior appearances of buildings erected in the business districts and thus to promote the health, safety, comfort and general welfare of the community, to promote the public convenience and prosperity, to conserve the value of buildings and to encourage the most appropriate use of land.

§ 205-85. Preliminary procedure.

- A. Any renovation, alteration, construction or change to the exterior facade of a structure within the Village of Ballston Spa's business districts shall require a building permit. Said plans shall first be reviewed with the Building Inspector to determine if the proposed facade is compatible with the surrounding buildings. In making such determination, the Building Inspector shall compare said plans with the design criteria adopted by the Village Board of Trustees, as may be amended from time to time. Said criteria may be obtained at the Village Hall for review.
- B. Prior to the construction, alteration or repainting of any exterior facade on a structure within the business districts, the owner must provide plans of the proposed color scheme. Said colors must be chosen from the Appropriate Period Colors Chart on file with the Village Clerk. Said chart may, by resolution, be amended by the Village Board from time to time as it sees reasonable. No work shall be

performed without the Building Inspector's approval.
[Added 10-23-2006 by L.L. No. 5-2006³¹]

- C. In the event that the applicant and Building Inspector cannot agree on the design of the facade, such application shall be denied and forwarded to the Village of Ballston Spa Planning Board, which is hereby charged with the responsibility of administering and carrying out the intent of this article and shall have all the powers envisioned in § 205-23 of this chapter.

§ 205-86. Application procedures.

- A. Any application referred to the Planning Board by the Building Inspector pursuant to § 205-85B shall be made on a form provided by the Village in accord with § 205-21.
- B. The Board may approve, conditionally approve subject to specified modifications, or disapprove any application for a building permit referred to it by the Building Inspector.
- C. The Planning Board may impose appropriate conditions and safeguards in connection with its approval.

31. Editor's Note: This local law also redesignated former Subsection B as Subsection C.

SCHEDULE A

SCHEDULE OF USES BY ZONING DISTRICT

Part 1

[Amended 10-25-1999 by L.L. No. 7-1999]

Districts:

R-1 Residential
R-2 Residential
CBD Central Business District
C Commercial
M Industrial

Key:

P = permitted use
SP = use requiring special permit
X = prohibited use

Use	R-1	R-2	CBD	C	M
One-family dwelling	P	P	X	X	X
Two-family dwelling	X	P	X	X	X
Multiple-family dwelling	X	P	SP	SP	X
Townhouse	X	P	X	X	X
Cemetery	SP	SP	X	X	X
Church (or other place of religious worship, parish house, convent)	SP	SP	P	P	X
Funeral home or undertaker	SP	P	X	P	X
Hospital or health care facility	SP	SP	X	SP	X
Nursing or convalescent home	SP	SP	X	SP	X
Offices (state, federal or county)	SP	SP	P	X	X
Offices (village)	X	X	P	X	X
Public, private or parochial school devoted to kindergarten, elementary or general secondary instruction	SP	P	X	X	X
Nursery school	SP	SP	X	X	X
Public parks or playground	SP	P	P	X	X
Club or lodge, social, recreational or fraternal	SP	SP	SP	SP	X
Library or museum	X	SP	P	SP	X
Boarding- or rooming house	X	P	X	X	X
Bed-and-breakfast*	X	P	X	X	X
Hotel	X	X	P	P	X
Motel	X	X	X	P	X
Dwelling apartment over business office	X	P	P	P	X
Mobile home park	X	SP	X	X	X

11 - 15 - 99

Notes:

*Owner-occupied bed-and-breakfasts are also allowed in the Historic District by special permit. The owner must reside in the bed-and-breakfast structure.

