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CHAPTER 1. GENERAL PROVISIONS

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

ARTICLE I. Adoption of Code

[Adopted 6-1-1999 by L.L. No. 5-1999]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Guilderland, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 280, together with an Appendix, shall be known collectively as the "Code of the Town of Guilderland," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Guilderland" 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 Town Board of the Town of Guilderland, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in

said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

All local laws and ordinances of a general and permanent nature of the Town of Guilderland 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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law, specifically the 1974 Code.

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Guilderland prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Guilderland or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Guilderland.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Guilderland.
- E. Any local law or ordinance of the Town of Guilderland providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Guilderland or any portion thereof.
- F. Any local law or ordinance of the Town of Guilderland appropriating money or transferring funds, promising or guaranteeing the payment of money or

authorizing the issuance and delivery of any bond of the Town of Guilderland or other instruments or evidence of the town's indebtedness.

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

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

I. The annexation or dedication of property.

J. Any local law or ordinance relating to salaries and compensation.

K. Any local law or ordinance amending the Zoning Map.

L. Any local law or ordinance relating to or establishing a pension plan or pension fund for town employees.

M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the town.

N. Any local law adopted subsequent to 2-5-1999.

O. Legislation pertaining to vehicles and traffic.

P. Legislation pertaining to Police Department rules and regulations.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Guilderland and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Guilderland by impressing thereon the Seal of the town, and such

certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

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

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

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

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

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

§ 1-10. Penalties for tampering with Code.

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

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

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Guilderland, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.) Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 6-1-1999 by L.L. No. 5-1999." Schedule A, which contains a complete description of all changes, is on file in the town offices.

C. Nomenclature.

(1) Throughout the Code, references to "Justice of the Peace" have been updated to "Town Justice."

(2) Throughout Chapter 17, Building Department, references to the "Superintendent of Buildings" have been updated to "Chief Building Inspector." Throughout the rest of the Code, references to the

"Superintendent of Buildings" have been updated to "Chief Building Inspector and Zoning Coordinator."

(3) Throughout Chapter 120, Animals, Article II, Control of Dogs and Cats, the term "dog control officer" has been updated to "Animal Control Officer."

(4) Throughout Chapter 181, Freshwater Wetlands, references to the "Planning and Zoning Coordinator" have been revised to read "Director of Planning."

(5) Throughout Chapter 200, Motorcycles, all references to "motor-driven cycles" have been deleted.

(6) Throughout Chapter 280, Zoning, the following nomenclature changes have been made:

(a) The term "Master Plan" has been updated to refer to the "Comprehensive Plan."

(b) The titles of enforcement officials have been updated to refer to either the "Chief Building Inspector and Zoning Coordinator" or the "Planning Director."

(c) References to the state building code have been updated to refer to the "New York State Uniform Fire Prevention and Building Code."

D. Throughout the Code, all specific fee amounts have been removed from the text of the chapters and replaced with the phrase "as set by resolution of the Town Board from time to time."

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Guilderland, 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 July 1, 1999.

ARTICLE II. Definitions, Word Usage and Construction

[Adopted 6-11-1974 as Ch. 1, § 1-2, of the 1974 Code]

§ 1-14. Definitions.

As used in this Code, the following words shall have the meanings indicated:

CORPORATE LIMITS, CORPORATION LIMITS or TOWN LIMITS

The legal boundary of the Town of Guilderland.

COUNTY

The County of Albany in the State of New York.

KEEPER or PROPRIETOR

Includes persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

MONTH

A calendar month.

OATH

Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and, in such cases, the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

OWNER

Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

PERSON

Shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate, as well as to individuals.

PERSONAL PROPERTY

Includes every species of property except real property, as herein described.

PRECEDING and FOLLOWING

Next before and next after, respectively.

PREMISES

Place or places.

PROPERTY

Includes real and personal property.

PUBLIC PLACE

Any park, cemetery, schoolyard or open space adjacent thereto, all public buildings, streets and parking fields, and all waterways.

REAL PROPERTY

Includes lands, tenements and hereditaments.

RESIDENCE

The place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

SEAL

The Town Seal.

SIDEWALK

Any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

SIGNATURE or SUBSCRIPTION

Includes a mark when the person cannot write.

STATE

The State of New York.

STREET

Streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the town.

SUPERVISOR

The Supervisor of the Town of Guilderland.

TENANT or OCCUPANT

Applied to a building or land, includes any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

TOWN BOARD

The Town Board of the Town of Guilderland.

WEEK

Seven days.

WRITTEN or IN WRITING

Any representation of words, letters or figures, whether by printing or otherwise.

YEAR

A calendar year.

§ 1-15. Word usage and construction of provisions.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Board:

A. Word usage.

(1) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, as well as to males.

(2) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(3) Name of officer. Whenever the name of an officer is given, it shall be construed as though the words "of the Town of Guilderland" were added.

(4) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(5) Number. A word importing the singular number only may extend and be applied to several persons and things, as well as to one person and thing.

(6) "Or" may be read "and," and "and" may be read "or," if the sense requires it.

(7) Tense. Words used in the past or present tense include the future, as well as the past and present.

(8) Whenever the words "the town" or "this town" are used, they shall be construed as if the words "of Guilderland, New York," followed them.

B. Construction of provisions.

(1) Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had; the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

(2) Delegation of authority. Whenever a provision appears requiring the head of a department, division or agency of the town government to do some act or make certain inspections, it is to be construed to authorize that person to designate, delegate and authorize subordinates to perform the required act or make the required inspection, unless the terms of the provision or section specifically designate otherwise.

(3) Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

ARTICLE III. General Penalty

[Adopted 6-11-1974 as Ch. 1, § 1-8, of the 1974 Code; amended in its entirety 6-1-1999 by L.L. No. 5-1999 (see Ch. 1, General Provisions, Art. I)]

§ 1-16. General penalty.

Unless otherwise provided, a violation of any provision of this Code shall be punishable by a fine not to exceed \$250 or 15 days' imprisonment, or both.

CHAPTER 4. ADA GRIEVANCE PROCEDURE

§ 4-1. Adoption of procedure; prohibited actions.

§ 4-2. Filing of complaints; investigation; reconsideration.

§ 4-3. Other remedies.

§ 4-4. Construal of provisions.

CHAPTER 4. ADA GRIEVANCE PROCEDURE

[HISTORY: Adopted by the Town Board of the Town of Guilderland 7-6-1993. Amendments noted where applicable.]

§ 4-1. Adoption of procedure; prohibited actions.

The Town of Guilderland has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the United States Department of Justice regulations implementing Title II of the Americans with Disabilities Act (ADA). Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in programs or activities sponsored by a public entity.

§ 4-2. Filing of complaints; investigation; reconsideration.

Complaints should be addressed to the ADA Coordinator, at Town Hall, Route 20, Guilderland, NY 12084, or by phone at 356-1980, who has been designated to coordinate ADA compliance efforts.

A. A complaint should be filed in writing or verbally, contain the name and address of the person filing it and briefly describe the alleged violation of the regulations.

B. A complaint should be filed within 10 working days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

C. An investigation, as may be appropriate, shall follow a filing of complaint. The investigation shall be conducted by the ADA Coordinator. These rules contemplate informal but thorough investigations affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

D. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than five working days after its filing.

E. The ADA Coordinator shall maintain the files and records of the Town of Guilderland relating to the complaints filed.

F. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 10 working days to the Town Supervisor.

§ 4-3. Other remedies.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

§ 4-4. Construal of provisions.

These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the Town of Guilderland complies with the ADA and implementing regulations.

CHAPTER 8. APPEARANCE TICKETS

§ 8-1. Purpose.

§ 8-2. Authority to issue.

§ 8-3. Service.

CHAPTER 8. APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 4-3-1990 by L.L. No. 4-1990 (Subpart 1, Div. 2, of the 1974 Code). Amendments noted where applicable.]

§ 8-1. Purpose.

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

§ 8-2. Authority to issue.

With respect to violation of a state statute or a local law, ordinance, rule or regulation of the Town of Guilderland:

A. The Chief Building Inspector and Zoning Coordinator is authorized to issue and serve an appearance ticket in the areas of zoning and planning, building and construction. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The Chief Building Inspector and Zoning Coordinator is authorized to issue and serve an appearance ticket in the areas of building and construction, fire prevention and safety. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

D. The Superintendent of Water and Wastewater Management, the foreman of the Department of Water and Wastewater Management, the assistant to the Superintendent of Water and Wastewater Management and the operator of the water plant of the Town of Guilderland are authorized to issue and serve an appearance ticket in the area of water, sewers and sewage disposal.

§ 8-3. Service.

An appearance ticket other than for a parking violation shall be served personally.

CHAPTER 13. BUDGET

ARTICLE I. Budget Procedures

§ 13-1. Legislative findings.

§ 13-2. Submission of budget requests; access by public.

§ 13-3. Comptroller to provide estimate of revenues and indebtedness.

§ 13-4. Classification of requests.

§ 13-5. Budget public meetings.

§ 13-6. Notification of Board's decision.

§ 13-7. Copies of proposed annual budget to be provided to public; contents.

CHAPTER 13. BUDGET

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

GENERAL REFERENCES

Meetings — See Ch. 62.

ARTICLE I. Budget Procedures

[Adopted 1-21-1997 by L.L. No. 1-1997]

§ 13-1. Legislative findings.

It is the finding of the Town Board of Guilderland that, in order to ensure the orderly and comprehensive review of budget proposals, to provide for ease of access and understanding of said proposals by the public, to appropriately consider the needs and requirements of the town departments, agencies, districts and associations which submit budget proposals, and to provide for a meaningful and timely review of all of the factors which affect the adoption of the annual budget, the Town Board adopt certain procedures that would provide a framework within which the budget review is undertaken each year.

§ 13-2. Submission of budget requests; access by public.

All town departments, agencies, districts and associations seeking a budget appropriation shall submit budget requests, in writing, to the Supervisor no later than August 22 of each year. The public shall be provided access to all budget requests, which shall include a written narrative explanation of said request. The Supervisor shall provide each Board member with a copy of each request within seven days of the scheduled budget meeting.

§ 13-3. Comptroller to provide estimate of revenues and indebtedness.

The Comptroller shall provide the Supervisor and the Board members with a written estimate of revenues and indebtedness for the budget year. Said estimate shall be provided no later than August 1 of each year.

§ 13-4. Classification of requests.

The Town Board shall classify each budget request as critical, important or optional. Said classification shall apply to particular line items of budget requests, as appropriate.

§ 13-5. Budget public meetings.

The Town Board shall schedule the number of budget public meetings appropriate to the number and complexity of budget requests. Said public meetings shall be held in facilities appropriate for a public audience with copies of budget proposals and other written materials available. The Town Board shall provide the public at said meetings with a screen tabulation of expenditures and funds.

§ 13-6. Notification of Board's decision.

Upon the completion of the budget public meetings, but before the adoption of an annual budget, all persons and departments who submitted a tentative decision regarding a budget request shall be notified, in writing, of the Town Board's decision regarding the budget request. Said persons and departments shall be afforded an opportunity to respond to the Town Board's decision at a public meeting.

§ 13-7. Copies of proposed annual budget to be provided to public; contents.

The Town Clerk shall provide copies of the proposed annual budget to the public. Said proposed annual budget shall contain a clear description of services and expenditures stated in terms easily readable.

CHAPTER 17. BUILDING DEPARTMENT

§ 17-1. Establishment; purpose.

§ 17-2. Chief Building Inspector to be head of department.

§ 17-3. Qualifications of Chief Building Inspector.

§ 17-4. Appointment and term of Chief Building Inspector.

§ 17-5. Qualifications and appointment of building inspectors.

§ 17-6. Additional personnel.

§ 17-7. Designation of Acting Chief Building Inspector.

§ 17-8. Officers and employees not to be liable for official acts; exceptions.

§ 17-9. Powers and duties of Chief Building Inspector.

§ 17-10. Departmental records and reports.

§ 17-11. Cooperation of other departments.

CHAPTER 17. BUILDING DEPARTMENT

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Ch. 6, Art. II, Div. 2, of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building permits — See Ch. 140.

Unsafe buildings — See Ch. 145.

Fire prevention and building construction — See Ch. 171.

§ 17-1. Establishment; purpose.

There is hereby established in the town a department to be designated as the "Building Department," for the administration and enforcement of the provisions of all laws, provisions of this Code and other town ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings and structures and their appurtenances located in the town.

§ 17-2. Chief Building Inspector to be head of department.

The Building Department shall be headed by a town official designated as the "Chief Building Inspector."

§ 17-3. Qualifications of Chief Building Inspector.

The Chief Building Inspector shall be a person who shall have had at least five years' experience as a licensed professional engineer or architect, building inspector, building contractor or supervisor of building construction.

§ 17-4. Appointment and term of Chief Building Inspector.

The Chief Building Inspector shall be appointed by the Town Supervisor, with the consent of the Town Board, for a term of one year, at a compensation to be

fixed by the Town Board; he shall not be removed from office except for cause after a public hearing on specific charges before the Town Board.

§ 17-5. Qualifications and appointment of building inspectors.

A. The Chief Building Inspector, with the consent of the Town Board, may appoint one or more building inspectors, as the need may appear, to exercise any or all of the duties of the Chief Building Inspector. The compensation of such building inspector shall be as fixed by the Town Board.

B. A building inspector shall be a person who has had at least three years of practical experience in the design or construction of buildings or in the design, construction or installation of plumbing, heating or electrical equipment.

§ 17-6. Additional personnel.

The Chief Building Inspector may appoint such other employees as may be authorized from time to time by the Town Board to carry out the functions of the Building Department.

§ 17-7. Designation of Acting Chief Building Inspector.

In the absence of the Chief Building Inspector or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in the Chief Building Inspector's behalf and to exercise all of the powers conferred upon him by this chapter.

§ 17-8. Officers and employees not to be liable for official acts; exceptions.

No official or employee of the Building Department shall, while acting pursuant to the provisions of this chapter, be personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his official duties, provided that such acts are performed in good faith and without gross negligence.

§ 17-9. Powers and duties of Chief Building Inspector.

A. Except as otherwise specifically provided in this Code or by law, ordinance or regulation, the Chief Building Inspector shall administer and enforce all of the provisions of this Code and other laws, ordinances 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 Chief Building Inspector shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which the applications have been received or such permits have been issued for the purpose of ensuring compliance with this Code and other laws, ordinances and regulations governing building construction.

C. The Chief 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 such provisions of this Code and other laws, ordinances or regulations. The Chief Building Inspector shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from building inspectors or other employees of the Department of Buildings or from generally recognized and authoritative service and inspection bureaus, provided that the same are certified by a responsible official thereof.

D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of this Code or other applicable laws, ordinances or regulations covering building construction, the Chief Building Inspector may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies. For the purpose of aiding the Chief Building Inspector in the exercise of his powers and the performance of his duties under this section, there is hereby delegated to the Chief Inspector and each of the duly appointed inspectors of the New York Board of Fire Underwriters, or other qualified inspection agency approved by the town, the authority to make inspections and reinspections of all electrical installations in structures, whether proposed or under construction or existing prior to the enactment hereof, and for the purpose of performing such functions such Chief Inspector and inspectors are hereby deputized as agents of the town. In the exercise of the authority so delegated, the inspectors shall, upon the request of the Chief Building Inspector, make inspections and reinspections of electrical installations, including, but without limitation, electrical wiring and electrical devices, appliances and equipment, and to report thereon to the Chief Building Inspector, in writing, expressing approval or disapproval of such installations in accordance with the requirements of all building codes, this Code, local laws, ordinances, rules or regulations applicable to structures within the town, insofar as they may pertain or apply to electrical installations.

The inspectors are hereby authorized to make such inspections of electrical installations in existing structures and in buildings under construction without the request of the Chief Building Inspector where the inspector has reasonable grounds for believing electrical installations are not in conformity with the requirements of this Code or the applicable codes, local laws, ordinances and rules and regulations, and to furnish written reports thereon to the Chief Building Inspector. The inspectors are further authorized to issue certificates of compliance in the name of or on behalf of the New York Board of Fire Underwriters, or other qualified inspection agency approved by the town, or the town. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. J).

§ 17-10. Departmental records and reports.

A. The Chief Building Inspector shall keep permanent official records of all transactions and activities of the Building Department, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.

B. The Chief Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by the Building Department, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending.

§ 17-11. Cooperation of other departments.

The Chief Building Inspector may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Police and Health Departments and of the several Fire Departments located within the town, and of all other town officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

CHAPTER 25. DEFENSE AND INDEMNIFICATION

§ 25-1. Definitions.

§ 25-2. Town to provide for defense and indemnification; exceptions.

§ 25-3. Conditions of defense and indemnification.

§ 25-4. Limitation of benefits.

§ 25-5. Employees of negotiating units.

§ 25-6. Rights of insurer under policy.

§ 25-7. Construal of provisions.

§ 25-8. Applicability.

CHAPTER 25. DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Guilderland 9-2-1980 by L.L. No. 3-1980 (Subpart 3, Div. 2 1/2, of the 1974 Code). Amendments noted where applicable.]

§ 25-1. Definitions.

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

EMPLOYEE

Any person holding a position by election, appointment or employment in the service of the town, whether or not compensated, but shall not include an independent contractor or a sheriff. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

[Amended 9-1-1998 by L.L. No. 12-1998]

§ 25-2. Town to provide for defense and indemnification; exceptions.

A. Upon compliance by the employee with the provisions of § 25-3 of this chapter, the town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the town.

B. Where the employee delivers process and a request for a defense to the Town Attorney or the Town Supervisor, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the town to provide a defense.

C. The town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a civil action in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while

the employee was acting within the scope of his public employment or duties; provided, further, that, in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Town Board. Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

[Added 9-1-1998 by L.L. No. 12-1998]

§ 25-3. Conditions of defense and indemnification.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The duty to defend provided in this chapter shall be contingent upon delivery to the Town Attorney or to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he is served with such document, and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the town based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the town provide for his defense pursuant to this chapter, unless the employee shall state, in writing, that a defense is not requested.

§ 25-4. Limitation of benefits.

The benefits of this chapter will inure only to employees, as defined herein, and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

§ 25-5. Employees of negotiating units.

The benefits of this chapter shall be extended to an employee of a negotiating unit for which an agreement has been negotiated pursuant to Civil Service Law Article 14 only if such agreement expressly so provides.

§ 25-6. Rights of insurer under policy.

The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 25-7. Construal of provisions.

As otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the town or any right to defense provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

§ 25-8. Applicability.

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

CHAPTER 29. DRUG AND ALCOHOL TESTING POLICY

ARTICLE I. General Provisions

§ 29-1. Purpose.

§ 29-2. Adherence to policy.

§ 29-3. Definitions.

ARTICLE II. Training

§ 29-4. Education and awareness program for supervisory personnel and all commercial driver's license holders.

§ 29-5. Training supervisory personnel to determine reasonable suspicion.

§ 29-6. Grace period.

ARTICLE III. Prohibitions

§ 29-7. Alcohol prohibitions.

§ 29-8. Controlled substance prohibition.

ARTICLE IV. Testing

§ 29-9. Types of testing.

§ 29-10. Conduct of tests.

§ 29-11. Drug testing procedure; use of prescription drugs.

§ 29-12. Alcohol testing procedure.

ARTICLE V. Test Results

§ 29-13. Access to employee testing records.

§ 29-14. Refusal to submit to testing; consequences.

§ 29-15. Consequences for positive drug test result.

§ 29-16. Consequences for positive alcohol test result.

§ 29-17. Random testing.

§ 29-18. Reasonable-suspicion testing.

§ 29-19. Post-accident testing.

§ 29-20. Follow-up testing.

§ 29-21. Consultation with legal counsel.

ARTICLE VI. Rehabilitation

§ 29-22. Responsibility for costs.
§ 29-23. Effect on employee benefits.
§ 29-24. Additional positive test results.
§ 29-25. Refusal to undergo rehabilitation.

CHAPTER 29. DRUG AND ALCOHOL TESTING POLICY

[HISTORY: Adopted by the Town Board of the Town of Guilderland 10-17-1995. Amendments noted where applicable.]

ARTICLE I. General Provisions

§ 29-1. Purpose.

In accordance with the Omnibus Transportation Employee Testing Act of 1991, the Federal Department of Transportation published regulations that impact the Town of Guilderland, specifically, 49 CFR Parts 40 and 382. The purpose of the Act and its implementing regulations are to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

§ 29-2. Adherence to policy.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Pursuant to the policy entitled "Drug and Alcohol Testing Policy Statement for Commercial Driver's License Holders" that was adopted by Town Board resolution on October 17, 1995, the following are the procedures the town will adhere to.

§ 29-3. Definitions.

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

BLOOD ALCOHOL CONCENTRATION (BAC)

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test.

BREATH ALCOHOL TECHNICIAN (BAT)

An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device (EBT).

COMMERCIAL MOTOR VEHICLE

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property, if the motor vehicle has a gross combination weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; has a

gross vehicle weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers, including the driver; is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, which requires the motor vehicle to have a placard under the hazardous material regulations.

COVERED EMPLOYEES

Any employee, designated by the town, who possesses a commercial driver's license (CDL) or permit.

DEPARTMENT OF TRANSPORTATION ACCIDENT (DOT ACCIDENT)

An occurrence involving a commercial motor vehicle operating on a public road which results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disability as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or a moving violation arising from the accident that is issued to the covered employee.

EVIDENTIAL BREATH-TESTING DEVICE (EBT)

An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (CPL).

MEDICAL REVIEW OFFICER (MRO)

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of the substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other biomedical information.

PLAN ADMINISTRATOR

The individual designated by the employer to answer any questions an employee may have regarding this plan and the individuals or organizations charged with the administration of this plan.

SAFETY-SENSITIVE FUNCTION

The operation of a commercial motor vehicle and any of those on-duty functions as listed; all time at a carrier or shipper plant, terminal, facility or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; all time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR), or otherwise inspecting, servicing or conditioning any commercial motor vehicle (except for time spent resting in the sleeper berth); all time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded,

remaining in readiness to operate the vehicle or in giving or receiving receipts for shipment loaded or unloaded; all time spent performing the driver requirements associated with an accident; and all time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

SUBSTANCE ABUSE PROFESSIONAL (SAP)

A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol- and controlled-substances-related disorders.

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

ARTICLE II. Training

§ 29-4. Education and awareness program for supervisory personnel and all commercial driver's license holders.

The town will provide a general awareness training and education program on the subject of substance and alcohol abuse. The regulation requires at least 60 minutes of awareness training.

§ 29-5. Training supervisory personnel to determine reasonable suspicion.

A. The regulation requires the town to ensure that supervisors who may determine whether reasonable suspicion or cause exists receive at least 60 minutes of training on the physical, behavioral and performance indicators of alcohol misuse and use of controlled substances. This training will be mandated for all department heads and those supervisors who have employees that are affected by the policy.

B. All employees should refer to the training materials for information regarding the use and effects of alcohol and controlled substances.

§ 29-6. Grace period.

For 30 days after completion of the general awareness training, any town employee may, during this period, voluntarily contact his/her department head to obtain assistance in dealing with a drug or alcohol problem through the substance abuse professional (SAP) without disciplinary action being taken. Employees may seek voluntary assistance at any time; however, employees who seek voluntary assistance subsequent to notification of a required test shall

still be required to submit to such test and will remain subject to discipline upon a positive test result.

ARTICLE III. Prohibitions

§ 29-7. Alcohol prohibitions.

Employees must not:

- A. Report for duty or remain on duty while having a blood alcohol concentration (BAC) of 0.02% or higher;
- B. Possess alcohol while on duty, or use or be under the influence of alcohol while performing safety-sensitive functions;
- C. Perform any safety-sensitive function within four hours after using alcohol;
- D. Use alcohol for eight hours following a DOT accident or until after such employee has undergone an alcohol test; or
- E. Refuse to submit to a required alcohol test.

§ 29-8. Controlled substance prohibition.

Employees must not engage in the following prohibited acts:

- A. No driver shall report for duty or remain on duty when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the town that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

ARTICLE IV. Testing

§ 29-9. Types of testing.

The Federal Omnibus Transportation Act and/or this policy mandates that employees holding a commercial driver's license (CDL) must submit to the following types of testing:

- A. Preemployment. Conducted before applicants are hired and after receiving a permit for a commercial driver's license.
- B. Promotions. Employees must be tested upon promotion to a position requiring a commercial driver's license (CDL).

C. Random. Conducted on a random unannounced basis.

(1) A minimum of 25% of all CDL holders will be tested for alcohol on a random basis each year.

(2) A minimum of 50% of all CDL holders will be tested for use of controlled substances each year. Controlled substances that will be tested for are cocaine, marijuana, opiates, amphetamines and phencyclidine.

(3) Tests must be unannounced and spread throughout the calendar year. Random selection could result in a driver being selected for testing more than once in a calendar year.

D. Reasonable suspicion. Conducted when an employee's behavior or appearance is observed that is characteristic of alcohol misuse or the influence of controlled substances. The town will require that two trained supervisors or department officials verify and document the above.

E. Post-accident. Conducted following every accident by any covered employee involving a fatality or following every DOT accident.

F. Return to duty. Conducted when an individual has engaged in prohibited conduct regarding drug use and/or alcohol misuse; the employee shall undergo a "return-to-duty" drug test and/or alcohol test with a verified negative result.

G. Follow-up. Following a determination that an employee needs assistance in resolving problems associated with alcohol misuse and/or use of drugs, unannounced follow-up alcohol and/or drug testing will be required. A minimum of six follow-up drug and/or alcohol tests will be administered in the first 12 months.

§ 29-10. Conduct of tests.

A. Testing for drugs will be conducted by urinalysis. Alcohol testing will be conducted by a breath alcohol technician (BAT) using a breath-testing device.

B. All drug and alcohol collections will be conducted by a qualified provider that meets the guidelines set forth in the regulations.

§ 29-11. Drug testing procedure; use of prescription drugs.

A. Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the

Department of Health and Human Services (DHHS). The driver provides a urine specimen in a location that affords privacy; and the collector seals and labels the specimen, completes a chain-of-custody document and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory in the presence of the employee. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not compromised. Drug testing for CDL holders will include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. If the analysis of the primary specimen confirms the presence of illegal or controlled substances, the employee has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis at the employee's expense. If the split specimen proves to be negative, the town will pay the expense. This split specimen procedure essentially provides the employee with an opportunity for a second opinion.

B. All urine specimens are analyzed for the following drugs:

- (1) Marijuana (THC metabolite).
- (2) Cocaine.
- (3) Amphetamines.
- (4) Opiates (including heroin).
- (5) Phencyclidine (PCP).

C. While prescription drugs are not prohibited, they should not render an employee unfit for duty. Situations of this nature should be brought to the supervisor's attention by the employee, especially if the employee's job responsibilities have an impact on the health and safety of others. These situations should be addressed confidentially on a case-by-case basis, and it may be necessary for the employee's physician to certify that the substance does not adversely affect the employee's fitness for duty.

§ 29-12. Alcohol testing procedure.

The rules require breath testing using evidential breath-testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA). The NHTSA periodically publishes a list of approved devices in the Federal Register. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result

less than 0.02% alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02% or greater, a second confirmation test must be conducted (not less than 15 minutes or more than 20 minutes after the first screening test). The employee and the individual conducting the breath test [called a "breath alcohol technician (BAT)"] complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

ARTICLE V. Test Results

§ 29-13. Access to employee testing records.

All records are considered confidential and will not be shared with other employees. Test results and other confidential information will only be released to the Plan Administrator, Medical Review Officer (MRO) and the substance abuse professional (SAP) who evaluates the extent of the problem. However, the covered employee is entitled, upon written request, to obtain copies of any records concerning his/her use of drugs or alcohol, including any test records. If a covered employee initiates a lawsuit or other action as a result of a violation of DOT rules, the town may release this information to the relevant parties.

§ 29-14. Refusal to submit to testing; consequences.

A. All employees subject to the regulation must submit to drug and alcohol testing.

B. Refusal to submit to testing is prohibited and is a violation of the Act. The consequences for a refusal are therefore the same as if the person had submitted to testing and has a positive test result.

C. The following actions constitute a refusal:

(1) Failure to provide an adequate breath and/or urine sample (other than by deliberate failure or refusal); the town shall direct the employee to obtain an evaluation from a licensed physician, acceptable to the town, as soon as practical to determine the employee's medical ability to provide an adequate breath and/or urine sample. If the physician determines that a medical condition did (or could have) prevent(ed) the employee from providing an adequate sample, the failure shall not constitute a refusal.

However, if the physician is unable to make such a determination, the employee's failure shall constitute refusal;

(2) Engaging in conduct that clearly obstructs the testing procedures; or

(3) Claiming illness after notification of testing.

§ 29-15. Consequences for positive drug test result.

A positive drug test result will be considered a violation of the town policy and subject the employee to an automatic suspension of at least five working days without pay. In addition, the town may draft charges and impose discipline up to and including termination in accordance with § 75 of the Civil Service Law.

§ 29-16. Consequences for positive alcohol test result.

A positive alcohol test result will be considered a violation of the town policy. The employee will be transported home without pay, and the employee shall be subject to an automatic suspension of one work day. In addition, the town may draft charges and impose discipline up to and including termination in accordance with § 75 of the Civil Service Law.

§ 29-17. Random testing.

A. Drug testing.

(1) The town will be responsible for transporting the employees to and from the collection facility.

(2) Upon receipt of a positive test result from the Medical Review Officer (MRO), the employee will be transported home and remain there until a recommendation is made by the substance abuse professional (SAP) and the employee submits to a return-to-duty test with a verified negative result.

B. Alcohol testing.

(1) The town will be responsible for transporting the employees to and from the collection facility.

(2) Upon receipt of a negative result (under 0.02%), the employee will return to work.

(3) Upon receipt of a positive test result, the employee will be transported home and remain there until a recommendation is made by the substance

abuse professional (SAP) and the employee submits to a return-to-duty test with a verified negative result.

§ 29-18. Reasonable-suspicion testing.

A. Drug testing.

(1) Upon receipt of a negative test result, the employee will return to work without suffering a loss of wages or benefits.

(2) Upon receipt of a positive test result, the employee will not be allowed to return to work until a recommendation is made by the substance abuse professional (SAP), and the employee must submit to a return-to-duty test with a verified negative result.

B. Alcohol testing.

(1) The town will be responsible for transporting the employee to the collection facility and to the employee's home, if necessary.

(2) Upon receipt of a negative test result, the employee will return to work without suffering a loss of wages or benefits.

(3) Upon receipt of a positive test result, the employee will be transported home without pay and will not be eligible to return to work until a recommendation is made by the substance abuse professional (SAP) and the employee submits to a return-to-duty test indicating a breath alcohol concentration (BAC) less than 0.02%.

C. The Reasonable Suspicion Form, if the test result is positive, will be included in the employee's file. If the test result is negative, the form will be discarded after the retention period in accordance with the regulation. Upon written request, a covered employee may obtain copies of any records pertaining to the covered employee's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled-substances tests.

§ 29-19. Post-accident testing.

A. Drug testing.

(1) The town will be responsible for transporting the employee to and from the collection facility.

(2) Until the town receives the test results, the employee will not be allowed to perform any safety-sensitive duties.

(3) Upon receipt of a negative test result, the employee will return to full duties.

(4) Upon receipt of a positive test result, the employee will be sent home until a recommendation is made by the substance abuse professional (SAP) and the employee submits to a return-to-duty test with a verified negative result.

B. Alcohol testing.

(1) The town will be responsible for transporting the employee to and from the collection facility and/or home.

(2) Upon receipt of a negative test result, the employee will return to work.

(3) Upon receipt of a positive test result, the employee will be transported home and is not eligible to return to work until a recommendation is made by the substance abuse professional (SAP) and the employee submits to a return-to-duty test indicating a breath alcohol concentration (BAC) less than 0.02%.

§ 29-20. Follow-up testing.

Positive test results require the employee to submit to a minimum of six follow-up tests for drug and/or alcohol use during the first 12 months following the initial positive test result.

§ 29-21. Consultation with legal counsel.

Under the following circumstances, an employee shall note that he/she may consult with legal counsel:

A. A positive test result from alcohol or drugs conducted on a random basis.

B. Prior to any reasonable-suspicion testing.

C. Prior to any accident testing.

ARTICLE VI. Rehabilitation

§ 29-22. Responsibility for costs.

The town will not be responsible for any rehabilitation costs.

§ 29-23. Effect on employee benefits.

Upon receipt of a positive test result for drugs and/or alcohol, if an employee undergoes rehabilitation as recommended by the substance abuse professional (SAP) and is eligible for Workers' Compensation or New York State Disability, the employee would be eligible for statutory benefits only. Upon completion of the rehabilitation program, the employee must submit to a return-to-duty test with a verified negative result and be released to full duties. The employee in the above situation will not be eligible for any other town benefit (e.g., long-term disability, catastrophic illness, sick leave, personal service time, etc.).

§ 29-24. Additional positive test results.

Once an employee has received rehabilitation and/or tests positive a second time, the town will take appropriate measures and/or seek discipline up to and including termination.

§ 29-25. Refusal to undergo rehabilitation.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). If the substance abuse professional (SAP) recommends that an employee undergoes rehabilitation and the employee refuses, the town will prepare charges pursuant to § 75 of the Civil Service Law and seek discipline up to and including termination.

CHAPTER 33. ETHICS, CODE OF

ARTICLE I. Substantive Provisions

§ 33-1. Definitions.

§ 33-2. Code of Ethics for Town officers and employees.

§ 33-3. Transactional disclosure.

§ 33-4. Exclusions from Code of Ethics and from transactional disclosure.

§ 33-5. Inducement of violations of Code of Ethics.

§ 33-6. Interests in contracts with Town.

§ 33-7. Appearances by Town officers and employees and outside employers and businesses of Town officers and employees.

§ 33-8. Annual disclosure.

§ 33-9. Applicant disclosure generally.

§ 33-10. Applicant disclosure for land use applications.

§ 33-11. Void contracts.

§ 33-12. Penalties for offenses.

§ 33-13. Injunctive relief.

ARTICLE II. Administrative Provisions

§ 33-14. Designation of Town officers and employees required to file annual disclosure statements.

§ 33-15. Maintenance of disclosure statements.

§ 33-16. Ethics Board: establishment; qualifications of members; appointment of members; term of office.

§ 33-17. Ethics Board: vacancies.

§ 33-18. Ethics Board: removal of members.

§ 33-19. Ethics Board: meetings.

§ 33-20. Ethics Board: jurisdiction, powers, and duties.

§ 33-21. Review of lists and disclosure statements.

§ 33-22. Investigations.

§ 33-23. Hearings; assessment of penalties; injunctive relief.

§ 33-24. Advisory opinions.

§ 33-25. Judicial review.

§ 33-26. Public inspection of Code of Ethics.

§ 33-27. Annual reports; review of Code of Ethics.

§ 33-28. Public inspection of records; public access to meetings.

§ 33-29. Miscellaneous provisions.

§ 33-30. Distribution and posting.

Attachments:

033a Exhibit A-E

CHAPTER 33. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 9-3-2002 by L.L. No. 6-2002. Editor's Note: This local law also repealed former Ch. 33, Code of Ethics, adopted 9-19-2000 by L.L. No. 7-2000. Amendments noted where applicable.]

GENERAL REFERENCES

ADA grievance procedure — See Ch. 4.

Defense and indemnification — See Ch. 25.

Purchasing — See Ch. 85.

ARTICLE I. Substantive Provisions

§ 33-1. Definitions.

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

APPEAR and APPEAR BEFORE

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

CONFIDENTIAL INFORMATION

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

CONFLICT OF INTEREST

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

CORPORATION

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

CUSTOMER OR CLIENT

A. Any person to whom a Town officer or employee has supplied goods or services during the previous 24 months having, in the aggregate, a value greater than \$1,000; or

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

ETHICS BOARD

The Ethics Board of the Town established pursuant to § 33-16 of this chapter.

GIFT and FINANCIAL BENEFIT

Except as specifically set forth in § 33-4, includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, privilege, exemption or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

MINISTERIAL ACT

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

OUTSIDE EMPLOYER OR BUSINESS

A. Means:

(1) Any activity, other than service to the Town, from which the Town officer or employee receives compensation for services rendered or goods sold or produced;

(2) Any entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or

(3) Any entity in which the Town officer or employee has an ownership interest, except a corporation of which the Town officer or employee owns less than 5% of the outstanding stock.

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

PERSON

Includes both individuals and entities.

PROFESSIONAL LICENSE

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

PUBLIC BENEFIT CORPORATION

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

RELATIVE

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

TOWN

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

TOWN AGENCY

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

TOWN OFFICER OR EMPLOYEE

Any officer or employee of the Town, whether elected or appointed, paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, unit or committee of the Town.

Any attorney who is a partner in a law firm or a principal in a professional corporation whose legal opinion concerning the validity of the issuance of any debt instrument is generally provided in connection with the issuance of any bond or other instrument by the Town or any public benefit corporation whose members are appointed by the Supervisor or the Town Board shall be deemed a Town officer or employee. "Town officer or employee" shall not include:

A. A judge, justice, officer, or employee of the unified court system; and

B. Unless otherwise specifically listed on Exhibit A, Editor's Note: Exhibit A is included at the end of this chapter. an advisory board of the Town if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the Town or to restrict the authority of the Town to act. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this subsection.

§ 33-2. Code of Ethics for Town officers and employees.

A. General prohibition. A Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

- (1) The Town officer or employee;
- (2) His or her outside employer or business;
- (3) A member of his or her household;
- (4) A customer or client;
- (5) A relative; or
- (6) Any firm, corporation, association, partnership or other organization in which the Town officer or employee, or a relative, serves as an officer or director, whether compensated or not compensated.

B. Specific Town officers and employees.

(1) Responsibilities.

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

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

(c) Public safety. No public safety officer shall have any interest in or be employed in the Town by any company, corporation, partnership, association or individual for the purpose of providing private investigations, accident reconstruction, fire prevention, or fire inspection or any other activity related to such public safety officer's employment with the Town. This shall not be construed as prohibiting membership or service in volunteer fire or emergency medical organizations. Additionally, public safety officers may be employed in the Town for the purpose of providing security or traffic services.

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

C. Recusal. A Town officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter, or

failing to act on the matter, may financially benefit any of the persons or organizations listed in Subsection A of this section.

D. Gifts. Except as set forth in § 33-4, a Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town, nor accept anything of value from any person who the Town officer or employee knows or has reason to know has received or sought a financial benefit from the Town within the previous 24 months. The purpose of this provision is to avoid circumstances where it could reasonably be inferred that the gift was intended to influence such Town officer or employee, or could reasonably be expected to influence such Town officer or employee in the performance of his or her official duties, or was intended as a reward for any official action taken by such Town officer or employee.

E. Use of Town property. No Town officer or employee shall use or permit the use of Town property (including land, vehicles, equipment, materials and any other property) for personal convenience or profit, except when such use is available to Town citizens generally or is provided as a matter of written Town policy.

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

G. Revolving door. A Town officer or employee who is required to file an annual disclosure statement pursuant to § 33-7 shall not appear or practice before the particular Town agency in which the Town officer or employee served or by which he or she was employed, except on his or her own behalf, or receive compensation for working on any matter before the particular Town agency in which the Town officer or employee served or by which he or she was employed, for a period of one year after the termination of his or her Town service or employment; however, the bar shall be permanent for any Town officer or employee as to particular matters on which the Town officer or employee personally worked while in Town service that are still pending after the termination of his or her Town service or employment.

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

I. Inducement of others. A Town officer or employee shall not induce or aid another officer or employee of the Town in violating any of the provisions of this Code of Ethics.