SCHEDULE A

SCHEDULE OF USES BY ZONING DISTRICT Part 2

Districts:

R-1 Residential
R-2 Residential
CBD Central Business District
C Commercial
M Industrial

Key:

P = permitted use
SP = use requiring special permit
X = prohibited use

Use	R-1	R-2	CBD	C	M
Home occupation	SP	SP	X	X	X
Private school of special instruction	X	SP	SP	X	X
Professional and personal service uses	X	SP	P	P	X
Self-service storage facility	X	X	X	P	X
Retail business use	X	X	P	P	X
Bank or monetary institution	X	X	P	P	X
Newspaper, publisher or printer	X	X	P	P	X
Restaurant	X	X	P	P	X
Electronic repair, electrician, appliance sales	X	X	P	P	X
Builder or contractor, carpenter	X	X	X	P	P
Automobile sales	X	X	X	P	X
Garden nursery or greenhouse	X	X	X	P	P
Cold storage	X	X	SP	SP	SP
Commercial parking lots	X	X	P	P	P
Village garage	X	X	X	P	X
Public garage or gasoline service station	X	X	SP	P	X
Trucking terminal or commercial storage	X	X	X	X	P
Industrial use	X	X	X	X	P
Adult cabaret or adult entertainment center	X	X	X	SP	X

SCHEDULE B
AREA AND BULK REGULATIONS
Part 1

SCHEDULE B
AREA AND BULK REGULATIONS
Part 1

Unless otherwise specified, general standards apply to all permitted
uses in the district

District	Use (See Schedule A)	Minimum Lot Size in Area (square feet)	Minimum Lot Width (feet)	Maximum Building Coverage (percentage of area)	Minimum Landscape Coverage (percentage of area)	Maximum Building Height		Minimum Yard Dimensions (feet)		
						Stories	Feet	Front Yard	Side Yard	Rear Yard
R-1	One-family dwelling	10,000	80	20	30	2½	36	25	12	25
	Special permit uses	(a)	(a)	(a)	30	(a)	(a)	(a)	(a)	(a)
R-2	One- and two-family dwelling, Multifamily dwelling, home occupation	15,000, plus 2,500 square feet for each additional dwelling unit	100	30	30	3	40	25	15	25
	Hospital, health care facility, nursing or convalescent home	15,000	100	20(b)	30	3	40	25	15	25
	Funeral home, church	30,000	100	25(b)	30	3	40	25	15	25
	Public, private or parochial school, nursery school, private school of special education	30,000	100	20(b)	30	3	40	25	15	25
	Club or lodge, social, recreational or fraternal	20,000	100	30(b)	30	3	40	25	15	25

NOTES:

- (a) Special permit uses in the R-1 District must meet all area and bulk requirements listed in Schedule B for the corresponding uses listed for the R-2 District.
(b) Subject to sanitary disposal and off-street parking regulations.

SCHEDULE B

AREA AND BULK REGULATIONS

Part 2

SCHEDULE B
AREA AND BULK REGULATIONS
Part 2

District	Use (See Schedule A)	Minimum Lot Size in Area (square feet)	Minimum Lot Width (feet)	Maximum Building Coverage (percentage of area)	Minimum Landscape Coverage (percentage of area)	Maximum Building Height		Minimum Yard Dimensions (feet)		
						Stories	Feet	Front Yard	Side Yard	Rear Yard
R-2 (cont.)	Library or museum	15,000	100	30(b)	30	3	45	25	15	25
	Boarding- or rooming house, bed-and- breakfast	15,000	100	30(b)	30	3	45	25	15	25
	Mobile home park, cemetery	80,000	200	30(b)	30	3	30	25	15	25
	Professional and personal service uses, dwelling apartment over business	10,000	80	30(b)	30	3	40	25	15	25
	Offices (state, federal or county)	10,000	80	30(b)	30	3	40	25	15	25
	Public parks, playgrounds	10,000	60	20	30	1	20	25	15	25
CBD	General commercial	5,000	50	100(b)	None	4	50	None	None	None
C	General commercial	5,000	50	75(b)	None	2	30	25	None	None
M	General industrial	5,000	None	50(b)	None	4	50	None	None	None

NOTES:

- (a) Special permit uses in the R-1 District must meet all area and bulk requirements listed in Schedule B for the corresponding uses listed for the R-2 District.
(b) Subject to sanitary disposal and off-street parking regulations.