J. Conflict with other codes of conduct.

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

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

§ 33-3. Transactional disclosure.

A. Whenever a Town officer or employee is required to recuse himself or herself pursuant to § 33-2 of this chapter, he or she shall:

(1) Immediately refrain from participating further in the matter;

(2) Promptly inform his or her superior, if any; and

(3) Promptly file with the Town Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board.

B. A Town officer or employee shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed with the Town Clerk a disclosure statement complying with requirements of § 33-6 of this chapter.

§ 33-4. Exclusions from Code of Ethics and from transactional disclosure.

The provisions of §§ 33-2 and 33-3 of this chapter shall not prohibit, or require, recusal or transactional disclosure as a result of:

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

B. A ministerial act;

C. Gifts:

(1) Received by the Town officer or employee from his or her relative;

(2) Having an aggregate value of \$75 or less during any twelve-month period; or

(3) Accepted on behalf of the Town and transferred to the Town;

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

E. Awards from charitable organizations; or

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

§ 33-5. Inducement of violations of Code of Ethics.

No person, whether or not a Town officer or employee, shall induce or attempt to induce a Town officer or employee to violate any of the provisions of § 33-2 or 33-3 of this chapter.

§ 33-6. Interests in contracts with Town.

A. Prohibited interests. No Town officer or employee shall have an interest in a contract with the Town, or an interest in a bank or trust company, that is prohibited by § 801 of the General Municipal Law of the State of New York, unless said contract is entered into as a result of a competitive bidding process pursuant to § 85-2B of the Code of the Town of Guilderland, regardless of the value of the contract. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be

null, void, and wholly unenforceable, to the extent provided by § 804 of that law.

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

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

§ 33-7. Appearances by Town officers and employees and outside employers and businesses of Town officers and employees.

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

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

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

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

§ 33-8. Annual disclosure.

A. Town officers and employees required to file. Town officers and employees holding the job titles or positions set forth on Exhibit A annexed hereto, Editor's Note: Exhibit A is included at the end of this chapter. or as amended from time to time by the Town Board, shall be required to file a signed annual disclosure statement.

B. Time and place for filing. Annual disclosure statements shall be filed with the Ethics Board:

(1) Within 120 days after the effective date of this section;

(2) Within 30 days after becoming subject to the requirements of Subsection A of this section; and

(3) No later than February 15 of each year thereafter.

C. Contents of annual disclosure statement.

(1) Disclosure shall be set forth on the form as prescribed in Exhibit B annexed hereto, Editor's Note: Exhibit B is included at the end of this chapter. or as amended from time to time by the Ethics Board.

(2) Any Town officer or employee required to file an annual disclosure statement may request one or more items of information be redacted from his/her disclosure statement when said statement is made available to the public. In order for the Ethics Board to grant a request for redaction, the information sought to be redacted must have no material bearing on the discharge of the official duties of the Town officer or employee and, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of § 89 of the New York State Freedom of Information Law or would otherwise likely endanger the life or safety of any person. A request for redaction shall be in the form as set forth in Exhibit C hereto, Editor's Note: Exhibit C is included at the end of this chapter. or as amended from time to time by the Ethics Board.

D. Extension of time for filing annual disclosure statement.

(1) The Ethics Board shall be empowered to grant an extension of time for filing the annual disclosure statement. In order for the Ethics Board to grant a request for an extension of time to file the annual disclosure statement beyond the February 15 deadline, the Ethics Board shall find that there is justifiable cause for filing after the deadline or that application of the deadline will impose an undue hardship.

(2) A request for an extension of time shall be filed with the Ethics Board on or before February 1 in the year for which the extension is sought, or in the case of a new Town officer or employee, no more than 15 days after such person commences his or her duties with the Town. A request for an extension to file shall be in the form as set forth in Exhibit D Editor's Note: Exhibit D is included at the end of this chapter. hereto, or as amended from time to time by the Ethics Board.

§ 33-9. Applicant disclosure generally.

A. Where a person requests the Town or a Town officer or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to such person and to either any officer or employee of the Town, or to one of the other persons listed in § 33-2A of this chapter, such person shall disclose the names of any such persons, including Town officers or employees, that may financially benefit from such action or inaction by the Town or a Town officer or employee, to the extent known to such person at the time of the request.

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

C. A person shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed a disclosure statement complying with requirements of § 33-10 of this chapter.

§ 33-10. Applicant disclosure for land use applications.

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

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

§ 33-11. Void contracts.

Any contract or agreement entered into, by or with the Town which results in or from a violation of any provision of § 33-2, 33-3 or 33-7 of this chapter shall be void unless ratified by the Town Board. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this chapter or any other provision of law.

§ 33-12. Penalties for offenses.

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

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

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

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

§ 33-13. Injunctive relief.

A. Any resident, officer, or employee of the Town may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for

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

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

- (1) The plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the officer or employee;
- (2) It shall appear by, and as an allegation in, the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter; and
- (3) The action or special proceeding shall be commenced within 10 months after the alleged violation occurred.

ARTICLE II. Administrative Provisions

§ 33-14. Designation of Town officers and employees required to file annual disclosure statements.

A. Within 30 days after the effective date of this chapter, and by March 15 each year thereafter, the Supervisor of the Town shall cause to be filed with the Ethics Board a list of the offices or positions of all Town officers and employees required to file annual disclosure statements pursuant to § 33-7 of this chapter and file a copy of such list with the Town Clerk.

B. Within 30 days after the effective date of this chapter, and by January 15 each year thereafter, the Town Clerk shall notify all such Town officers and employees of their obligation to file an annual disclosure statement.

§ 33-15. Maintenance of disclosure statements.

A. The Town Clerk shall transmit promptly to the Ethics Board each transactional and applicant disclosure statement filed pursuant to §§ 33-3, 33-6, 33-9 and 33-10 of this chapter.

B. The Ethics Board shall index and maintain on file for at least seven years all disclosure statements filed with the Ethics Board pursuant to §§ 33-3, 33-6, 33-7, 33-9, and 33-10.

§ 33-16. Ethics Board: establishment; qualifications of members; appointment of members; term of office.

- A. There is hereby established an Ethics Board consisting of seven members.
- B. The members of the Ethics Board shall be residents of the Town.
- C. No member of the Ethics Board may be a Town officer or employee.
- D. Of the total membership of the Ethics Board, no more than two shall be registered in the same political party.
- E. No Ethics Board member shall hold office concurrently in a political party or be employed or act as a lobbyist or hold elective office in any local, state or federal government. An Ethics Board member may make campaign contributions and may participate in any election campaign.
- F. Within 30 days after the effective date of this chapter, and no later than December 31 each year thereafter, the Town Board shall appoint the members of the Ethics Board.
- G. The term of office of Ethics Board members shall be three years and shall run from January 1 through December 31, except that of the members first appointed two members shall serve until December 31 of the year in which the Ethics Board is established, two shall serve until the second December 31, and three shall serve until the third December 31.
- H. An Ethics Board member shall serve until his or her successor has been appointed. Consecutive service on the Ethics Board shall not exceed two consecutive three-year terms.
- I. The members of the Ethics Board shall not receive compensation but are authorized to incur any and all expenses necessary to effectuate the purposes of the Ethics Board within amounts which are to be appropriated by the Town Board annually.

§ 33-17. Ethics Board: vacancies.

When a vacancy occurs in the membership of the Ethics Board, the vacancy shall, within 60 days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Ethics Board shall meet the qualifications set forth in § 33-16 of this chapter.

§ 33-18. Ethics Board: removal of members.

An Ethics Board member may be removed from office in the same manner in which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in § 33-16 of this chapter, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this chapter or any other Town law.

§ 33-19. Ethics Board: meetings.

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

§ 33-20. Ethics Board: jurisdiction, powers, and duties.

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

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

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

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

(2) To review, index, and maintain on file lists of Town officers and employees and disclosure statements filed with the Ethics Board, pursuant to §§ 33-3, 33-6, 33-8, 33-9, 33-10, 33-14, 33-15 and 33-21 of this chapter;

(3) To recommend the names of any other Town officers or employees that the Ethics Board determines should appear on the list pursuant to § 33-8;

(4) To review, revise or amend the form and content of the annual disclosure statement annexed as Exhibit B Editor's Note: Exhibit B is included at the end of this chapter. as authorized by the Town Board;

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

(6) To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to § 33-23;

(7) To render, index, and maintain on file advisory opinions pursuant to § 33-24;

(8) To provide training and education to Town officers and employees pursuant to § 33-26;

(9) To prepare reports and recommend changes to this chapter pursuant to § 33-27;

(10) To provide for public inspection of certain records pursuant to § 33-28;

(11) To select provisions of this chapter for reproduction and distribution pursuant to § 33-30;

(12) To review and decide pursuant to the procedure and requirements outlined in Subsections C and D of § 33-8 of this chapter, all requests for redaction of disclosure and extension of time to file; and

(13) To otherwise enforce and administer all of the provisions of this chapter.

§ 33-21. Review of lists and disclosure statements.

A. The Ethics Board shall review:

(1) The lists of Town officers and employees, prepared pursuant to § 33-14 of this chapter, to determine whether the lists are complete and accurate;

(2) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this chapter; and

(3) All transactional disclosure statements.

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

for failure to comply with this chapter and provide the person with a fifteen-day period to cure the deficiency.

§ 33-22. Investigations.

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

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

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

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

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

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

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

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

§ 33-23. Hearings; assessment of penalties; injunctive relief.

A. Disciplinary action. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend appropriate disciplinary action pursuant to Subsection A of § 33-12 of this chapter. The recommendation of the Ethics Board shall be made to Supervisor and the Town Board or such other person or body authorized by law to impose such disciplinary action. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Ethics Board refers the matter to the Town Board or such other person or body authorized by law to impose disciplinary action or unless the Ethics Board refers the matter to the appropriate prosecutor. If such a referral is made, the Ethics Board may adjourn the matter pending determination by the Town Board, person, body, or prosecutor, as the case may be.

B. Civil fine. In its discretion and after a hearing providing for due process procedural mechanisms, the Ethics Board, pursuant to Subsection B of § 33-12 of this chapter, may assess a civil fine, not to exceed \$1,500 for each violation, upon any Town officer or employee found by the Ethics Board to have violated this chapter. The Ethics Board shall conduct and complete the

hearing with reasonable promptness. The civil fine shall be payable to the Town.

C. Damages. The Town Board may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in Subsection C of § 33-12 of this chapter.

D. Injunctive relief. The Town Board, or the Ethics Board on behalf of the Town, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this chapter or to compel compliance with this chapter, as provided in § 33-13 of this chapter.

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

§ 33-24. Advisory opinions.

A. Upon the written request of any Town officer or employee, the Ethics Board shall render a written advisory opinion with respect to the interpretation or application of this chapter or of Article 18 of the General Municipal Law of the State of New York. Any other person may similarly request an advisory opinion, but only with respect to whether his or her own action might violate a provision of this chapter or Article 18, or such request may be made through a Town officer or employee.

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

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

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

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

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

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

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

§ 33-25. Judicial review.

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

§ 33-26. Public inspection of Code of Ethics.

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

§ 33-27. Annual reports; review of Code of Ethics.

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

B. The Ethics Board shall periodically review this chapter and the Ethics Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town

government and whether they set forth clear and enforceable, common sense standards of conduct. At any time, the Ethics Board may recommend changes to the text or administration of this chapter to the Town Board.

§ 33-28. Public inspection of records; public access to meetings.

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

- (1) The information set forth in an annual disclosure statement or transactional disclosure statement filed pursuant to this chapter, except any item of information redacted pursuant to Subsection C of § 33-8 of this chapter;
- (2) Notices of reasonable cause set under Subsections A and B of § 33-22 of this chapter;
- (3) Redacted advisory opinion prepared as provided in § 33-25 of this chapter; and
- (4) Assessments of civil penalties, sanction, discipline or other action taken or imposed as provided in §§ 33-12 and 33-23 of this chapter.

B. Notwithstanding the provisions of Article 7 of the Public Officers Law or by other applicable state or federal law or regulation, no meeting or proceeding of the Ethics Board, including any such proceeding contemplated under § 33-22 of this chapter, shall be open to the public, except upon the request of the Town officer or employee under investigation, or as expressly provided otherwise by the Town Board.

§ 33-29. Miscellaneous provisions.

A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.

B. Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this chapter.

§ 33-30. Distribution and posting.

A. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor and Town Clerk, in a form suitable for posting, copies of those provisions of this chapter which the Town Board deems necessary for posting in the Town. Within 10 days after receipt of those copies, the Town Clerk shall cause the copies to be posted conspicuously in a place designated for the posting of public notices.

B. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor, or other Town officer or employee as designated by the Supervisor, in a form suitable for distribution, copies of those provisions of this chapter which the Town Board deems necessary for distribution to the Town officers and employees. Within 10 days after receipt of those copies, the Supervisor, or his or her designee, shall cause the copies to be distributed to every Town officer and employee, and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within 10 days after entering upon the duties of his or her position.

C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.

Attachments:

033a Exhibit A-E

CHAPTER 38. FIRE PREVENTION AND INVESTIGATION, DEPARTMENT OF

§ 38-1. Purpose.

§ 38-2. Designation of department head; salary; supervision of assistants.

§ 38-3. Duties of Chief Fire Inspector and Investigator.

§ 38-4. Fee schedule.

CHAPTER 38. FIRE PREVENTION AND INVESTIGATION, DEPARTMENT OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 9-1-1998 by L.L. No. 11-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 171.

Investigation of fires — See Ch. 174.

§ 38-1. Purpose.

The purpose of this chapter is to establish the Department of Fire Prevention and Investigation as a separate department of the town government in the Town of Guilderland.

§ 38-2. Designation of department head; salary; supervision of assistants.

A. The head of the Department of Fire Prevention and Investigation shall be called the "Chief Fire Inspector and Investigator" and shall be appointed by and serve at the pleasure of the Town Board of the Town of Guilderland, and his salary shall be fixed by the Town Board from time to time.

B. The Chief Fire Inspector and Investigator shall supervise such other assistant fire inspectors as the Town Board may provide for in the town budget.

§ 38-3. Duties of Chief Fire Inspector and Investigator.

A. It shall be the duty of the Chief Fire Inspector and Investigator to administer and enforce the New York State Uniform Fire Prevention and Building Code, as well as any local laws enacted by the Town of Guilderland, including L.L. No. 2-1966, entitled the "Fire Law,"; L.L. No. 4-1966 Editor's Note: Said L.L. Nos. 2-1966 and 4-1966 are on file in the town offices. regarding agreement with fire districts; Chapter 171, Fire Prevention and Building Construction, Article II, as amended; and any other law in connection with fire investigation and inspection.

B. It shall be the duty of the Chief Fire Inspector and Investigator to work with, render advice to and consult with other town departments, including but not limited to the Police Department, Emergency Medical Services, Building Department and Code Enforcement Bureau regarding fire inspections and investigations.

C. It shall be the duty of the Chief Fire Inspector and Investigator to report to the Town Board on an annual basis regarding the operations of his

Department and the status of fire inspection and investigation in the town, and on a regular basis, as requested, to the Town Supervisor regarding the operations of the Department.

D. It shall be the duty of the Chief Fire Inspector and Investigator to report to the Supervisor on a monthly basis regarding any imposition of fines or penalties as set forth in § 171-11 of Chapter 171, Fire Prevention and Building Construction, Article II, as amended, of the Town of Guilderland; and to include also in such report the number of fire inspections undertaken during the month and the fees collected in connection therewith.

E. It shall be the duty of the Chief Fire Inspector and Investigator to advise the Board of Review for Building Conservation and Fire Prevention, as established under and included in Chapter 171, Fire Prevention and Building Construction, Article III, on issues involving fire inspection in any matter involving the New York State Uniform Fire Prevention and Building Code.

F. It shall be the duty of the Chief Fire Inspector and Investigator to serve as the liaison to fire departments and fire districts serving the residents of the Town of Guilderland, and to report to the Town Board and the Town Supervisor regarding the concerns expressed by said departments and districts.

§ 38-4. Fee schedule.

In order to support the Fire Prevention and Investigation Department, as well as the Building Department, the Town Board does establish a fee schedule
Editor's Note: See Ch. A285, Fees. to apply to such fire inspections and building inspections of nonresidential properties as are required under the New York State Uniform Fire Prevention and Building Code. Said fees shall be set by the Town Board upon adoption of this chapter, and amended by Town Board resolution as needed.

CHAPTER 42. HAZARDOUS MATERIALS EMERGENCY RESPONSE PLAN

ARTICLE I. General Provisions

§ 42-1. Definitions.

§ 42-2. Response levels.

§ 42-3. Declaration of incident.

ARTICLE II. Scene Command

§ 42-4. Incident commander.

§ 42-5. Police commander.

§ 42-6. Emergency medical services (EMS) commander.

ARTICLE III. Dispatcher Responsibilities

§ 42-7. Initial dispatching.

§ 42-8. Dispatching requests for different incident levels.

§ 42-9. Documentation.

ARTICLE IV. Fire Department Responsibilities

§ 42-10. Fire command; incident commander.

§ 42-11. Fire service.

ARTICLE V. Police Department Responsibilities

§ 42-12. Duties of police commander.

§ 42-13. Police service.

ARTICLE VI. EMS Responsibilities

§ 42-14. Duties of EMS commander.

§ 42-15. EMS service.

ARTICLE VII. Outside Resource Responsibilities

§ 42-16. Outside agency.

§ 42-17. Evaluation of actions at termination of incident.

CHAPTER 42. HAZARDOUS MATERIALS EMERGENCY RESPONSE PLAN

[HISTORY: Adopted by the Town Board of the Town of Guilderland 1-16-1996. Amendments noted where applicable.]

ARTICLE I. General Provisions

§ 42-1. Definitions.

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

HAZARDOUS MATERIAL

Explosives; chemicals, either liquid or dry; poisons; petroleum products; radioactive materials; or any other product defined as a hazardous material by the Department of Transportation (DOT).

INCIDENT

An emergency of any kind which involves a hazardous material.

§ 42-2. Response levels.

The incidents shall be defined by a response level as described below. The basic guideline for definition of response levels is as follows:

A. Level 1: Controlled emergency condition.

(1) Incident that can be controlled by the primary response agencies of a local jurisdiction.

(2) Single jurisdiction and limited agency involvement.

(3) Does not require evacuation, except for the structure or immediate affected area.

(4) No immediate threat to life, health or property.

B. Level 2: Limited emergency condition.

(1) Potential threat to life, health or property.

(2) Expanded geographic area.

(3) Limited evacuation of nearby residents or facilities.

(4) Involvement of two or three jurisdictions.

(5) Limited participation or mutual aid from agencies that do not routinely respond to emergency incidents in the area.

(6) Specialist or technical team called to the scene.

(7) Combined emergency operations, such as fire fighting and evacuation, or containment and emergency care.

C. Level 3: Full emergency condition.

(1) Serious hazard or severe threat to life, health or property.

(2) Large geographical impact.

(3) Major community evacuation.

(4) Multijurisdictional involvement.

(5) State and federal involvement.

(6) Specialist and technical teams involved.

(7) Extensive resource management involved.

(8) Multiple emergency operations.

§ 42-3. Declaration of incident.

All incidents involving or potentially involving a hazardous material as defined above in any quantity will be a "hazardous materials incident." Initially, all incidents will be Level 1; any upgrades in levels will normally be declared by the senior fire officer of the first arriving unit at the scene.

ARTICLE II. Scene Command

§ 42-4. Incident commander.

A. The incident commander will be the senior fire officer (on the scene) of the Fire Department of the district in which the incident is located. The incident commander shall establish a command post and place the incident command system into effect.

B. The senior fire officer will act as an initial incident commander. As the incident changes or escalates to include additional resources, the incident commander will then be designated at the time of the emergency by mutual agreement of the primary responding agencies. This designation would be based on the following criteria:

- (1) The agency with the greatest jurisdictional involvement or authority;
- (2) The agency with the greatest number of resources committed; or
- (3) The agency with the greatest degree of technical knowledge or qualifications regarding the situation.

C. As the situation and conditions surrounding the emergency change, the incident commander may also change. Those agencies present will maintain a presence in and participate from the incident command post. The participating agencies will continue to be individually responsible for their various expertise in the incident response, thus truly creating a unified command post.

§ 42-5. Police commander.

The police commander will be the senior-ranking police officer on the scene. The police commander shall report to the command post and assist the incident commander.

§ 42-6. Emergency medical services (EMS) commander.

The EMS commander will be the senior-ranking EMS officer on the scene. The EMS commander shall report to the command post and assist the incident commander.

ARTICLE III. Dispatcher Responsibilities

§ 42-7. Initial dispatching.

The Fire Department, EMS and police providing coverage to the area involved shall be notified through normal procedures and respond according to their own procedures. All incidents will be dispatched as a hazardous materials incident, followed by a brief statement on the nature of the product or situation involved. All information transmitted to the dispatch center shall be relayed to the first responding Chief and apparatus.

§ 42-8. Dispatching requests for different incident levels.

A. Level 1: All incidents to be dispatched as Level 1:

- (1) Jurisdictional fire department.
- (2) Zone police unit.
- (3) Zone EMS agencies.

B. The incident commander shall determine if an incident shall be classified above Level 1, and the following additional requests shall be made:

(1) Level 2:

(a) Notify only, advise of incident, response is not required:

- [1] Chief of Police.
- [2] Town Supervisor.
- [3] Albany County Fire Coordinator (Fire Control).
- [4] Water, Sewer, Highway and Public Works Supervisor.

(b) Request representative respond to scene:

- [1] Fire prevention department.

[2] Field communications unit.

[3] EMS on-duty supervisor.

[4] Hazardous materials team (as designated by incident commander).

[5] Fire operations officers.

[6] Police on-duty supervisor.

(2) Level 3:

(a) Request representative respond to scene:

[1] Field communications unit.

[2] Fire prevention department.

[3] Town Supervisor.

[4] EMS on-duty supervisor.

[5] Hazardous materials team (as designated by incident commander).

[6] Highway, Water, Sewer and Public Works Supervisor.

[7] Fire operations officers.

[8] Chief of Police.

[9] Police on-duty supervisor.

[10] Albany County Fire Coordinator.

(b) The dispatch center will summon additional off-duty dispatchers to assist in the dispatch center and prepare to respond Field-Com to the scene.

§ 42-9. Documentation.

The dispatch center shall keep a separate log detailing all pertinent activity and all requests involving the incident.

ARTICLE IV. Fire Department Responsibilities

§ 42-10. Fire command; incident commander.

The senior-ranking officer of the Department in which district the incident occurs shall be the incident commander, and shall establish a command post and initiate the incident command system.

§ 42-11. Fire service.

Lead agency:

A. All members directly involved in the incident must be trained to the operations level, and commanders should have incident command training.

B. Safety of emergency personnel and others in the area is the top priority. All responders must be briefed on hazards and necessary precautions upon arriving at the scene. All actions taken by any department should be consistent with their level of training and equipment.

C. Response priorities:

- (1) Identify what materials are involved.
- (2) Determine hazards and potential effects through available resources (i.e., Chemtrec, DOT, CHRIS, OFPC, etc.).
- (3) Determine necessary course of action and evaluate regularly.
- (4) Perform defensive operations within scope of training and equipment.
- (5) Communicate current status to communications regularly and request resources as needed.
- (6) Assess resources available or on standby.
- (7) Request outside HAZ-MAT teams or other resources as needed and assist as appropriate.
- (8) Take necessary steps to protect life and property, including evacuation.
- (9) Safely rescue endangered or injured people.
- (10) Prevent container failure if safe to do so.
- (11) Avoid runoff which may be contaminated and hazardous.

- (12) Extinguish any ignited materials when appropriate and safe.
- (13) Control and neutralize the hazard.
- (14) Carefully contain any spill.
- (15) Document all actions, requests and injuries or deaths.
- (16) Strict accountability for all emergency responders and their activities.
- (17) Assist in decontamination.

D. Evacuation.

- (1) Nearby people should be isolated from any spill or leak of any hazardous material.
- (2) Recommended distances are given in available resources; increase as necessary.
- (3) For additional evacuation information, see Attachment A. Editor's Note: Attachments A and B are on file in the Town Clerk's office, which attachments are reviewed and approved by the Town Board annually.

E. Coordination of the incident will be done through the incident commander as defined earlier. A command post should be established outside the danger area and appropriate communications provided. All responding units will report to staging area and their activities coordinated through the staging officer.

ARTICLE V. Police Department Responsibilities

§ 42-12. Duties of police commander.

The police commander will be the senior ranking police officer, will assist the incident commander at the command post in all matters involving police agencies, and will provide for all necessary interface with outside police agencies, including arrangements for securing the assistance of neighboring Police Departments.

§ 42-13. Police service.

Police service will include the following:

- A. Try to obtain pertinent information and help identify material.
- B. Assist with scene security.
- C. Coordinate/assist with evacuation if necessary.
- D. Assist as requested and within scope of training.

ARTICLE VI. EMS Responsibilities

§ 42-14. Duties of EMS commander.

The EMS commander will be the senior ranking EMS person at the scene and will assist the incident commander at the command post in all matters involving medical requirements at the scene and coordinating mutual aid EMS agencies.

§ 42-15. EMS service.

EMS service will include the following:

- A. Render appropriate aid to any victims and transport.
- B. Place MCI plan into effect as necessary.
- C. Establish a medical monitoring station to monitor condition of emergency responders.
- D. Notify area hospitals of type of hazardous materials involved and number of patients, etc.
- E. Log all patients exposed to hazardous materials.
- F. Assist in decontamination.

ARTICLE VII. Outside Resource Responsibilities

§ 42-16. Outside agency.

- A. Outside agencies shall assign a liaison to report to the command post to coordinate activities and provide technical support to ensure a safe conclusion to the incident.
- B. The Fire Department will provide needed support to an agency within the scope of training and equipment.

§ 42-17. Evaluation of actions at termination of incident.

A. Incident evaluation. Within 72 hours after termination of an incident, representatives of all agencies involved will meet to evaluate actions of the incident. This plan may be modified as a result of these discussions.

B. Medical evaluation. Any emergency response employee who exhibits signs or symptoms which may have resulted from exposure to hazardous substances during the course of an emergency incident, either immediately or subsequently, shall be provided with medical consultation.

CHAPTER 47. INVESTMENT POLICY

§ 47-1. Scope.

§ 47-2. Objectives.

§ 47-3. Delegation of authority.

§ 47-4. Prudence.

§ 47-5. Diversification.

§ 47-6. Internal controls.

§ 47-7. Designation of depositories.

§ 47-8. Collateralizing of deposits.

§ 47-9. Safekeeping and collateralization.

§ 47-10. Permitted investments.

§ 47-11. Authorized financial institutions and dealers.

§ 47-12. Purchase of investments.

§ 47-13. Repurchase agreement.

CHAPTER 47. INVESTMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Guilderland 12-7-1993. Amendments noted where applicable.]

§ 47-1. Scope.

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

§ 47-2. Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform with all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

§ 47-3. Delegation of authority.

The governing board's responsibility for administration of the investment program is delegated to the Supervisor, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates and other relevant information, and to regulate the activities of subordinate employees.

§ 47-4. Prudence.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Town of Guilderland to govern effectively.
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

§ 47-5. Diversification.

It is the policy of the Town of Guilderland to diversify its deposits and investments by financial institution, by investment instrument and by maturity scheduling.

§ 47-6. Internal controls.

A. It is the policy of the Town of Guilderland for all moneys collected by any officer or employee of the government to be transferred to the Supervisor within two days of deposit or within the time period specified in law, whichever is shorter. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The Supervisor is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

§ 47-7. Designation of depositories.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The banks and trust companies authorized for the deposit of moneys up to the maximum amounts are on file in the office of the Town Clerk.

§ 47-8. Collateralizing of deposits.

In accordance with the provisions of General Municipal Law § 10, all deposits of the Town of Guilderland, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

A. By a pledge of eligible securities with an aggregate market value as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to this policy. Editor's Note: Appendix A, Schedule of Eligible Securities, as amended 12-21-1993, is located on file in the office of the Town Clerk.

B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.

C. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

§ 47-9. Safekeeping and collateralization.

A. Eligible securities used for collateralizing deposits shall be held by the depository bank or trust company subject to security and custodial agreements.

B. The security agreement shall provide that eligible securities are being pledged to secure local government deposits, together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Guilderland or its custodial bank.

C. The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 47-10. Permitted investments.

A. As authorized by General Municipal Law § 11, the Town of Guilderland authorizes the Supervisor to invest moneys not required for immediate expenditure for terms not to exceed its projected cash-flow needs in the following types of investments:

(1) Special time deposit accounts.

(2) Certificates of deposit.

(3) Obligations of the United States of America.

(4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America.

(5) Obligations of the State of New York.

(6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Town of Guilderland.

(7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.

(8) Certificates of participation (COPs) issued pursuant to General Municipal Law § 109-b.

(9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law §§ 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.

B. All investment obligations shall be payable or redeemable at the option of the Town of Guilderland within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Town of Guilderland within two years of the date of purchase.

§ 47-11. Authorized financial institutions and dealers.

The Town of Guilderland shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be creditworthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Town of Guilderland. Security dealers not affiliated with a bank shall be required to be

classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Supervisor is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

§ 47-12. Purchase of investments.

A. The Supervisor is authorized to contract for the purchase of investments:

(1) Directly, including through a repurchase agreement, from an authorized trading partner.

(2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law, where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.

(3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed, in writing, to the Town of Guilderland by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 47-13. Repurchase agreement.

Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner.

CHAPTER 55. LOCAL LAWS, ADOPTION OF

§ 55-1. Public hearing; notice.

CHAPTER 55. LOCAL LAWS, ADOPTION OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 1-9-1979 by L.L. No. 2-1979 (Subpart 1, Div. 1, Art. II, of the 1974 Code). Amendments noted where applicable.]

§ 55-1. Public hearing; notice.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A public hearing as prescribed by § 20 of the Municipal Home Rule Law upon a proposal to enact a local law shall be held on public notice published at least once in the official newspaper, or in another newspaper having a general circulation in the Town of Guilderland, not less than five days nor more than 20 days prior to such public hearing.

CHAPTER 58. LOCAL TRANSIT SYSTEM

§ 58-1. Title and purposes.

§ 58-2. Creation of transit system.

§ 58-3. Scope of jurisdiction.

§ 58-4. Powers and duties of Town Board.

§ 58-5. Fees and charges.

CHAPTER 58. LOCAL TRANSIT SYSTEM

[HISTORY: Adopted by the Town Board of the Town of Guilderland 8-27-1986 by L.L. No. 3-1986 (Subpart 20 of the 1974 Code). Amendments noted where applicable.]

§ 58-1. Title and purposes.

A. Title. This chapter shall be known and may be cited as the "Local Transit Law of the Town of Guilderland."

B. Purposes. This chapter is enacted for the purpose of promoting the health, safety and general welfare of the people of the Town of Guilderland. To further such purposes, it is hereby declared to be the policy of the Town of Guilderland that adequate, safe and efficient transportation facilities and services at reasonable cost to the people of the Town of Guilderland be established for the economic growth and development of the town and the well-being of its residents.

§ 58-2. Creation of transit system.

There is hereby created the Town of Guilderland local transit system. The transit system shall be managed, operated and controlled by the Town Board of the Town of Guilderland.

§ 58-3. Scope of jurisdiction.

The territorial jurisdiction of the Town of Guilderland local transit system shall be coterminous with the territorial limits of the Town of Guilderland.

§ 58-4. Powers and duties of Town Board.

In addition to the powers granted in Article 5-I of the General Municipal Law, the Town Board shall have the following powers and duties with respect to mass transportation projects:

A. To investigate transportation services within its territorial jurisdiction and the means of improving such services.

B. To investigate to determine if there are inadequate and/or substandard transportation services.

C. To publish and disseminate information.

D. To prepare or arrange for preparation of plans for carrying out and operating mass transportation projects.

E. To construct, reconstruct, improve, maintain or operate or provide for the construction, reconstruction, improvement, maintenance or operation of any mass transportation projects.

F. To have jurisdiction and control of each of its projects, with the right and duty to establish and charge fares, fees, rentals, rates and other charges, and to collect revenues therefrom.

G. To conduct operations customarily considered ancillary to rendering transportation services.

H. To do all things necessary or convenient to carry out and conduct a mass transportation project or projects in the Town of Guilderland.

§ 58-5. Fees and charges.

The Town Board may establish from time to time, by resolution, the fares, fees, rates and other charges for passage on any of its mass transportation projects.

CHAPTER 61. MEDIATION

§ 61-1. Legislative intent.

§ 61-2. Definitions.

§ 61-3. Authorized mediation.

§ 61-4. Accepted practices.

§ 61-5. Confidentiality.

§ 61-6. Mediation costs.

§ 61-7. Limitations.

CHAPTER 61. MEDIATION

[HISTORY: Adopted by the Town Board of the Town of Guilderland 7-11-2000 by L.L. No. 5-2000. Amendments noted where applicable.]

§ 61-1. Legislative intent.

The Town Board hereby finds that a voluntary, nonadversarial mediation process would provide an expeditious, cost-efficient alternative for individual and community dispute resolution, promote effective communication among parties of interest, as well as make government more responsive to community concerns. Such a nonadversarial exchange would heighten understanding of issues and create an opportunity for the parties of interest to resolve disputes, improve communications and decrease the likelihood of future conflicts. The

Town Board, therefore, declares it to be the policy of the Town of Guilderland to encourage voluntary mediation of individual and community disputes.

§ 61-2. Definitions.

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

APPLICANT

An individual with an application pending before a board of authorized jurisdiction.

BOARD

The Town Board, Planning Board or Zoning Board of Appeals of the Town of Guilderland.

COURT

The Guilderland Town Court.

INDIVIDUAL

A person, partnership or corporation.

MEDIATION

A voluntary and nonadversarial process where a mediator assists parties of interest in resolving disputes, improving communication or decreasing the likelihood of future conflicts.

MEDIATOR

An individual who is certified pursuant to the guidelines of the New York State Unified Court System to conduct mediations.

NEIGHBOR

Any individual that owns property immediately abutting the property line of an applicant before a board of authorized jurisdiction or, if said property line abuts a public road, railroad track or body of water, then the individual that owns property immediately across said public road, railroad track or body of water.

PARTIES OF INTEREST

The plaintiff and defendant in a civil action before a court of authorized jurisdiction or the applicant and neighbor in an action before a board of authorized jurisdiction.

§ 61-3. Authorized mediation.

A. The Town of Guilderland hereby authorizes and encourages the use of mediation for the resolution of disputes before any court or board of authorized jurisdiction or any other issue authorized by the Town Supervisor. The town shall display information on town-authorized mediation as well as the benefits of voluntary mediation in nonmunicipal settings.

B. The following rules shall apply to a mediation requested by a court of authorized jurisdiction:

- (1) The presiding justice may request that the parties of interest consider mediation before the court renders a final determination.
- (2) The use of mediation shall be voluntary and shall be determined in each case by the willingness of the parties of interest to participate.
- (3) The court may provide findings of fact to the mediator.
- (4) In the event that a mediated agreement is achieved, such agreement shall be prepared in writing, signed by the parties of interest and the mediator, and submitted to the court.

C. The following rules shall apply to a mediation requested by a board of authorized jurisdiction:

- (1) A board may request that the parties of interest consider mediation before the board renders a final determination.
- (2) The use of mediation shall be voluntary and shall be determined in each case by the willingness of the parties of interest to participate.
- (3) Any applicant seeking a board's approval who participates in mediation shall consent to the suspension of relevant time limits for municipal review on such terms as the applicant and the board of authorized jurisdiction agree.
- (4) The board may provide findings of fact to the mediator.
- (5) In the event that a mediated agreement is achieved, such agreement shall be prepared in writing, signed by the parties of interest and the mediator, and submitted to the court.

D. A mediator certified pursuant to the guidelines of the New York State Unified Court System shall conduct all mediations within the Town of Guilderland.

§ 61-4. Accepted practices.

Any voluntary mediation undertaken pursuant to the provisions of this chapter shall be conducted in accordance with accepted mediation practices, including but not limited to those developed by the New York State Unified Court System.

§ 61-5. Confidentiality.

Unless otherwise required by law, all memoranda, work product or case files of a mediator shall be deemed confidential and not subject to disclosure in any judicial or administrative proceeding. Any communication relating to the subject matter of the resolution made during the mediation process by any participant, mediator or any other individual present at a mediation session or sessions shall be a confidential communication.

§ 61-6. Mediation costs.

The Town of Guilderland shall provide a room for court- or board-requested mediations at no cost to the parties of interest. The town may enter into a mutually accepted agreement with the Albany County Center for Alternative Dispute Resolution for pro bono mediations and at-cost mediations. Any cost associated with mediations conducted pursuant to the provisions of this chapter shall be allocated among the parties of interest in a matter to be determined by the mutual agreement of the parties. The town, at its discretion, may enter into an agreement for sharing the costs of such mediation.

§ 61-7. Limitations.

A. Mediated agreements initiated pursuant to this chapter shall complement, but not circumvent, any federal, state, county or municipal law, rule or regulation.

B. Mediated agreements initiated pursuant to this chapter shall be considered highly persuasive by a court or board; however, such agreements shall not circumvent the authority of the court or board in rendering a final decision.

CHAPTER 62. MEETINGS

ARTICLE I. Notice

§ 62-1. Town Clerk to provide notice of meetings.

§ 62-2. Meetings for which notice required.

§ 62-3. Notice requirements.

§ 62-4. Regularly scheduled meetings.

§ 62-5. Changes in time, date or location of scheduled meetings.

§ 62-6. Record of notice.

ARTICLE II. Attendance

§ 62-7. Attendance of appointed officials.

§ 62-8. Minimum attendance requirements.

§ 62-9. Failure to comply; notice; hearing.

§ 62-10. Removal from office.

§ 62-11. Appointment to unexpired term by Town Board.

§ 62-12. Elected officials excepted.

CHAPTER 62. MEETINGS

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

GENERAL REFERENCES

Budget procedure — See Ch. 13, Art. I.

Adoption of local laws — See Ch. 55.

ARTICLE I. Notice

[Adopted 1-11-1977]

§ 62-1. Town Clerk to provide notice of meetings.

It shall be the duty and responsibility of the Town Clerk to provide notice to the public and news media as provided in this article.

§ 62-2. Meetings for which notice required.

[Amended 6-1-1999 by L.L. No. 5-1999]

Notice shall be given as provided in this article of meetings at which public business shall be officially transacted, held by the Town Board, the Zoning Board of Appeals, the Planning Board, the Board of Assessment Review, the Conservation Advisory Council and/or the Conservation Board of the Town of Guilderland. Notice shall not be required to be given of any executive session held in accordance with the provisions of § 105 of the Public Officers Law.

§ 62-3. Notice requirements.

A. Form of notice. Notice to the public shall be in writing and shall be posted on the bulletin board maintained by the Town Clerk at the Guilderland Town Hall. Notice to the news media may be written or oral. The notice shall identify the board or public body holding the meeting and shall state the date, time and place where the meeting is to be held.

B. News media to receive notice. The list of newspapers of general circulation within the Town of Guilderland and television and radio stations which are designated as the news media that shall receive notice of meetings pursuant to this article shall be on file in the office of the Town Clerk.

[Amended 6-1-1999 by L.L. No. 5-1999]

C. Persons to whom notice shall be given. Whenever possible, notice shall be given to any person upon request, in writing or by telephone; provided, however, that a request for written notice shall not be honored unless such request shall be accompanied by a properly stamped, self-addressed envelope and that notice by long-distance telephone shall not be given unless the requester accepts the charges for such call.