NOTE:
24' WIDE AISLES REQUIRED
FOR 2-WAY TRAFFIC



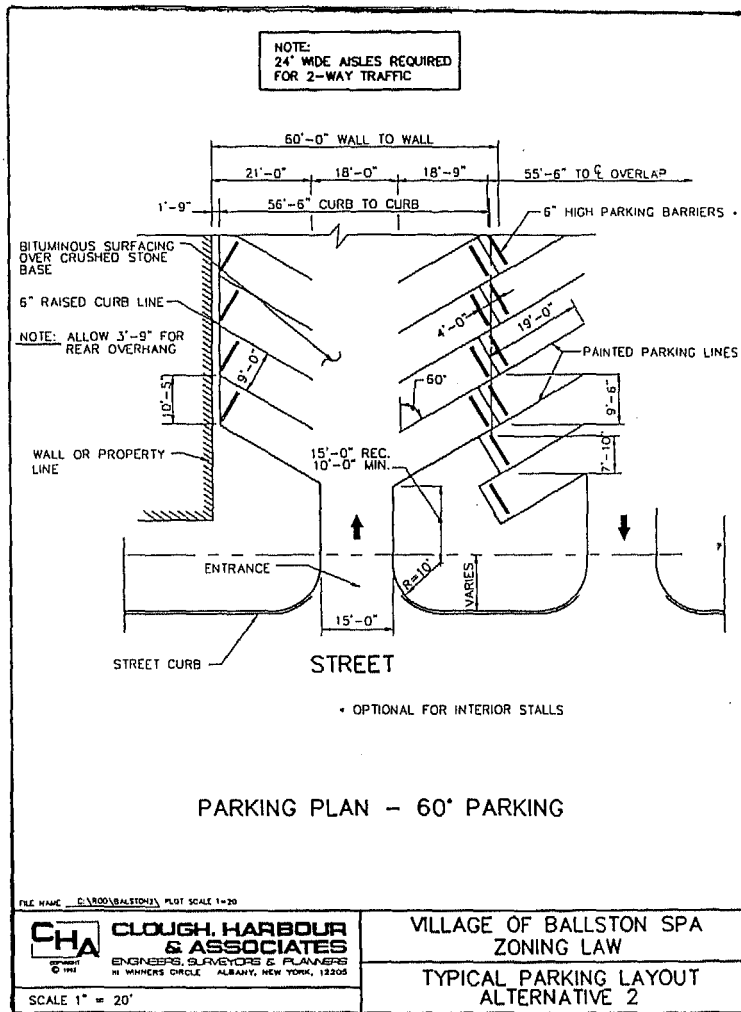
**CLOUGH, HARBOUR
& ASSOCIATES**
ENGINEERS, SURVEYORS & PLANNERS
16 WINNERS CIRCLE ALBANY, NEW YORK, 12205

SCALE 1" = 20'