D. Time of notice. Notice of meetings scheduled at least one week in advance shall be given to the news media not less than 72 hours prior to the meeting. Where a meeting is scheduled less than one week in advance, public notice shall be posted as soon as practicable and notice to the news media shall be delivered by telephone or personally in the manner hereinafter provided. Wherever notice is given to the news media by mail, such notice shall be mailed not less than six days prior to the meeting to allow delivery thereof at least 72 hours in advance of the meeting.

E. Manner of delivery of notice. Notice to the news media may be given by mail, as provided in Subsection D of this section, or by telephone or by personal delivery. Where notice is given by telephone, the person making such telephone call shall obtain the name and title of the officer or employee to whom the notice is given and shall record such information, together with the time and date of the call. Where notice is given by personal delivery, the person delivering such notice shall obtain a receipt signed by an officer or employee of the news media showing the title of the officer or employee receiving the same, together with the time and date thereof.

§ 62-4. Regularly scheduled meetings.

Regularly scheduled meetings held at specific times and locations and on specific dates need not be separately noticed, but may be noticed by a single notice given in accordance with the provisions of this article.

§ 62-5. Changes in time, date or location of scheduled meetings.

Notice of a change in the time, date or location of a scheduled meeting shall be given as soon as practicable in the manner herein provided for the giving of notice of meetings.

§ 62-6. Record of notice.

The Town Clerk shall keep a log or other record in which there shall be entered the following information relating to giving of public notice under this article:

A. The date of posting of the public notice, the date or descriptive schedule of the meeting or meetings for which notice was given and the name and title of the person who posted the notice.

B. If notice is given to the news media by mail, the date of mailing of the same, the date or descriptive schedule of the meeting or meetings for which the notice has been mailed and the name and title of the person who mailed such notice.

C. If notice to the news media is given by personal delivery, the time and date of delivery of the same, the date or descriptive schedule of the meeting or meetings for which the notice was delivered, the name and title of the officer or employee to whom it was delivered and the name and title of the person who delivered the notice.

D. If notice to the news media is given by telephone, the time and date of such telephone call, the date or descriptive schedule of the meeting or meetings for which such notice is given, the name and title of the officer or employee to whom it was given and the name and title of the person who gave such notice.

ARTICLE II. Attendance

[Adopted 6-6-2000 by L.L. No. 4-2000]

§ 62-7. Attendance of appointed officials.

Each member of a Board, Commission, Council or Committee, whether compensated or uncompensated, who has been appointed to such membership by the Town Board shall be required to attend meetings of such Board, Commission, Council, Committee or Agency on a regular basis.

§ 62-8. Minimum attendance requirements.

In the event that any such member of a Board, Commission, Council, Committee or Agency shall fail to attend three consecutive meetings of such Board, Commission, Council, Committee or Agency or shall fail to attend any four meetings out of the previous 12 meetings of such Board, Commission, Council, Committee or Agency, such member shall be deemed to have failed to comply with such minimum attendance requirement, unless such absences are excused by the Town Board in its discretion for good and sufficient cause.

§ 62-9. Failure to comply; notice; hearing.

A. It shall be the duty of the Chairman of such Board, Commission, Council, Committee or Agency to promptly notify the Town Board whenever a member of such Board, Commission, Council, Committee or Agency shall have failed to satisfy the minimum attendance requirement set forth in § 62-8.

B. Whenever the Town Board is notified by the appropriate Board, Commission, Council, Committee or Agency Chairman that a member thereof has failed to satisfy the minimum attendance requirement, the Town Board shall hold a public hearing, on not less than 10 days' public notice, to determine whether such member has failed to satisfy the minimum attendance requirement.

C. Notice of such hearing shall be given to such Board, Commission, Council, Committee or Agency member by certified mail at least 10 days prior to such hearing.

§ 62-10. Removal from office.

If, after such hearing, the Town Board determines that such member of a Board, Commission, Council, Committee or Agency, as the case may be, has failed to satisfy the minimum attendance requirement, such Board, Commission, Council, Committee or Agency member shall immediately be removed from his or her respective Board, Commission, Council, Committee or Agency.

§ 62-11. Appointment to unexpired term by Town Board.

Upon the removal of a Board, Commission, Council, Committee or Agency member, the Town Board shall appoint a new member to serve the unexpired term of the member who was removed.

§ 62-12. Elected officials excepted.

Specifically excluded from this article is any member of a Board, Commission, Council, Committee or Agency who is elected to serve in such capacity.

CHAPTER 66. MYNDERSE-FREDERICK HOUSE

§ 66-1. Use of house by town residents; restrictions.

§ 66-2. Rules.

CHAPTER 66. MYNDERSE-FREDERICK HOUSE

[HISTORY: Adopted by the Town Board of the Town of Guilderland 5-2-1995. Amendments noted where applicable.]

§ 66-1. Use of house by town residents; restrictions.

The Town of Guilderland is the owner of the property, and through the Curator extends permission to residents of the Town of Guilderland to use the Mynderse-Frederick House for meetings and noncommercial functions. Selected groups are authorized to hold their regular meetings at the house, and all who use it are guests of the town. The building, dating from 1802, stands as a historic reminder of what once was in the Town of Guilderland. Its use as an inn during the early 1800's played a major role in our local history. Because of the effort to preserve our history of that time period, nothing is to be permanently displayed in the house without prior permission of the Curator.

§ 66-2. Rules.

A. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). There are certain rules that all must follow when using this house:

- (1) No smoking is allowed anywhere in the house.
- (2) This house requires extra care. Each group is responsible for the house and its contents while using it and will be billed for necessary repairs. No spike heels are allowed.
- (3) Nothing is to be hung on the walls without permission of the Town Historian.
- (4) Do not lean folding chairs against the walls. There is a cart in the back room to store unused chairs.

(5) No cooking is allowed on site, but light refreshments are allowed.

(6) Maid service is not provided. Users must leave the house in the condition they found it. All refuse from a user's event must be removed when the user leaves. There is a broom, dustpan and vacuum cleaner in the back room for the user's convenience. An additional charge will be incurred if cleaning is necessary after a user leaves.

(7) No more than 50 people are allowed.

(8) There shall be a nonrefundable fee Editor's Note: See Ch. A285, Fees. for town residents and nonresidents as set by resolution of the Town Board from time to time.

(9) All items left shall become the property of the Town of Guilderland.

B. Those not following to the above policy will be denied use of the premises.

C. If, however, we all use common sense and adhere to the rules, the town will continue to grant access to the Mynderse-Frederick House and share this historical time period with our residents.

CHAPTER 70. OFFICERS AND EMPLOYEES

ARTICLE I. Superintendent of Highways

§ 70-1. Term of office established.

CHAPTER 70. OFFICERS AND EMPLOYEES

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

ARTICLE I. Superintendent of Highways

[Adopted 6-11-1974 as Subpart 3, Div. 3, of the 1974 Code]

§ 70-1. Term of office established.

The term of office of the Superintendent of Highways shall be four years.

CHAPTER 77. PERSONNEL

ARTICLE I. Attendance and Benefits

§ 77-1. Adoption; effective date.
§ 77-2. Purpose.
§ 77-3. Fair employment.
§ 77-4. Types of employees.
§ 77-5. Services to be performed.
§ 77-6. Payment of compensation.
§ 77-7. Records of time worked.
§ 77-8. Vacation leave.
§ 77-9. Personal time.
§ 77-10. Sick leave.
§ 77-11. Bereavement leave.
§ 77-12. Holiday time.
§ 77-13. Jury leave and witness leave.
§ 77-14. Leaves mandated by law.
§ 77-15. Leave without pay.
§ 77-16. Excused absences.
§ 77-17. Compensatory time.
§ 77-18. Health insurance.
§ 77-19. Worker's compensation.
§ 77-20. Disability insurance.
§ 77-21. Educational benefits.

ARTICLE II. Sexual Harassment Policy

§ 77-22. Statement of policy.
§ 77-23. Prohibited conduct.
§ 77-24. Grievance procedure.
§ 77-25. Appeals.
§ 77-26. Retaliation prohibited.
§ 77-27. Training.
§ 77-28. Dissemination of policy.

ARTICLE III. Leave Donation Policy

§ 77-29. Purpose.
§ 77-30. Intent.
§ 77-31. Eligibility to donate; requirements for donation.
§ 77-32. Eligibility to receive donations; exceptions.
§ 77-33. Notification of need.
§ 77-34. Status of recipients.
§ 77-35. Solicitations for donated leave.
§ 77-36. Processing donations.

ARTICLE IV. Safety in the Workplace Policy

§ 77-37. Purpose.
§ 77-38. Responsibilities of management.
§ 77-39. Responsibilities of department heads, supervisors and foremen.
§ 77-40. Responsibilities of employees.

ARTICLE V. Family Medical Leave of Absence

§ 77-41. Purpose.

§ 77-42. Definitions.

§ 77-43. Dissemination of policy; questions.

§ 77-44. Scope.

§ 77-45. Eligibility.

§ 77-46. Use of other leave time; determination of payment for leave of absence.

§ 77-47. Extension of leave.

§ 77-48. Permission and documentation.

§ 77-49. Notifications and reporting requirements.

§ 77-50. Extent of leave; reinstatement; continuation of health insurance coverage.

§ 77-51. Procedures to request leave; required information.

§ 77-52. Return to duty.

§ 77-53. Effect of labor agreement.

§ 77-54. Change in policy.

CHAPTER 77. PERSONNEL

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

ARTICLE I. Attendance and Benefits

[Adopted 8-11-1992]

§ 77-1. Adoption; effective date.

These rules and regulations were adopted by the Town Board of the Town of Guilderland on August 11, 1992, and shall be effective January 1, 1993.

§ 77-2. Purpose.

The purpose of these rules and regulations is to define and describe employment procedures, rights and responsibilities, including time and attendance records and leaves applicable to employees of the Town of Guilderland.

§ 77-3. Fair employment.

No person shall be discriminated against or mistreated in any way in connection with his/her employment by reason of his/her race, creed, color, national origin,

sex, age, disability or marital status. Any person who believes that his/her rights under this section have been violated in any way is encouraged to bring such matter to the attention of the Town Supervisor immediately, who shall review each complaint and take such action, if any, as is believed appropriate.

§ 77-4. Types of employees.

For the purpose of this article, a "permanent full-time employee-35" refers to those employees who work 35 hours per week, the actual times to be dependent upon the departments' requirements. "Full-time employee-40" refers to employees who work 40 hours per week. "Permanent employee/part-time" refers to those employees who work less than 35 hours per week year-round.

§ 77-5. Services to be performed.

Employees shall perform the duties of their positions in the manner, places, periods and times as may be prescribed by their department head. A description of such services will be provided to all new employees.

§ 77-6. Payment of compensation.

The annual compensation to be paid to employees shall be payable in equal biweekly installments over the calendar year. Compensation of employees hired with the understanding that they will be on the payroll for less than a calendar year shall be payable to them in equal biweekly installments over their anticipated employment period. Time-and-one-half will be paid for hours worked over 40 in any one week if the employee has prior approved vacation and/or personal leave in the same week. However, straight time will be paid for time worked over 40 hours in one week if the employee has had sick leave during the same week.

§ 77-7. Records of time worked.

Employees shall maintain daily time records of their service showing the number of hours worked each day. Such records shall also show holidays, vacation leave, personal leave, sick leave, bereavement leave, jury leave, witness leave, worker's compensation leave and any other authorized or mandated paid or unpaid leave taken by such employee. An employee who actually works on a holiday is eligible for two days' vacation at a later date or may be paid time-and-one-half for the holiday. Time records shall be signed by the employee and certified by his/her supervisor biweekly.

§ 77-8. Vacation leave.

A. Vacation leave for full-time employees-35 will be earned based on a monthly basis at a rate of seven hours per month. Vacation leave for full-time employees-40 will be earned on a monthly basis at a rate of eight hours per month. Vacation leave for permanent employees/part-time will be earned on a monthly basis calculated at the same percentage per month as the part-time daily hours.

B. Vacation hours may not be used until the employee has worked at least six months for the town.

C. Vacation hours may not be used until they are earned.

D. Vacation hours charged against the employee's accrued hours will be charged in increments of no less than 3.5 hours for employees-35 (4 hours for employees-40); a full day taken will be charged as seven hours for employees-35 (eight hours for employees-40). Permanent employees/part-time will be charged no less than 1/2 day calculated at the same rate as the employee's part-time daily hours.

E. The employee shall first complete a "leave" request, which must be approved by the employee's immediate supervisor. This request must be made at least seven days prior to the beginning of the leave. Approval is at the discretion of the department head.

F. After five years of service with the town, an employee who works a thirty-five-hour week will earn an extra seven hours of vacation per year, up to eight years or 56 hours. An employee who works 40 hours per week will earn an extra eight hours of vacation per year, up to eight years or 64 hours. An employee who works less than a thirty-five-hour week will earn an extra vacation day per year up to eight years calculated at the same percentage as the employee's part-time daily hours. These hours will be added to the total vacation on the anniversary date of hire, not to exceed 25 days.

G. Vacation hours may be accumulated up to 175 hours or 25 days for employees-35, 200 hours or 25 days for employees-40 and 25 days for permanent employees/part-time calculated at the same percentage as their part-time daily hours worked.

H. Compensation for unused vacation hours will be paid when an employee leaves town employment up to a maximum of 25 days or 175 hours for employees-35, 25 days or 200 hours for employees-40 and 25 days for permanent employees/part-time calculated at the same percentage as their part-time daily hours worked.

§ 77-9. Personal time.

Personal time is leave with full pay to enable employees to attend to personal business, including religious observance. Such time is intended to provide employees with time to conduct their necessary personal affairs.

- A. Personal time will be earned at a rate of four days per year. The "day" is dependent upon the number of hours presently worked daily.
- B. Personal time will be granted at the beginning of each calendar year, except that new employees will receive personal time prorated from the date of employment to the end of that year.
- C. Personal time may be used in increments of not less than one hour with a supervisor's prior approval.
- D. Personal time may not be accumulated from year to year; personal time not used shall lapse and the employee is not entitled to any compensation for unused personal time.

§ 77-10. Sick leave.

Sick leave is leave with full pay for an employee's absence due to his/her illness or disability not covered by worker's compensation. Sick leave may also be used by an employee due to the illness of his/her spouse, child or parent or the illness of any person residing with the employee; for doctor and dentist appointments; and by an employee to attend the funeral of relatives who are not members of his/her immediate family, as defined under § 77-11, Bereavement leave.

- A. Sick leave for employees-35 will be earned based on a monthly basis at a rate of seven hours per month; eight hours per month for employees-40; and one day per month for permanent employees/part-time calculated at the same percentage as their part-time daily hours worked.
- B. Sick leave charged against the employee's accrued hours will be charged in increments of no less than one hour. A full day taken will be charged as seven hours for employees-35, eight hours for employees-40 and calculated at the same percentage as their part-time daily hours for permanent employees/part-time.
- C. Sick leave may not be used until the employee has worked at least six months for the town.

- D. Sick leave may not be used until the hours are earned.
- E. An employee must notify his/her supervisor of his/her illness within one hour of the time their department opens.
- F. After returning from sick leave, an employee will complete a "leave" form.
- G. Sick leave may be accumulated up to 1,050 hours or 150 days for employees-35. For employees-40, sick leave may be accumulated up to 1,200 hours or 150 days. For permanent employees/part-time, sick leave may be accumulated up to the same percentage of days as their part-time daily hours worked. At the time of retirement, any unused sick time may be applied against dependents' health insurance, if all other requirements of retirement are met, up to a maximum of 1,050 hours or 150 days.
- H. In the event of sick leave lasting more than five days continuously, the supervisor can require documentation from a health-care provider.
- I. Employees who call in sick on the day before or the day after a holiday will be asked to provide verification of illness by a health-care provider. Without verification, the employee will not be paid for the holiday. With the department head's permission, the holiday may be charged to sick leave.
- J. Maternity. Sick leave may be used by a mother to care for her newborn baby or her newly adopted child during the 30 working days immediately following birth or adoption, or for illness or disability caused by pregnancy or childbirth.
- K. Paternity. Sick leave may be used by a father to care for his newborn baby or newly adopted child during the 30 working days immediately following birth or adoption.

§ 77-11. Bereavement leave.

Bereavement leave is leave with full pay the equivalent of three days for the purpose of attending the funeral, for religious observance or for such other purpose relating to the death of a member of an employee's immediate family.

- A. For such purpose, the term "immediate family" shall mean a spouse, child, child's spouse, sister, brother, parent, grandparent, grandchild, mother-in-law or father-in-law of the employee and shall also include any person residing with the employee.

B. With a supervisor's permission, sick leave or personal time may be taken in conjunction with bereavement leave, if needed.

§ 77-12. Holiday time.

The term "holiday" shall mean New Year's Day, Martin Luther King, Jr., Day, Presidents' Day, 1/2 day on Good Friday or Passover, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving and Christmas. When Independence Day or Christmas falls on a weekend, the day nearest the actual day shall be designated as holiday time.

A. In order to be paid for a legal holiday, it is necessary for all employees to work the workday before and the workday after the holiday, unless time is authorized by the department head. In the event that a person uses sick time the workday before or the workday after a holiday, verification from a physician will be necessary in order to be paid for the holiday.

B. Employees who work on Election Day may choose some other day as their holiday but must notify their supervisor seven days prior to the day.

§ 77-13. Jury leave and witness leave.

Jury leave is leave with full pay while on required jury duty in a court. Witness leave is leave with full pay for the purpose of appearing as a witness pursuant to a subpoena or other order issued by a court or government body having authority to do so in any proceeding in which the employee is not a party.

A. Employees who are served with a notice for jury duty or with a subpoena or order to appear as a witness shall notify their supervisor as soon as possible.

B. If the department head believes that the employee's jury duty at such time, or the anticipated length of such service, will adversely affect the operation of the department, the department head may require that the employee request the court to excuse the employee from jury duty or defer service to a later date. If the employee is excused from jury duty prior to the end of the working day, he/she should call his/her department head.

C. Employees using jury or witness leave shall submit a letter from the appropriate court clerk specifying the date(s) and times served on a jury or as a witness with the time record(s) where such leave was used. If the letter from the appropriate court clerk will not be provided until the jury duty or witness appearance is completed, the employee should attach a copy of the court

summons for jury duty or witness appearance to the time records and then, upon completion of their jury duty or witness appearance, submit the letter from the clerk to the Town Supervisor's office.

§ 77-14. Leaves mandated by law.

In addition to leaves of absence provided for by these rules and regulations, all employees shall be entitled to such other paid or unpaid leaves as may be provided for by law to such extent and on such terms and conditions as may be specified thereby, including but not limited to military leave. Any employee using military leave shall submit a copy of his/her orders with the time record(s) where such leave was used.

§ 77-15. Leave without pay.

A. Employees may be granted leave without pay where, in the judgment of the department head, there is justification for such leave and the granting of it will not inconvenience the operation of the department.

B. The length of the leave will be decided upon by the department head with the approval of the Town Supervisor and ratification by the Town Board.

§ 77-16. Excused absences.

A. Blood donation. It is the policy of the town to encourage participation in blood drives by employees who are eligible to donate. In order to further this policy, the town, at the discretion of an employee's department head, may excuse time taken by an employee to donate blood and return to work, up to an hour and 1/2 per donation and not to exceed nine hours annually, without charge to leave credits. The department head may require that the employee provide written substantiation from the donation center that he/she actually donated blood during the excused absence.

B. Volunteer fire-fighting and emergency medical activities.

(1) It is the policy of the town to encourage its employees to actively participate in volunteer fire-fighting companies and emergency medical services (EMS) units in the community.

(2) In order to further this policy, the department head may excuse the leave or lateness of an employee who is a volunteer fire fighter or the lateness of an emergency medical technician (EMT) because he/she was actively involved in an ongoing emergency without charge to leave credits.

(3) Written substantiation from the Fire Chief or ambulance crew chief that he/she was actively involved in an ongoing emergency situation during the excused time will be needed.

(4) Such excused time shall not exceed 14 hours annually.

§ 77-17. Compensatory time.

Compensatory time is time off to compensate for hours worked beyond the employee's normal work week. The employee's supervisor will decide if an employee is to receive compensatory time or be paid for the time (at the usual rate).

A. Compensatory time may be used in increments of not less than one hour with a supervisor's prior approval.

B. Compensatory time may not be accumulated from year to year; compensatory time not used shall lapse and the employee is not entitled to any compensation for unused compensatory time. This time shall be taken within 90 days of the occurrence.

[Amended 12-19-1995]

§ 77-18. Health insurance.

The employer shall provide Blue Cross, CDPHP, CHP or MVP Health Insurance coverage at the employee's option of premiums for employees and 50% of the premiums for the employee's dependents if the employee is permanent or permanent/part-time working over 17.5 hours per week hired prior to January 1, 1989, or 25 hours per week hired after January 1, 1989. Upon retirement, employees hired before April 1, 1976, after 10 years of service will have 100% individual coverage and 50% dependent coverage paid by the town if they meet all other requirements for health insurance coverage. Employees hired after April 1, 1976, will have 50% individual coverage and 35% dependent coverage paid by the town if they meet the above requirements. At age 65, employees and their dependents will have their Medicare premiums paid by the town.

§ 77-19. Worker's compensation.

Worker's compensation shall be no charge to the employee.

§ 77-20. Disability insurance.

The maximum payment by the employee is \$1.20 per pay period.

§ 77-21. Educational benefits.

The town will reimburse the employee for work-related college courses where the grade of "C" or better is earned, up to a maximum of \$1,000 per year. Approval of the course as work-related must be given, before the course is begun, by the employee's immediate supervisor. If the course is only given in the daytime, personal time may be taken or the time lost from work must be made up.

ARTICLE II. Sexual Harassment Policy

[Adopted 10-19-1993]

§ 77-22. Statement of policy.

A. It is the policy of the Town of Guilderland that all employees have a right to work in an environment free of discrimination, which encompasses freedom from sexual harassment. The Town of Guilderland strongly disapproves of sexual harassment of its employees in any form, and states that all employees at all levels of the town must avoid offensive or inappropriate sexual and/or sexually harassing behavior at work and will be held responsible for ensuring that the workplace is free from sexual harassment.

B. Disciplinary sanctions will be enforced against any Town of Guilderland employee who is found to have engaged in prohibited conduct as defined herein; and against any supervisor who knowingly permits such conduct by employees under his or her supervision.

C. The Town of Guilderland will make all employees aware of this policy. Department heads and supervisory employees shall take affirmative steps to ensure that all employees are informed of the Town of Guilderland policy on sexual harassment, to assist employees who complain of prohibited conduct and to maintain in each office a working environment free from sexual harassment.

§ 77-23. Prohibited conduct.

A. Specifically, the Town of Guilderland prohibits the following:

(1) Unwelcome sexual advances.

(2) Requests for sexual favors, whether or not accompanied by promises or threats with regard to the employment relationship.

(3) Other verbal or physical conduct of a sexual nature made to any employee that may threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that person's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development.

(4) Any verbal or physical conduct that has the purpose or effect of substantially interfering with the employee's ability to do his or her job.

(5) Any verbal or physical conduct that has the purpose or effect of creating an intimidating, hostile or offensive working environment.

B. Such conduct may result in disciplinary action up to and including dismissal.

C. Other sexually harassing conduct in the workplace, whether physical or verbal, committed by supervisors or nonsupervisory personnel is also prohibited. This behavior includes but is not limited to commentary about an individual's body, sexually degrading words to describe an individual, offensive comments, off-color language or jokes, innuendos and sexually suggestive objects, books, magazines, photographs, cartoons or pictures.

§ 77-24. Grievance procedure.

A. Complaints.

(1) Employees who have complaints of sexual harassment by anyone at work, including any supervisors, co-employees or visitors, are urged to report such conduct to town officials so that the Town of Guilderland may investigate and resolve the problem. Employees may bring such matters to the direct attention of their supervisors. If the complaint involves the employee's supervisor or someone in the direct line of supervision or if the employee for any reason is uncomfortable in dealing with his or her immediate supervisor, the employee may go to the Town Supervisor or a member of the Town Board designated to act as an officer in such cases. The Supervisor and a Town Board member of the opposite sex shall be designated annually at the organizational meeting as Harassment Officers.

(2) Complaints will be investigated as expeditiously and as professionally as possible. Where investigations confirm the allegations, appropriate corrective action will be taken.

(3) The Harassment Officers will make every attempt to maintain the information provided in the complaint and investigation process as confidentially as possible.

(4) There will be no retaliation against employees for reporting sexual harassment or assisting in the investigation of a complaint. However, if, after investigating any complaint of harassment or unlawful discrimination, the Officer learns that the complaint is not bona fide or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who provided the false information.

B. Investigation.

(1) The Officers shall in a timely manner interview all appropriate parties, examine relevant records and consult with any appropriate town employee.

(2) If the Officers deem it appropriate, the parties to the complaint may be brought together to attempt an informal resolution of the complaint in a manner satisfactory to both parties. Both the complainant and the person against whom the complaint is made shall be permitted to have counsel present at any interview or other proceeding.

C. Recommendation.

(1) Upon conclusion of the investigation and within 180 days after the complaint was brought, the Officers shall make written recommendation to the Town Board. Recommendation shall be one of the following:

(a) A finding that no prohibited conduct occurred.

(b) A finding that material facts in dispute be resolved by conducting a formal hearing.

(c) A finding that no facts are in dispute and that prohibited conduct has occurred.

(d) A finding that false information regarding the complaint was provided.

(2) Copies of the written recommendation shall be mailed to all concerned parties.

D. The Town Board may, but need not, adopt the report. The Town Board shall also be free to pursue mediation or alternative dispute resolution including requiring informal appearances by the parties or witnesses.

E. Hearing.

(1) Upon adoption of the recommendation to conduct a formal hearing, or upon a written request of a party accompanied by a showing of material facts in dispute, the Officers shall conduct a formal hearing.

(2) Such hearing shall provide an opportunity for parties and witnesses to be heard, and shall be conducted so as to do substantial justice between the parties. The hearing shall be bound by statutory provisions or rules of practice, procedure, pleading or evidence. At the conclusion of law, there shall be included a determination as to whether or not prohibited conduct has occurred.

F. Record. The record maintained with respect to each complaint of sexual harassment shall contain the written complaint, any written statement produced during the investigation, the recommendation of the Harassment Officers if a formal hearing is conducted, a record thereof in a form determined by the Officers, the Harassment Officers' statement of findings of fact and conclusion of law and the Harassment Officers' written determination. Such record shall be available to either party or the designee thereof.

§ 77-25. Appeals.

A. If any party is not satisfied with the outcome of the grievance procedure, appeal may be taken directly to the Town Supervisor or his/her designated representative, who may be an outside hearing officer retained on an ad hoc basis.

B. State and federal law also provide administrative and judicial remedies which may be pursued by filing a complaint with the Regional Office of the New York State Division of Human Rights, at 99 Washington Avenue, Albany, or with the Federal Equal Employment Opportunity Commission.

§ 77-26. Retaliation prohibited.

No Town of Guilderland employee shall be subject to retaliation or discrimination in any form as a result of bringing a complaint, or testifying or assisting in a grievance brought pursuant to the procedure set forth herein.

§ 77-27. Training.

The Town of Guilderland shall make all town employees aware of the program. The program shall be conducted so as to ensure that every employee understands the seriousness of the problem of sexual harassment, how to recognize and address it, rights and responsibilities under the law and the Town of Guilderland policy, and how to bring a complaint.

§ 77-28. Dissemination of policy.

A copy of this policy shall be distributed to every town department and made available to every town employee.

ARTICLE III. Leave Donation Policy

[Adopted 4-19-1994]

§ 77-29. Purpose.

The purpose of this policy is to set forth guidelines for the administration of leave donation. This policy covers all departments within the Town of Guilderland.

§ 77-30. Intent.

The intent of the leave donation program is to provide a means to assist employees who, because of long-term personal illness, have exhausted their leave benefits and would otherwise be subject to a severe loss of income during a continuing absence from work. The program is not intended to provide supplemental income which would result in compensation levels exceeding normal wages for employees who have other sources of substitute income such as that provided by disability insurance programs. It may, however, be used to supplement the town disability program up to the normal wage.

§ 77-31. Eligibility to donate; requirements for donation.

A. In order to donate vacation credits, employees must meet the following eligibility criteria: they must have a minimum vacation balance of at least 10 days after making the donation.

B. There is no maximum number of days which can be donated to an individual employee so long as the individual donor has a vacation balance of at least 10 days after making the donation. The ten-day minimum is based on the donor employee's individual work schedule. For example, a full-time thirty-five-hours-per-week employee must have 70 hours of vacation remaining; a forty-five-hours-per-week employee must have 80 hours of vacation

remaining; a fifty-percent employee whose schedule is normally 18.75 hour per week must have 37.5 hours remaining. If an employee whose normal workday is seven hours is donating to a person whose normal day is eight hours, the recipient will receive a full eight hours. There is also no maximum number of times a donor may make donations to an eligible recipient.

C. Donations must be made in full-day (seven- or eight-hour) units, regardless of the work schedule or percentage of employment of the donor or the recipient. For example, both the employee on a compressed work week schedule of four ten-hour days and the fifty-percent employee who works five four-hour days per week must donate in eight-hour-day units.

D. The identity of donors may not be disclosed by management.

E. Employees may not donate vacation credits which would otherwise have been forfeited. An employee who has submitted his/her resignation or retirement or who has received notice of termination of employment can only donate credits for which he/she can receive a lump sum payment upon separation. For example, the employee with a balance of 40 days who submits his/her resignation can only donate from the thirty-day balance for which a lump sum payment will be made. If this employee donates five days, his/her lump sum payment will be 25 days.

§ 77-32. Eligibility to receive donations; exceptions.

A. In order to receive donated leave credits, an employee must meet the following eligibility criteria:

- (1) Be eligible to earn leave credits.
- (2) Have completed at least one cumulative year of town service.
- (3) Be absent due to a nonoccupational personal illness or disability for which medical documentation satisfactory to management is submitted as required.
- (4) Have exhausted all leave credits. (Leave credits are deemed to be exhausted if the employee has a balance of less than the number of hours in the employee's normal workday.)
- (5) Be expected to continue to be absent for at least two biweekly periods following exhaustion of leave credits.

(6) Must not have had any disciplinary actions or unsatisfactory performance evaluations within the employee's last three years of town employment.

B. An employee's continuing eligibility to participate in this program must be reviewed by the personnel office at least every 30 days and more frequently if appropriate. Current standards as to what constitutes medical documentation satisfactory to management for purposes of determining medical disability continue to apply.

C. In certain cases of intermittent absence in connection with catastrophic illness, the town may waive the two biweekly payroll period continuous absence requirement (if, for example, there are treatments necessitating frequent short-term absences from work). In no event may any exception be granted to the requirement that all leave credits be exhausted.

§ 77-33. Notification of need.

An employee in need of donated credits will first be notified by his/her department head at least two weeks before his/her leave credits are exhausted.

§ 77-34. Status of recipients.

A. Recipient employees are deemed to be in leave-without-pay status for attendance and leave purposes while charging donated leave credits. They do not earn monthly leave accruals or observe holidays, nor do they receive personal leave or vacation bonus days. In such cases, the anniversary date changes to the date of return to work. The vacation anniversary date is adjusted if the period of continuous absence using donated leave/leave without pay exceeds six continuous months. If such period is less than six months, the employee retains the same vacation anniversary date and is credited with vacation bonus days upon return to work (this does not apply to those departments with bargaining units).

B. While charging donated credits, the employee continues to have health insurance premiums, retirement contributions and other payroll deductions withheld from his or her paycheck so long as the paycheck is in an amount sufficient to cover these deductions.

C. Employees using donated leave continue to receive retirement service credit for days in pay status.

§ 77-35. Solicitations for donated leave.

Donations may be solicited by the recipient employee or, on his or her behalf, by coworkers or by union representatives, if applicable, by submitting a memorandum through the department head. The department head will in turn notify other employees of the need by simple memorandum. The employer may not solicit donations on the employee's behalf. While the employer is expected to cooperate with those soliciting on an employee's behalf with respect to responding to inquiries concerning an employee's eligibility to participate in the program, the employer may not release any medical information.

§ 77-36. Processing donations.

A. The town's personnel offices are responsible for reviewing eligibility of recipient and donor employees. The town should not automatically assume that an employee wishes to receive leave donations. The employee must indicate his/her wish to participate in this program to his or her department head.

B. Donation forms should be date-stamped upon receipt in the personnel office. The personnel office should verify donor eligibility upon receipt and deduct days donated from donors' time records (with the notation "LDP" for leave donation program).

C. If the recipient employee is separated from service or returns to work and no additional absences are anticipated, the town should return unused days to any donor whose donation was not fully utilized. Notification of returned credits should be in writing. A form for use by employees who wish to donate vacation credits will be used (Attachment A Editor's Note: Attachment A is on file in the office of the Town Clerk.). Donation activity should be recorded on the Leave Donation Log (Attachment B Editor's Note: Attachment B is on file in the office of the Town Clerk.).

ARTICLE IV. Safety in the Workplace Policy

[Adopted 12-20-1994]

§ 77-37. Purpose.

The personal safety and welfare of the town's employees, as well as the general public, is a primary and continuing concern of the Town of Guilderland. It is the town's goal to provide every employee a place of employment free from recognized hazards which are a potential cause for serious physical harm or health impairment.

§ 77-38. Responsibilities of management.

To accomplish this goal, management will:

- A. Implement accident prevention programs, systems and techniques, where appropriate.
- B. Provide a work environment where identified occupational hazards are controlled when elimination is not feasible.
- C. Cooperate with government and labor to enhance employee safety and health.

§ 77-39. Responsibilities of department heads, supervisors and foremen.

Department heads, supervisors and foremen will:

- A. Be responsible and accountable for employee protection and performance.
- B. Institute work practices which reflect safe and efficient methods for accomplishing the required tasks.
- C. Educate and train employees regarding job hazards.

§ 77-40. Responsibilities of employees.

All employees will:

- A. Be expected to perform their jobs in the safest and healthiest manner prescribed.
- B. Be expected to conduct themselves in a way that enhances their personal safety and that of their fellow employees.
- C. Be encouraged to cooperate and contribute toward the overall success of the safety program.

ARTICLE V. Family Medical Leave of Absence

[Adopted 4-15-1997]

§ 77-41. Purpose.

The purpose of this article is to outline the conditions and procedures under which an employee may request time off for a limited period, as required by the federally enacted Family and Medical Leave Act (FMLA).

§ 77-42. Definitions.

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

FAMILY AND/OR MEDICAL LEAVE OF ABSENCE

An approved absence available to eligible employees for up to 12 weeks of leave per year under particular circumstances.

A. Leave may be taken:

- (1) Upon the birth of the employee's child;
- (2) Upon placement of a child with the employee for adoption or foster care;
- (3) When the employee is needed to care for a child, spouse or parent who has a serious health condition; or
- (4) When the employee is unable to perform the functions of his/her position because of a serious health condition.

B. Note that an employee's entitlement to leave for the birth, adoption or placement for foster care expires at the end of the twelve-month period beginning on the date of birth or placement, unless the employer permits a longer time.

LEAVE TIME

May be paid or unpaid (see discussion below).

SERIOUS HEALTH CONDITION

Any illness, injury, impairment or physical or mental condition that involves (but may not be limited to) the following:

- A. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or residential medical-care facility; or
- B. Any period of incapacity that requires absence from regular daily activities of more than three days and that involves continuing treatment by (or under supervision of) a health-care provider.

§ 77-43. Dissemination of policy; questions.

Each department head is responsible for ensuring that this policy is communicated to the employees. Questions regarding the intent and interpretation of this policy shall be directed to the Supervisor's office.

§ 77-44. Scope.

The provisions of this policy shall apply to all covered family and medical leaves of absence for any part of the 12 weeks of leave to which the employee may be entitled.

§ 77-45. Eligibility.

To be eligible for leave under this policy, an employee must have been employed for at least 12 months and must have worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of the leave.

§ 77-46. Use of other leave time; determination of payment for leave of absence.

- A. For the adoption or birth or care of a child, or care of a parent or spouse, an eligible employee must use accrued vacation, personal leave time and sick time.
- B. For an eligible employee's own serious health condition, the employee must use all accrued leave time, including sick leave.
- C. In the event that the eligible employee has no accrued leave to his/her credit, the leave provided under this policy will be unpaid.

§ 77-47. Extension of leave.

In the event that an employee requires leave in excess of the twelve-week maximum described herein, the Town Board may provide additional unpaid leave. Any employee on unpaid leave will be responsible for his/her medical coverage during any extended leave.

§ 77-48. Permission and documentation.

- A. The employer will require medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform the functions of his/her position. For leave to care for a seriously ill child,

spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. The employer may require a second medical opinion and obtain periodic recertification (at its own expense) only when the employer has reason to doubt the initial medical certification. If the first and second opinions differ, the employer, at its own expense, may require the binding opinion of a third health-care provider, approved jointly by the employer and the employee.

B. If medically necessary for a serious health condition of the employee or his/her spouse, child or parent, leave may be taken on an intermittent basis. Intermittent leaves are not permitted for birth or adoption, unless otherwise agreed upon by the parties.

C. Spouses who are both employed by the employer are entitled to a total of 12 weeks of leave (rather than 12 weeks each) for the birth or adoption of a child or for the care of a sick parent.

§ 77-49. Notifications and reporting requirements.

A. When the need for leave is foreseeable, such as the birth or adoption of a child or planned medical treatment, the employee must provide reasonable prior notice and make efforts to schedule leave so as not to disrupt operations of the employer. In cases of illness, the employee will be required to report periodically on his/her leave status and intention to return to work.

B. The term "reasonable prior notice" shall mean not less than 30 days' notice or as soon as practicable.

§ 77-50. Extent of leave; reinstatement; continuation of health insurance coverage.

A. Family leave may be granted for up to 12 weeks during any twelve-month period.

B. The employer may deny reinstatement to an employee who fails to produce a "fitness-for-duty" certification to return to work. This requirement applies only where the reason for the leave was the employee's own serious health condition.

C. Employees on authorized family leaves will be covered for those medical, dental and other health insurance benefits (with the exclusion of any employee contributions, which must begin prior to family leave) under which they were covered prior to their leave.

D. In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence and the employee so notifies the employer, the employer may recover from the employee the cost of the premium paid to maintain the employee's health insurance coverage.

§ 77-51. Procedures to request leave; required information.

A. Completion of request for family and medical leave of absence notice. A request for family and medical leave of absence must be originated by the employee utilizing the approved form. This notice should be completed in detail, signed by the employee, submitted to the department head for proper approval and forwarded to the Supervisor's office. If possible, the notice should be submitted 30 days in advance of the effective date of the leave.

B. All requests for family and medical leaves of absence due to illness will include the following information: Sufficient medical certification stating:

(1) The date on which the serious health condition commenced.

(2) The probable duration of the condition.

(3) The appropriate medical facts within the knowledge of the health-care provider regarding the condition.

C. In addition, for the purpose of leave to care for a child, spouse or parent, the medical certification should give an estimate of the amount of time that the employee is needed to provide such care.

D. For purposes of leave for an employee's own illness, the medical certification must state that the employee is unable to perform the functions of his/her position.

E. In the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.

§ 77-52. Return to duty.

A. An employee returning from leave as covered by this policy is entitled to the same position held when leave began, or an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

B. An employee who fails to return to work promptly at the expiration of the family and medical leave or fails to obtain an approved extension will be

notified that he/she has been considered to have resigned his/her employment.

§ 77-53. Effect of labor agreement.

It is the intent of the employer to provide the standards as articulated in the federal FMLA and as detailed herein.

§ 77-54. Change in policy.