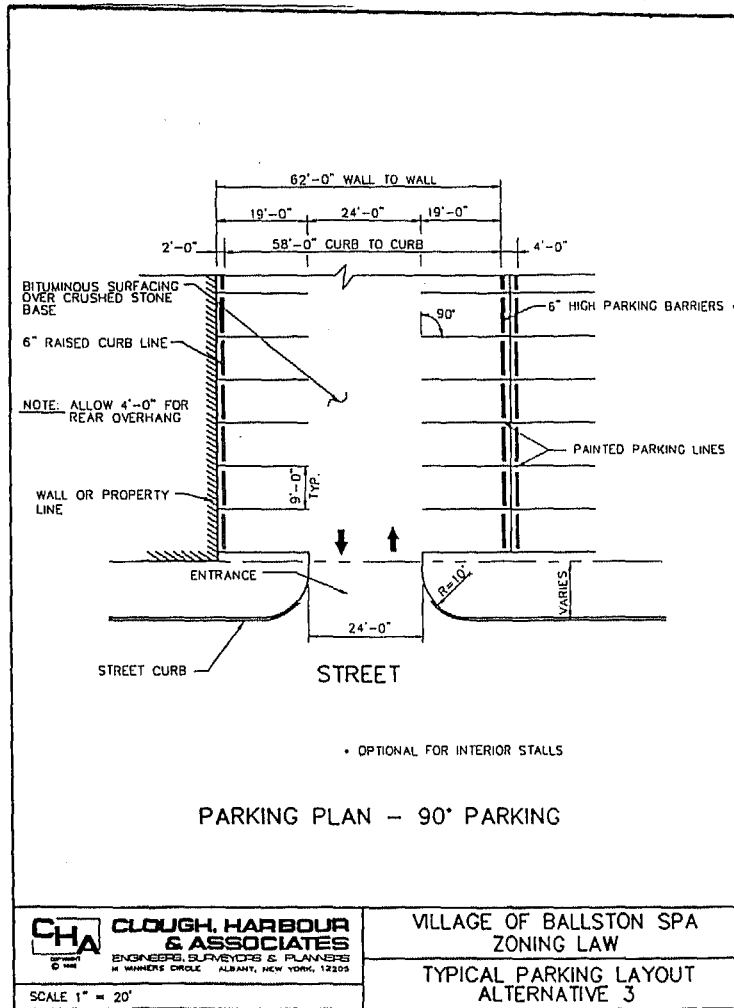
VILLAGE OF BALLSTON SPA
ZONING LAW

TYPICAL PARKING LAYOUT
ALTERNATIVE 1

ZONING



ZONING



ZONING

SCHEDULE C

MINIMUM OFF-STREET PARKING REQUIREMENTS [Amended 10-25-1999 by L.L. No. 7-1999]

Use	Spaces Required
Dwelling	2 spaces for each dwelling unit
Rooming house, tourist home, motel, bed-and-breakfast	1 space for each guest room, plus 1 space for every 2 employees
Hotel	1 space for every 2 hotel rooms
Administrative, professional, personal service, governmental or utility office	1 space for each 200 square feet of floor area
Funeral home	8 spaces per viewing room, plus 1 space for each employee and resident personnel car
Church or temple	1 space for each 3 seating spaces in main assembly room
School	3 spaces for each classroom
Theater or other place of assembly	1 space for each 3 seating spaces
Nursing or convalescent home	1 space for each 3 beds
Retail store or bank	1 space for each 150 square feet of total floor area
Clubs and restaurants	1 space for each 50 square feet of floor area
Bowling establishment	5 spaces for each lane
Wholesale, storage, freight terminal or utility use	1 space for each 1,000 square feet of floor area
Industrial or manufacturing use	1 space for each 1.5 employees on the maximum working shift

VILLAGE OF BALLSTON SPA CODE

Use	Spaces Required
Home occupation	1 space for each 100 square feet of floor area devoted to such use
Medical, dental offices or clinics	3 spaces for each doctor or dentist, plus 1 additional space for every 2 employees

ZONING

SCHEDULE D

Sketches of Lanes and Stalls Within Parking Areas

This schedule includes typical sketches which illustrate the geometric design of lanes and stalls within parking areas. These sketches are to be used as a guide for applicants and the members of the Planning Board during their review of the adequacy of parking areas within the Village of Ballston Spa. These are to be used as a guide only and must be adapted to local site conditions. Final design drawings should be prepared by a qualified engineer, architect or landscape architect registered to practice in the State of New York.

APPENDIX

Chapter A209

BOARD OF HEALTH REGULATIONS

§ A209-1. Adoption of regulations.

§ A209-2. Findings; purpose.

§ A209-3. Regulations for dwelling units.

§ A209-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Ballston Spa 6-13-1972. Amendments noted where applicable.]

§ A209-1. Adoption of regulations.

The Board of Health of the Village of Ballston Spa adopts the rules and regulations contained in this chapter and the general provisions of the State Housing Code.