A. The town reserves the right to modify this policy as necessitated by law.

B. This policy and any other policy which may come within the jurisdiction of the Family and Medical Leave of Absence provision shall be read in compliance with the Family and Medical Leave of Absence provision. The first 12 weeks of any leave shall be Family and Medical Leave of Absence leave if all conditions of Family and Medical Leave of Absence applicability are met.

CHAPTER 81. POLICE DEPARTMENT

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CHAPTER 81. POLICE DEPARTMENT

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

GENERAL REFERENCES

Appearance tickets — See Ch. 8.

ARTICLE I. Deadly Physical Force Policy

[Adopted 12-6-1988]

§ 81-1. Statement of policy.

The normal day-to-day operations of the Police Department may, on occasion, require the use of reasonable physical force, which cannot be otherwise controlled. However, in no case should any officer use any physical force against a citizen until all other reasonable alternatives have been exhausted. Officers are permitted and authorized to use whatever force reasonable to protect themselves and other citizens from bodily harm. Officers are authorized, under § 35.30 of the New York State Penal Law, to use deadly physical force when it appears necessary under that statute. However, we as police officers are expected to use greater restraint and to employ a great deal more self-control than allowed at the extreme by the statute. Therefore, in recognition of various moral and civic implications in the taking of human life, officers will adhere to more restrictive use of deadly physical force. The burden shall rest on each and every officer in the decision to use any form of deadly physical force against a human, and the realization that each and every situation is different should be paramount. Officers will not exercise the use of deadly physical force solely upon meeting the criteria of the Penal Law and departmental rules and regulations. The use of deadly physical force will depend on what the immediate situation warrants. In any situation potentially involving the use of deadly physical force, the officer is expected to act in a reasonable and prudent manner, and in any situation where the use of deadly physical force may be anticipated, each officer will use or attempt to use all other methods to terminate the situation before using deadly physical force to defend his or her life or the life of a citizen.

§ 81-2. Rules and regulations.

A. Each officer should use any and all reasonable means available to him/her in the apprehension of felons or in the termination of potentially dangerous or deadly situations before the use of deadly physical force is considered.

B. Officers will not, in any case, fire warning shots.

C. Indiscriminate use of a firearm or other deadly physical force will be cause for disciplinary action.

D. Section 35.30 of the New York State Penal Law:

(1) A police officer or a peace officer, in the course of effecting or attempting to effect an arrest or of preventing or attempting to prevent the escape from custody of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force for such purposes only when he reasonably believes that:

(a) The offense committed by such person was a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person;

(b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.

(2) The fact that a police officer or peace officer is justified in using deadly physical force under circumstances prescribed in Subsection D(1)(a) and (b) does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(3) A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he knows that the arrest or prospective arrest is not or was not authorized and he may use deadly physical force under such circumstances when:

(a) He reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) He is directed or authorized by such police officer or peace officer to use deadly physical force unless he knows that the police officer or peace officer himself is not authorized to use deadly physical force under the circumstances.

(4) A private person acting on his own account may use physical force, other than deadly physical force, upon another person when and to the extent that he reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he reasonably believes to have committed an offense and who in fact has committed such offense; and he may use deadly physical force for such purpose when he reasonably believes such to be necessary to:

(a) Defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible sodomy and who is in immediate flight therefrom.

(5) A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in § 205.00 of the Penal Law, or while in transit to or from a detention facility, may use physical force when and to the extent that he reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom.

E. An officer executing a warrant or attempting an arrest may draw his weapon should he/she feel his/her life or the life of a citizen may be threatened with the use of deadly physical force.

F. Officers may draw and discharge their weapons at a person or persons who are attempting to commit a felony, or whom the officer reasonably believes may have committed a felony, wherein the perpetrator is armed or believed to be armed with a deadly weapon or is capable of causing deadly physical injury to the officer or a citizen.

G. Officers may draw and fire their weapons while defending their lives or the life of another citizen from the use or imminent use of deadly physical force.

H. Each officer is solely responsible for the use, care and safety of his firearm.

I. Each officer is solely responsible when his/her firearm is drawn and or discharged for any reason.

J. In addition to other sections, officers may draw their weapons for cleaning, range or firearms instruction and official inspections.

K. Officers may draw and fire their weapons at animal life only when such action is necessary and can be done in such a manner so as to eliminate any danger to the public.

L. Any officer causing his firearm, or one issued to him, to be discharged either accidentally or for just cause will immediately notify the Chief of Police.

M. Except in emergency situations, officers will not use any firearm not issued to them, excluding the patrol vehicle shotgun, unless prior approval is granted by the Chief of Police or Tactical Sergeant.

N. Officers will not handle firearms in a careless or negligent manner.

O. At the start of a shift, any officer assigned to a patrol unit equipped with a shotgun will inspect the shotgun in his/her unit and verify that it is in good condition, that the bore is free from obstructions and that the weapon is in serviceable condition.

(1) Officers who desire to load the shotgun during their tour of duty may do so, provided that no shell shall be carried in the chamber until it may actually be needed; the shotgun shall be on "safe" and the shotgun will be unloaded when the tour is over.

(2) Under no circumstances will any officer leave the patrol vehicle unlocked with a shotgun or other firearm in it, unless the same is in its locked carrier.

P. Departmentally issued firearms will not be handled by anyone other than departmental personnel.

Q. Each officer is solely responsible for the control and use of his firearm or any assigned to his or her use or care.

R. Departmentally owned firearms will be used only for official police purposes.

S. Only departmentally issued firearms will be carried on duty by uniformed officers unless prior permission is granted by the Chief of Police or Tactical Sergeant.

T. Officers who desire to carry a personally owned firearm on duty must have permission from the Chief of Police and be qualified by the Tactical Sergeant.

(1) No permission will be given in any case for a caliber of less than .357.

(2) To qualify with other than .38 special or .357 magnum, an officer must provide his own practice and duty ammunition.

(3) The cost of holsters and leather goods for carrying nonissued firearms will be borne by the officer.

U. Officers must qualify a minimum of two times per year with firearms.

V. Duty rounds for departmentally issued firearms shall be .357 magnum, or a .38 special +P soft point or controlled expansion rounds.

W. Except for grips, no officer shall alter, cause to be altered or perform any maintenance or repair to his or her firearm without permission of the Chief of Police. This shall not apply to the normal upkeep or cleaning of the firearm.

X. Members must register their personally owned firearms, not listed on a pistol permit, with the Pistol Permit Bureau of New York State through the Chief of Police. In accordance with Article 265 of the New York State Penal Law, any officer must notify the Chief of Police within 10 days of the acquisition or disposal of a personally owned firearm.

ARTICLE II. Vehicle Pursuit Policy

[Adopted 12-6-1988]

§ 81-3. Statement of policy.

The Guilderland Police Department recognizes the potential danger involved in vehicle pursuits, and the necessity of enforcing the laws of the State of New York. It shall be the policy of this Department that all pursuits be conducted with the safety of the officer, the general public and the offender first and foremost in the thoughts of the officer. The pursuit shall be terminated at any point when the danger to the public becomes greater, by virtue of the pursuit, than it would be if the offender were allowed to go free.

§ 81-4. Notification and monitoring of pursuit.

- A. The officer shall immediately notify the dispatcher of the pursuit.
- B. The dispatcher shall immediately notify a supervisor of the pursuit.
- C. The supervisor shall monitor the pursuit in an attempt to evaluate and determine if and when the pursuit should be terminated.

§ 81-5. Procedure for notifying dispatcher; conduct of pursuit.

- A. Procedure. The dispatcher shall be notified as follows:
 - (1) Give the location.
 - (2) Give the direction of travel.
 - (3) Give the following information of the offender's or offenders' vehicle(s):
 - (a) Color.
 - (b) Type.
 - (c) Make.
 - (d) Model.
 - (e) License information (number, state).
 - (f) Number of occupants.
 - (g) Type of occupants (male, female, adult, juvenile).
 - (4) Give the reason for pursuit, nature of the offense, any weapons involved or thought to be involved, shots fired and injuries to police.
 - (5) Give any other important or pertinent information.
- B. Officers will conduct all pursuits with red lights and sirens on at all times.
- C. Officers will use caution at all times, especially at intersections and other high-hazard areas.

D. Officers involved in a pursuit shall continuously be aware of the surroundings, other traffic, pedestrians, weather and other factors which may influence the decision to continue the pursuit.

E. No officer is obligated in any way to either initiate or continue any pursuit or high-speed driving for any reason.

F. Each officer is responsible for the safe use and control of the vehicle that he or she is driving.

G. Officers will not operate their vehicle in a reckless manner.

H. In a pursuit initiated by members of the Guilderland Police Department, the pursuit may be continued for a reasonable period of time until advised otherwise by a supervisor or until such time as the danger to the public becomes greater by virtue of the pursuit than it would be should the offender be allowed to go free. No more than one unit, and a backup unit following at a reasonable distance and speed, shall be in pursuit of the same vehicle, unless otherwise ordered by a supervisor.

I. A pursuit not initiated by the Guilderland Police Department may be continued until the jurisdictional boundary of the Town of Guilderland is met, at which time the pursuit shall be terminated by members of the Guilderland Police Department, unless otherwise advised by a supervisor, or the situation is such that the initiating agency requires the assistance of the Guilderland Police Department.

J. Officers will not initiate a road block of any type without an order from a supervisor directing this.

K. "Rolling roadblocks" and channeling of offender vehicles will not be used, except in the gravest of circumstances, and only at that point wherein the danger to the public in general is so great as to necessitate the immediate stopping of the offender vehicle.

L. Ramming any other vehicle is prohibited and subject to disciplinary action.

§ 81-6. Duties of dispatcher.

A. The dispatcher, after receiving pertinent information from the officer(s) involved in the pursuit, shall immediately notify the supervisor and all other units of the pursuit and all information received from the member(s) involved and log the times they were notified.

B. The dispatcher shall immediately demand radio silence of all fire, emergency medical services (EMS), animal control and any other agencies under the control of the Guilderland Communications Center and of units not directly involved in the pursuit.

C. The dispatcher shall log the beginning time of the pursuit.

D. The dispatcher shall read the following statement to all units involved in the high-speed pursuit and doing the aforementioned duties: "You are advised to terminate this pursuit at any time that the danger to the public by reason of this pursuit exceeds the danger to the public if this offender is allowed to go free. You are under no obligation to continue this pursuit."

E. The dispatcher shall log the time that this statement was read and notify other agencies as requested.

F. The dispatcher shall monitor the Mobile Radio District frequencies and other police frequencies for interagency traffic and advise all the units involved of any pertinent information from other agencies.

§ 81-7. Duties of supervisor.

A. Upon notification of the pursuit, the supervisor shall:

- (1) Begin monitoring of the pursuit.
- (2) Patrol in the direction of the pursuit.
- (3) Advise the dispatcher to give the pursuit statement if it has not already been given.

B. The supervisor will:

- (1) Note traffic conditions.
- (2) Note roadway conditions.
- (3) Note the time of day.
- (4) Note weather conditions.
- (5) Note the type of district or neighborhood that the pursuit occurs in.
- (6) Note the type of offense.

C. Supervisor's decision.

(1) When it is felt that the danger to the public safety is greater by virtue of the pursuit than the danger to the public by virtue of the offender going free, the supervisor shall terminate the pursuit.

(2) If it is felt that the pursuit can be allowed to continue, the supervisor shall advise the units involved to use caution and to discontinue the pursuit if the danger becomes too great.

(3) The supervisor shall monitor the pursuit and, if necessary at some time because of weather, road conditions, population density or other conditions, the supervisor may order the pursuit terminated.

(4) At termination of the pursuit, the supervisor shall take charge of securing evidence and prisoner(s), if any, and cause detailed statements to be written concerning the pursuit by all members involved in the pursuit.

ARTICLE III. Weight Enforcement Assistance Program

[Adopted 12-6-1988]

§ 81-8. Objectives.

Objectives of the this article are as follows:

A. To prevent excessive road deterioration and decrease accidents due to overweight and/or oversized vehicles.

B. To ensure that hazardous materials carried on public highways are safely and legally transported.

C. To ensure that commercial vehicles operating on public highways are safely and legally operated.

§ 81-9. Program description.

A. Management. The program shall be managed as follows:

(1) As necessary, schedule basic and in service scales training.

(2) Arrange to obtain and repair scales and related equipment.

(3) Schedule the certification of scales equipment as accurate, in cooperation with the Department of Agriculture and Markets Bureau of Weights and Measures, every six months.

(4) Collect and evaluate all necessary statistics on the scales operation.

(5) Prepare and forward to the necessary New York State offices any required data and forms.

B. Scales teams.

(1) When possible, scales teams should consist of two officers.

(2) Scales may only be operated by or under the immediate direction of a qualified operator.

(3) The scales team is assigned one vehicle, equipped with at least two pairs of certified scales and four leveling blocks.

(4) The officer in charge of the scales operation will fill out, or cause to be filled out, the scales program daily log which shall be forwarded on a daily basis to the supervisor of the scales program.

(5) The officer in charge shall be responsible for the care and handling of the scales and related equipment.

(6) After use in inclement weather, or at any other time necessary, the officer in charge of the scales shall clean and store the scales in a safe, dry place.

(7) The scales shall be placed in a charging mode, if necessary.

(8) The officer in charge shall inspect the scales and related equipment before and after each day's use for serviceability, and notify the scales supervisor of any required repairs.

(9) The officer(s) assigned to operate the scales on a detail or at a Department of Transportation inspection shall wear fatigue uniforms, with cap or hard hat.

(10) Scales shall be marked in pairs, and each pair is to be used only with its matching half as marked, and the scales shall be used with each pair used on opposite ends of the same axle.

(11) Whenever possible and practical, scale pairs shall be tethered together so as to give axle readings, with readings being taken from the curb side scale(s).

§ 81-10. Procedure for repair of scales.

Scales shall be repaired as follows:

- A. Immediately remove from service any malfunctioning or inoperable scales.
- B. Notify the supervisor of the scales program of such malfunction.
- C. When forwarding scales for repair, both scales of a pair must be sent.
- D. Attach a letter describing, in detail, what the problem is or appears to be.

§ 81-11. Weighing procedure.

The procedure for weighing shall be as follows:

A. Location.

- (1) Select a straight, level roadway with a good sight distance, when possible.
- (2) When possible, select a roadway with wide shoulders sufficient to provide safety and allow off-loading of excess loads.

B. Measurements.

- (1) Use steel tape only.

C. Instructions for weighing.

- (1) Instruct the driver how you want him to drive onto the scales.
- (2) Make sure all the wheels are on a level surface.
- (3) When using portable-type scales, place the scales against the tire and make sure the scale has reset itself to zero before the vehicle drives upon the scales.
- (4) Signal the driver to proceed upon the scales slowly in low gear until the tires reach the correct position on the scales.

(5) Do not stand behind the scales as the truck goes up on to the scales, as the scales may be kicked out behind the truck.

(6) Tell the driver to release the truck brakes, as the manipulation of the brakes can cause substantial changes in scale readings.

(7) Read the weight results, and determine the total gross weight of the vehicle by adding the readings on all axles.

(8) After the readings have been taken, tell the driver to proceed slowly off the scales.

(9) Arrests for overweight vehicles may be made only by use of an Agriculture and Markets certified scale, and weigh slip in possession of a driver from a weigh station.

(10) Issue a uniform traffic ticket for all overweight violations.

(11) Complete a commercial traffic violation information for taxation and finance.

(12) If a driver refuses to obey your order to pull onto the scales, arrest the driver for failure to comply.

(13) You may arrange to have a tow truck tow the vehicle onto the scales.

(14) If a vehicle's tires have been deflated, direct the truck to a service area to properly reinflate the tires, then weigh the vehicle.

(15) It shall be the policy of the Guilderland Police Department that 5% is allowed before a ticket shall be issued for overload.

§ 81-12. Off-loading of vehicles.

A. The decision to off-load an overweight vehicle should be based on good judgment and careful consideration of the following factors:

(1) Vehicle location with respect to the time of day.

(2) Traffic conditions.

(3) Weather conditions.

(4) Roadside space conditions.

- (5) Access to public communications.
- (6) Distance to destination.
- (7) Route or alternate route to destination.
- (8) Kind of cargo; special consideration should be given to perishable products, hazardous material, radioactive materials or other kinds of cargo which by their nature tend to be unstable or pose a danger to others.

B. When, in the opinion of the officer in charge of the scales team, the off-loading can be accomplished without jeopardizing the officers or other highway users, and all of the above factors have been taken into consideration, the officer in charge will cause the off-loading of an overweight vehicle with a divisible load.

ARTICLE IV. Retirement

[Adopted 3-12-1991]

§ 81-13. Adoption of benefits.

The Town Board of the Town of Guilderland does hereby elect to pay on account of any member of its Police Department who has duly elected, or shall hereafter duly elect, to contribute the additional amount required for the purpose of retiring after 20 years of service as provided by Section 384-d of the Retirement and Social Security Law or any subsequent amendments thereto, the entire additional cost on account of the police or fire service rendered by such officer or member of the Police Department prior to the date of adoption of this article, and further agrees to pay the entire additional cost on account of the police or fire service rendered by such officer or member of the Police Department on and after March 12, 1991.

ARTICLE V. Rules and Regulations

[Rules and regulations for the Town of Guilderland Police Department are currently under review by the town, and are available for examination in the town offices during regular office hours. Upon completion of this review and adoption by the town, they will be included here as Article V of this chapter.]

CHAPTER 85. PURCHASING

ARTICLE I. Procurement Policy

§ 85-1. Adoption of policies and procedures.

§ 85-2. Procurements subject to bidding.

§ 85-3. Non-bid procurements.

§ 85-4. Awards to other than lowest bidder.

§ 85-5. Inability to obtain required proposals or quotations.

§ 85-6. Exceptions.

§ 85-7. Annual review.

ARTICLE II. Department Purchases

§ 85-8. Purchasing procedure.

CHAPTER 85. PURCHASING

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

ARTICLE I. Procurement Policy

[Adopted 2-11-1992]

§ 85-1. Adoption of policies and procedures.

The Town of Guilderland does hereby adopt the following procurement policies and procedures.

§ 85-2. Procurements subject to bidding.

A. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law § 102. Every town officer, board, department head or other personnel with the requisite purchase 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 town 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.

B. All purchases of supplies or equipment which will exceed \$10,000 in the fiscal year or public works contracts over \$20,000 shall be formally bid pursuant to General Municipal Law § 103.

§ 85-3. Non-bid procurements.

Non-bid procurements shall be as follows:

A. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). All estimated purchases of:

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

B. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). All estimated public works contracts of:

- (1) Less than \$20,000 but greater than or equal to \$10,000 require a written RFP and fax/written proposals from three contractors.
- (2) Less than \$10,000 but greater than or equal to \$3,000 require a written RFP and fax/written proposals from two contractors.
- (3) Less than \$3,000 but greater than or equal to \$500 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 shall 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.

§ 85-4. Awards to other than lowest bidder.

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 town and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 85-5. Inability to obtain required proposals or quotations.

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

§ 85-6. Exceptions.

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole-source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased at auction.
- H. Goods purchased for less than \$250.
- I. Public works contracts for less than \$500.

§ 85-7. Annual review.

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

ARTICLE II. Department Purchases

[Adopted 2-5-1998]

§ 85-8. Purchasing procedure.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The following is a list of guidelines for all department purchases. Please make every attempt possible to make purchases through the central purchasing

agent. If there are any questions or comments regarding this policy, please contact the Supervisor's office.

A. A department head, prior to the actual purchase, will approve all purchases.

B. Emergency purchases will be handled in conjunction with the Supervisor's office and will be subject to the approval of the Town Supervisor or Deputy Supervisor and the department head.

C. Purchase limits will be as defined in the procurement policy attached. They are as follows:

(1) More than or equal to \$10,000: follow bidding policy procedure.

(2) Under \$10,000 but more than or equal to \$3,000: will need a formal proposal and three quotes.