§ A209-2. Findings; purpose.

- A. There exist and may in the future exist, within the State of New York premises, dwellings, dwelling units, rooming units or parts thereof which, by reason of their structure, equipment, sanitation, maintenance, use or occupancy, affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety and general welfare. To correct and prevent the existence of such adverse conditions and to achieve and maintain such levels of residential environment quality as will protect and promote public health, safety and general welfare, the establishment and enforcement of minimum housing standards are required.

B. Purpose. It is hereby declared that the purpose of these regulations is to protect, preserve and promote the physical and mental health and social well-being of the people, to minimize the incidence of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health and to protect the safety of the people and to promote the general welfare by regulations which shall be applicable to all dwellings now in existence or hereafter constructed. It is hereby further declared that the purpose of these regulations is to ensure that the quality of housing is adequate for the protection of public health, safety and general welfare. The achievement of this purpose includes the establishment of minimum standards for basic equipment and facilities for healthful living such as adequate water, waste disposal, bathroom facilities, light, ventilation, heating and cooling, for safety from fire and accidents, for the use and location and amount of space for human occupancy and for an adequate level of maintenance; setting forth the responsibilities of owners, operators and occupants of dwellings; and establishing the necessary provisions for administration and enforcement.

§ A209-3. Regulations for dwelling units.

A. Dwellings unfit for human habitation. Whenever the Board of Health finds that any dwelling constitutes a serious hazard to the health or safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities required by these regulations, it shall:

- (1) Designate such dwelling unfit for human habitation.
- (2) Order the dwelling vacated.
- (3) Cause to be posted on the main entrance of any dwelling so closed a placard with the following

words: "Use of this building for human habitation is prohibited and unlawful."

- B. Failure to comply. If the owner fails to comply with an order issued by the Board of Health to bring the dwelling into compliance with the requirements of these regulations within a reasonable time, the Board of Health may beseech the District Health Officer to order such dwelling to be removed or demolished as provided for by applicable law.
- C. Occupancy and letting. No owner or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy and comply with the requirements of these regulations and all applicable laws.
- D. Owner to maintain in a clean and sanitary condition. Every owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- E. Occupant to maintain in a clean and sanitary condition. Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he/she occupies and controls.
- F. Occupant to dispose of rubbish. Every occupant of a dwelling or dwelling unit shall dispose of all his/her rubbish in a clean, sanitary and safe manner.
- G. Occupant to dispose of garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his/her garbage or any other organic waste which might provide food for insects or rodents in a clean, sanitary and safe manner, and if a container is used for storage pending collection, it shall be rodent proof, insect proof and watertight.
- H. Containers to be provided for rubbish and garbage.

- (1) Every owner of a dwelling containing three (3) or more dwelling units shall supply facilities or containers for the sanitary and safe storage and/or disposal of rubbish and garbage.
- (2) In single- or two-family dwellings it shall be the responsibility of the occupant to furnish such facilities or containers.

I. Responsibility for extermination.

- (1) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises.
- (2) Every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested.
- (3) Whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner.
- (4) Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

J. Water closet requirements. Within every dwelling unit there shall be a nonhabitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be connected to a municipal sewer system.

K. Lavatory sink requirements.

- (1) Within every dwelling unit there shall be a room which affords privacy to a person within said room which is equipped with a lavatory sink.
- (2) Said lavatory sink may be in the same room as the flush water closet or in another room, provided that the water closet shall be located in close proximity to the door leading directly into the room in which said lavatory sink is located.
- (3) The lavatory sink shall be in good working condition and properly connected to a municipal water supply system which provides at all times an adequate amount of heated and unheated running water under pressure and which is connected to a municipal sewer system.

L. Bathtub or shower requirements.

- (1) Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition.
- (2) Said bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a municipal water supply system which provides at all times an adequate amount of heated and unheated running water under pressure and which is connected to a municipal sewer system.

§ A209-4. Penalties for offenses.

Any person who shall be found in violation of the foregoing regulations shall be liable for a penalty of not more than one hundred dollars (\$100.) per day for each day that said violation is determined to have existed.

SCHEDULE B

AREA AND BULK REGULATIONS
Part 2

SCHEDULE B
AREA AND BULK REGULATIONS
Part 2

District	Use (See Schedule A)	Minimum Lot Size in Area (square feet)	Minimum Lot Width (feet)	Maximum Building Coverage (percentage of area)	Minimum Landscape Coverage (percentage of area)	Maximum Building Height		Minimum Yard Dimensions (feet)		
						Stories	Feet	Front Yard	Side Yard	Rear Yard
R-2 (cont.)	Library or museum	15,000	100	30(b)	30	3	45	25	15	25
	Boarding- or rooming house, bed-and- breakfast	15,000	100	30(b)	30	3	45	25	15	25
	Mobile home park, cemetery	80,000	200	30(b)	30	3	30	25	15	25
	Professional and personal service uses, dwelling apartment over business	10,000	80	30(b)	30	3	40	25	15	25
	Offices (state, federal or county)	10,000	80	30(b)	30	3	40	25	15	25
	Public parks, playgrounds	10,000	60	20	30	1	20	25	15	25
CBD	General commercial	5,000	50	100(b)	None	4	50	None	None	None
C	General commercial	5,000	50	75(b)	None	2	30	25	None	None
M/CEE(c)	General industrial; Cultural/economic enhancement	5,000	None	50(b)	None	4	50	None	None	None

NOTES:

1-5-2001

- (a) Special permit uses in the R-1 District must meet all area and bulk requirements listed in Schedule B for the corresponding uses listed for the R-2 District.
(b) Subject to sanitary disposal and off-street parking regulations.
(c) [Amended 7-24-2000 by L.L. No. 1-2000]

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Village of Ballston Spa adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 7-1995, adopted 9-11-1995. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Village Clerk.

§ DL-1. Disposition of legislation.

Local Law Number	Adoption Date	Subject	Disposition
1-1996	5-13-1996	Adoption of Code	Ch. 1, Art. I
2-1996	6-24-1996	Auctions amendment	Ch. 84
3-1996	8-26-1996	Zoning amendment	Ch. 205
4-1996	11-11-1996	Curfew amendment	Ch. 106

Local Law Number	Adoption Date	Subject	Disposition
5-1996	11-11-1996	Water and sewer regulations amendment	Ch. 200, Art. I
6-1996	12-9-1996	Amendment of fees and penalties; reimbursable costs	Ch. 1, Art. II
1-1997	4-14-1997	Disposal of waste and recyclables amendment	Ch. 170, Art. I
---	5-12-1997	General water and sewer regulations amendment	Ch. 200, Art. I
2-1997	5-27-1997	General water and sewer regulations amendment	Ch. 200, Art. I
3-1997	6-9-1997	Rabies control amendment	Ch. 81, Art. III
4-1997	7-14-1997	Disposal of waste and recyclables amendment	Ch. 170, Art. I
---	7-14-1997	Termination of service amendment	Ch. 200, Art. VI
---	8-11-1997	Skateboard park	Ch. 166, Art. II
5-1997	10-13-1997	Skateboards: use regulated amendment	Ch. 166, Art. I

Local Law Number	Adoption Date	Subject	Disposition
---	11-10-1997	Officers and employees: standard work day	Ch. 45, Art. II
1-1998	6-22-1998	Zoning amendment	Ch. 205
2-1998	10-12-1998	Streets and sidewalks amendment	Ch. 174
3-1998	11-23-1998	Taxation: effect of nonreimbursed medical expenses on senior citizen exemption	Ch. 182, Art. VI
4-1998	12-14-1998	Taxation: persons with disabilities and limited income tax exemption	Ch. 182, Art. VII
1-1999	5-24-1999	Zoning amendment	Ch. 205
2-1999	5-24-1999	Traffic Violations Bureau amendment	Ch. 65
3-1999	5-24-1999	Vehicles and traffic amendment	New legislation pending (see Ch. 192)
4-1999	8-9-1999	Planning Board: composition and compensation	Ch. 50, Art. II
5-1999	8-9-1999	Zoning Board of Appeals	Ch. 70

§ DL-1

VILLAGE OF BALLSTON SPA
CODE

§ DL-1

Local Law Number	Adoption Date	Subject	Disposition
6-1999	10-25-1999	Zoning Map amendment	NCM
7-1999	10-25-1999	Zoning amendment	Ch. 205
8-1999	10-25-1999	Streets and sidewalks amendment	Ch. 174
1-2000	7-24-2000	Zoning amendment	Ch. 205
2-2000	10-23-2000	General water and sewer regulations amendment; sewer system amendment	Ch. 200, Arts. I and II
3-2000	12-26-2000	Agreement regarding pretreatment program implementation and enforcement	NCM
1-2001	5-14-2001	Defecation by dogs amendment	Ch. 81, Art. II
2-2001	8-13-2001	Water conservation policy	Ch. 200, Art. IVA

Local Law Number	Adoption Date	Subject	Disposition
3-2001	9-24-2001	Water and sewers: industrial wastewater, other materials and substances; industrial wastewater permit; industrial wastewater enforcement and penalties	Ch. 200, Arts. IIA, IIB and IIC (footnotes only)
4-2001	10-22-2001	Fire prevention: inspections amendment	Ch. 117
5-2001	10-22-2001	Animals: livestock	Ch. 81, Art. VI
6-2001	11-12-2001	Procurement policy amendment	Ch. 53
1-2002	3-25-2002	Peddling and soliciting amendment	Ch. 153
2-2002	5-28-2002	Zoning amendment	Ch. 205
3-2002	5-28-2002	Zoning amendment	Ch. 205
4-2002	6-24-2002	Zoning amendment	Ch. 205
5-2002	9-23-2002	Zoning amendment	Ch. 205
1-2003	3-24-2003	Control of dogs and cats amendment	Ch. 81, Art. V

Local Law Number	Adoption Date	Subject	Disposition
---	9-8-2003	Change in water/sewer billing cycles	Ch. 200
2-2003	11-10-2003	Sidewalk and curbing repair reimbursement amendment	Ch. 174
3-2003	12-22-2003	Board of Assessment Review membership amendment	Ch. 5
4-2003	12-22-2003	Fire and Building Codes enforcement amendment	Chs. 117, 205
5-2003	12-22-2003	Zoning for adult- oriented businesses amendment	Ch. 205
1-2004	4-26-2004	Penalties for violation of parking regulations amendment	NCM
2-2004	7-26-2004	Streets and sidewalks amendment	Ch. 174
3-2004	7-26-2004	Reimbursement of Village costs	Ch. 1, Art. III
4-2004	9-13-2004	Control of dogs and cats amendment	Ch. 81, Art. V

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1-2006	1-23-2006	Retirement incentive program	NCM
2-2006	3-13-2006	Control of dogs and cats amendment	Ch. 81, Art. V
---	7-24-2006	Water rates amendment	Ch. 200
3-2006	9-11-2006	Solid waste: yard waste collection	Ch. 17-, Art. II
4-2006	10-9-2006	Streets and sidewalks amendment: dumpsters	Ch. 174
5-2006	10-23-2006	Zoning amendment	Ch. 205
1-2007	2-12-2007	Stormwater management and erosion and sediment control	Being reviewed by Village
2-2007	2-12-2007	Storm sewers: illicit discharge and connection	Ch. 172, Art. I
3-2007	4-23-2007	Zoning amendment	Ch. 205
4-2007	6-26-2007	Disposal of waste and recyclables amendment	Ch. 170, Art. I
5-2007	6-26-2007	Sewer system amendment	Ch. 200, Art. II

Local Law Number	Adoption Date	Subject	Disposition
---	8-27-2007	Streets and sidewalks amendment	Ch. 174

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