(3) Under \$3,000 but more than or equal to \$1,000: will need two quotes (can be oral, not written).

(4) Under \$1,000 but more than or equal to \$250: at the discretion of the purchaser (department head or a designee with prior department head approval).

D. Copies of all purchase orders and a receipt of billing will be submitted to the Supervisor's office by next-day mail or personal delivery.

E. All purchase orders will be completely filled out at time of purchase.

CHAPTER 89. RECORDS

ARTICLE I. Retention and Disposition

§ 89-1. Adoption of Schedule MU-1.

§ 89-2. Disposal of records.

ARTICLE II. Records Management

§ 89-3. Findings; purpose.

§ 89-4. Program established; designation of records management officer.

§ 89-5. Definitions.

§ 89-6. Powers and duties of records management officer.

§ 89-7. Custody and control of records.

ARTICLE III. Public Access to Records

§ 89-8. Purpose and scope.

§ 89-9. Designation and duties of records access officer.

§ 89-10. Location of records.

§ 89-11. Hours for inspection.

§ 89-12. Requests for access.

§ 89-13. Denial of access; appeals.

§ 89-14. Fees.

CHAPTER 89. RECORDS

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

GENERAL REFERENCES

Records Advisory Council — See Ch. 92.

ARTICLE I. Retention and Disposition

[Adopted 2-7-1989]

§ 89-1. Adoption of Schedule MU-1.

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for municipal officers in disposing of municipal government records listed therein, is hereby adopted.

§ 89-2. Disposal of records.

In accordance with Article 57-A:

A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.

B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

ARTICLE II. Records Management

[Adopted 7-19-1994 by L.L. No. 2-1994 (Subpart 1, Div. 3, of the 1974 Code)]

§ 89-3. Findings; purpose.

Records and information resources are essential to the administration. Without records and information, local government would cease to function. It is the intent of this article that a records management program be established which will improve the quality of the decisionmaking process, reduce overall administration cost, streamline work, facilitate access to needed or important information, reduce legal liability due to inaccurate or inadequate record keeping and ensure adequate access to documentation of the growth and development of the Guilderland community. This program is intended to ensure the accountability of local government and protect the rights of citizens. The program addresses the entire life cycle of records, from creation to use, storage and disposition of all records, regardless of format, to ensure that the right information goes to the right person at the right time.

§ 89-4. Program established; designation of records management officer.

A. There shall be a records management program established under the aegis of the Town Clerk and headed by the records management officer. The Town Clerk is designated as the records management officer (RMO) and will be responsible for administering all public records in the town in accordance with local, state and federal laws and guidelines.

B. The RMO may appoint a designee to carry out the specific duties listed in § 89-6 of this article. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. To facilitate, support and promote the records management program, the RMO may appoint, subject to Town Board approval, a Records Advisory Council. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. The RMO shall ensure intelligible access to electronically stored records.

§ 89-5. Definitions.

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

ACTIVE RECORD

Any record used on a frequent basis, normally at least one time per week per file drawer. Records referred to less than one time per week are considered inactive.

ARCHIVES

Those official records deemed by the records management officer, using appropriate state schedules, to have sufficient continuing value to warrant indefinite retention by the town.

INACTIVE RECORD

A record not used on a frequent basis but which must be retained because it has a long retention or is permanent.

RECORDS

In accordance with § 57.17 of the Arts and Cultural Affairs Law, official minutes and documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received in the course of conduct of official town business. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

RECORDS CENTER

Centralized storage area for storage and retrieval of inactive records no longer needed in the office of origin which must be legally retained for varying periods of time.

RECORDS DISPOSITION

Eventual destruction by approved methods of obsolete records in accordance with an approved records retention schedule or by accession of records to an archives.

RECORDS MANAGEMENT

The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in the life cycle of all records and information.

RMO

Records management officer.

§ 89-6. Powers and duties of records management officer.

A. The records management officer shall examine public records to recommend their classification, according to State Archives Records Administration (SARA), and determine the most suitable methods to be used for maintaining, storing and servicing.

B. The records management officer shall establish guidelines for proper records management in all departments of the town government in accordance with local, state and federal laws and guidelines.

C. The RMO shall establish policies and procedures pursuant to a sound records management program.

D. The records management officer shall operate a records center for the management, storage and disposition of all public records.

E. The records management officer shall report annually to the governing body, including but not limited to the development and progress of programs to date, cost savings, cost avoidance and planned activities for subsequent years.

F. The records management officer shall chair, coordinate and direct the Records Advisory Council, should one be appointed. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

G. Additional requirements of the records management officer include but are not limited to:

(1) Developing a comprehensive records management program.

(2) Encouraging and coordinating the continuous legal destruction of obsolete records through the implementation of the State Archive Records Retention and Disposition Schedules.

(3) Developing suitable retention periods for records not covered by the New York State Records Retention and Disposition Schedules.
(Subsequently, the RMO must secure approval of such retention periods from the New York State Commissioner of Education and gain adoption from the Town Board of any proposed change before the retention period takes effect.)

(4) Establishing and maintaining a sound records and information system that supports the Town of Guilderland's overall records program and encouraging the continued efficient management of records within respective departments.

(5) Coordinating grant application and budget process for records management.

(6) Coordinating, carrying out or participating in the planning for development and selection of advanced records and information systems and equipment, including but not limited to optical disk, computers, micro or other imaging, and geographical information systems.

§ 89-7. Custody and control of records.

A. Active records. The originating department has full custody (legal and physical) over records still in active use.

B. Inactive records. The originating department is the legal custodian of its records and shall retain the power to retrieve and use records deposited in inactive storage in the records center. The RMO will have physical custody of inactive records and will determine the method and design of storage.

C. Archival records. The RMO has legal and physical custody of records to be transferred or acquired by the archives. Records shall be transferred to or removed from archives by the request of and approval of the RMO. Archival records may be removed temporarily or permanently with RMO approval. When records are transferred to archives they become the property of the Town of Guilderland and the sole custody of the RMO.

D. Disposition. No record shall be destroyed or otherwise disposed of without approval of the department head and the RMO.

E. By this article, all state schedules now or in the future shall be adopted.

ARTICLE III. Public Access to Records

[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 89-8. 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 (§ 84 et seq. of the Public Officers Law), as well as records otherwise available by law.

D. Any conflict among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 89-9. Designation and duties of records access officer.

A. The Town Board of the Town of Guilderland is responsible for ensuring compliance with the regulations herein and designates the Town Clerk and, in his or her absence, the Deputy Town Clerk as records access officer, who shall be responsible for ensuring appropriate agency response to public requests for access to records. The designation of a 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.

B. The records access officer shall ensure that personnel:

- (1) Assist the requester in identifying requested records, if necessary.
- (2) Upon locating the records, take one of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
- (3) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 89-15; or
 - (b) Permit the requester to copy those records.
- (4) Upon request, certify that a record is a true copy.
- (5) Upon failure to locate records, certify that:
 - (a) The Town of Guilderland is not the custodian for such records; or
 - (b) The records of which the Town of Guilderland is a custodian cannot be found after diligent search.

§ 89-10. Location of records.

Records shall be available for public inspection and copying at the office of the Town Clerk, Town Hall, Route 20, Guilderland, New York.

§ 89-11. Hours for 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.

§ 89-12. Requests for access.

A. A written request may be required, but oral requests may be accepted.

B. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.

C. A request shall reasonably describe the record or records sought. Wherever 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 records sought within five 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 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.

§ 89-13. Denial of access; 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 individual or body established to hear appeals.

B. If requested records are not provided promptly, as required in § 89-12D of this article, such failure shall also be deemed a denial of access.

C. The Town Board shall hear appeals for denial of access to records under the Freedom of Information Law. Such appeals shall be made within 30 days of a denial.

D. The time for deciding an appeal by the body 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 § 89-12D.

(5) The name and return address of the requester.

E. The body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.

F. The Town Board shall inform the appellant and the Committee on Open Government of its determination, in writing, within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection E of this section.

§ 89-14. Fees.

A. There shall be no fee charged for:

- (1) Inspection of records.
- (2) Search for records.
- (3) Any certification pursuant to this article.

B. The fee for photocopies not exceeding 8 1/2 inches by 14 inches is \$0.25 per page.

C. The fee for copies of records not covered by Subsections A and B of this section shall not exceed the actual reproduction cost (which is the average unit cost for copying a record, excluding fixed costs of the town, such as operator salaries).

CHAPTER 92. RECORDS ADVISORY COUNCIL

§ 92-1. Establishment; appointment of members.

CHAPTER 92. RECORDS ADVISORY COUNCIL

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-7-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Records — See Ch. 89.

§ 92-1. Establishment; appointment of members.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Guilderland Records Advisory Council is hereby established, and the Town Historian, Town Clerk, Town Attorney and a Town Board member are appointed to be Council members.

ARTICLE I. Payroll Deduction for Individual Retirement Accounts

§ 96-1. Authorization to make deductions.

§ 96-2. Minimum deduction amount.

§ 96-3. Continuation of deduction.

§ 96-4. Authorization document; required information.

ARTICLE I. Payroll Deduction for Individual Retirement Accounts

[Adopted 10-12-1982 by L.L. No. 7-1982 (Subpart 3, Div. 2 3/4, Art. II, of the 1974 Code)]

§ 96-1. Authorization to make deductions.

The Town Board may, by resolution, authorize the Supervisor to deduct from the salary or wage of any town officer or employee an amount specified, in writing, by such officer or employee for transmittal of the same to a trustee, administrator or manager of an individual retirement account (IRA) as authorized by the Federal Tax Reform Act of 1981. No moneys shall be deducted from the salary or wage of an officer or employee who is a member of a negotiating unit covered by a contract negotiated pursuant to Article 14 of the Civil Service Law unless such contract provides therefor.

§ 96-2. Minimum deduction amount.

No deduction shall be authorized for an amount less than \$5 from the wage or salary of any officer or employee for any payroll period.

§ 96-3. Continuation of deduction.

Deductions authorized pursuant to this article shall continue until such authorization is revoked or canceled, in writing, by the officer or employee so affected or by resolution of the Town Board.

§ 96-4. Authorization document; required information.

Payroll deductions under this article shall be authorized by such document as the Supervisor shall prescribe. Such document shall show the name of the officer or employee authorizing such deduction; the amount of such deduction; the name and mailing address of the trustee, manager or administrator of the individual retirement account to which such deduction is to be transmitted; and such other information as the Supervisor may require, and shall be signed by the officer or employee so authorizing such deduction.

CHAPTER 107. WATER/SEWER STUDY POLICY

[Provisions of the Town of Guilderland Water/Sewer Study Policy are on file in the office of the Town Clerk.]

CHAPTER 109. ZONING BOARD OF APPEALS

ARTICLE I. Alternate Members

§ 109-1. Title and applicability.

§ 109-2. Policy.

§ 109-3. Definitions.

§ 109-4. Authorization; effect.

§ 109-5. Supersession of Town Law.

CHAPTER 109. ZONING BOARD OF APPEALS

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

GENERAL REFERENCES

Zoning — See Ch. 280.

ARTICLE I. Alternate Members

[Adopted 1-16-2001 by L.L. No. 3-2001]

§ 109-1. Title and applicability.

This article may be known and shall be cited as the "Alternate Zoning Board of Appeals Members Act." This article shall apply to the appointment, terms, functions and powers of alternate members appointed to serve on the Zoning Board of Appeals in the Town of Guilderland.

§ 109-2. Policy.

It is sometimes difficult to maintain a quorum on the Zoning Board of Appeals because members are ill, on extended vacation or find they have a conflict of interest situation on a specific matter before such Board. In such instances, official business cannot be conducted, which may delay or impede adherence to required time lines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this article.

§ 109-3. Definitions.

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

ALTERNATE MEMBER

An individual appointed by the Town Board to serve on the Town Zoning Board of Appeals when a regular member is unable to participate on an application or matter before the respective Board, as provided herein.

MEMBER

An individual appointed by the Town Board to serve on the Town Zoning Board of Appeals pursuant to the provisions of the local law or ordinance which first established such Zoning Board of Appeals.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Guilderland as established by the Town Board by local law or ordinance, pursuant to the provisions of § 267 of the Town Law.

§ 109-4. Authorization; effect.

A. The Town Board of Guilderland hereby enacts this article to provide a process for appointing alternate members to its Zoning Board of Appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the respective Board.

B. Alternate members of the Zoning Board of Appeals shall be appointed by the Town Board or other duly authorized appointing authority, for a term of one year.

C. The Chairperson of the Zoning Board of Appeals may designate an alternate to substitute for a member when such member is unable to

participate on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.

D. All provisions of state law relating to zoning board of appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

§ 109-5. Supersession of Town Law.

This article is hereby adopted pursuant to the provisions of § 10 of the Municipal Home Rule Law and § 10 of the Statute of Local Governments. It is the intent of the Town Board, pursuant to § 10 of the Municipal Home Rule Law, to supersede the provisions of § 267 of the Town Law relating to the appointment of members of town zoning boards of appeal.

CHAPTER 111. ADULT ENTERTAINMENT ESTABLISHMENTS

§ 111-1. Purpose.

§ 111-2. Definitions.

§ 111-3. Permitted locations.

§ 111-4. Registration with Town Clerk.

§ 111-5. Display of registration.

§ 111-6. Observation from unregistered property.

§ 111-7. Penalties for offenses.

CHAPTER 111. ADULT ENTERTAINMENT ESTABLISHMENTS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 11-16-1999 by L.L. No. 7-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 280.

§ 111-1. Purpose.

The Town Board recognizes that there are secondary impacts associated with adult entertainment establishments that are not appropriate within certain areas of the Town of Guilderland. This conclusion was reached through the review of

numerous comprehensive secondary impact studies that indicated an increase in crime, prostitution and violence and a decrease in residential property values when adult entertainment establishments were permitted within residential areas.

§ 111-2. Definitions.

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

ADULT BOOKSTORE

An establishment having, as a substantial or significant portion of its stock-in-trade, books, magazines, films, compact discs or videos for sale, lease or viewing on the premises, which are distinguished or characterized by their emphases on matter depicting, describing or relating to specified sexual activities; or an establishment with a segment or section devoted to the sale, lease or display of such material.

ADULT ENTERTAINMENT CABARET

A public or private establishment which may or may not be licensed to serve food and/or alcoholic beverages, which involves the viewing or touching of specified anatomical areas, the viewing of specified sexual activities or other similar entertainment.

ADULT MASSAGE PARLOR

A public or private establishment which is used for the provision of the service of stroking, kneading, tapping or vibrating the human body with the hands or other devices, except by those licensed to perform such activities by Title VIII of the New York State Education Law.

ADULT MOTION PICTURE THEATER

An enclosed building or drive-in theater which is used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas or specified sexual activities for observation by patrons therein.

SPECIFIED ANATOMICAL AREAS

A. Less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

A. Human genitals in a state of sexual stimulation or arousal.

B. Acts of human masturbation, sexual intercourse or sodomy.

C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

§ 111-3. Permitted locations.

Adult entertainment establishments, including but not limited to adult bookstores, adult entertainment cabarets, adult massage parlors and adult motion-picture theaters, shall be permitted subject to the following restrictions:

A. No adult entertainment establishment shall be allowed within 1,000 feet of a residential district, as defined by Chapter 280 of the Guilderland Code.

B. No adult entertainment establishment shall be allowed within 1,000 feet of any school, library, church, synagogue or other place of religious worship, child day-center, park, playground or playing field.

C. No adult entertainment establishment shall be located within 500 feet of another existing adult entertainment establishment.

D. No adult entertainment establishment shall violate any federal, state, county or local law or regulation.

E. Adult entertainment establishments are permitted only in districts zoned Light Industrial (LI) or Industrial (I), as defined by Chapter 280 of the Guilderland Code.

§ 111-4. Registration with Town Clerk.

A. The owner, manager or agent of a building or premises, any part of which contains an adult entertainment establishment, shall register with the Town Clerk of the Town of Guilderland the following information:

(1) The address of the premises.

(2) The name and address of the owner of the premises.

(3) The name of the business or the establishment subject to the provisions of this chapter.

(4) The names and addresses of the owners, beneficial owners or the major stockholders of the business or the establishment subject to the provisions of this chapter.

(5) The date of initiation of the adult entertainment establishment.

(6) The nature of the adult entertainment.

(7) If the premises or building is leased, a copy of said lease.

B. It is a violation of this chapter for the owner, manager or agent of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult entertainment establishment without having properly registered said adult use with the Town Clerk.

§ 111-5. Display of registration.

The owner, manager or agent of a registered adult entertainment establishment shall display, in a conspicuous place on the premises of the adult entertainment establishment, a copy of the registration filed with the Town Clerk.

§ 111-6. Observation from unregistered property.

No adult entertainment establishment shall permit the observation of any material depicting, describing or relating to specified anatomical areas or specified sexual activities from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

§ 111-7. Penalties for offenses.

A violation of this chapter shall be punishable by a fine not to exceed \$500 per week of said violation or by imprisonment for a period not to exceed six months, or both.

CHAPTER 113. ALARMS

§ 113-1. Title.

§ 113-2. Purpose.

§ 113-3. Definitions.

§ 113-4. License required; installation of alarms; fees; penalties.

§ 113-5. Fees.

§ 113-6. Maintenance.

§ 113-7. Rules and regulations; violations.

§ 113-8. False alarms; penalties; revocation of license; notice.

§ 113-9. Reversing relay.

§ 113-10. Time out timer.

§ 113-11. Tape and digital dialer alarms.

§ 113-12. Liability; response to false alarms.

CHAPTER 113. ALARMS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 3-6-1984 by L.L. No. 4-1984 (Subpart 18 of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 81.

§ 113-1. Title.

This chapter shall be known and may be cited as the "Emergency Alarm System Law of the Town of Guilderland."

§ 113-2. Purpose.

This chapter is to promote the health, safety and general welfare of the people of the Town of Guilderland, New York, including the protection of the property of the town and its inhabitants, by imposing regulations on the sales, installation and maintenance of burglar, fire and other alarms in the Town of Guilderland.

§ 113-3. Definitions.

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

ALARM SUPPLIER

Any person or party who manufacturers, constructs, supplies, installs, maintains or otherwise prepares emergency alarms to be installed anywhere in the Town of Guilderland.

EMERGENCY ALARM

Any alarm system designed to send a signal, recorded or otherwise, which terminates in any manner at the Police Department of the Town of Guilderland, or any alarm system designed to emit an audible exterior signal at the scene of the installation.

FALSE ALARM

A signal emitted by an emergency alarm, which signal results in an actual communication to or with the Police Department, which communication falsely indicates that there is or has been a fire, burglary, intrusion or other emergency at a premises in the Town of Guilderland. A false alarm does not include signals emitted by an emergency alarm caused by or as a

result of circumstances such as storms or acts of God beyond the control of the emergency alarm user.

[Added 2-14-1989 by L.L. No. 1-1989]

§ 113-4. License required; installation of alarms; fees; penalties.

- A. No alarm supplier shall be permitted to do business in the Town of Guilderland without first being licensed to do so by said town.
- B. The annual fee for such alarm supplier license shall be as set by resolution of the Town Board from time to time.
- C. Prior to installation of any emergency alarm in the Town of Guilderland, an application shall be submitted to and approved by the Chief of Police of the Town of Guilderland or his designee. A one-time fee as set by resolution of the Town Board from time to time shall accompany the application.
- D. Each and every subscriber or dealer shall furnish the Police Department of the Town of Guilderland with sufficient information to allow completion of the Emergency Card For Premises Which Has an Alarm System.
- E. Any person or persons, associations or corporations failing to submit the application required in Subsection C herein and obtaining the required approval thereof is guilty of a violation and shall, upon conviction thereof, be subject to a penalty as set forth in Chapter 1, General Provisions, Article III.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 113-5. Fees.

Editor's Note: See Ch. A285, Fees.

- A. An annual fee as set by resolution of the Town Board from time to time shall be charged by the Town of Guilderland for each and every alarm system which terminates directly at the Police Department, either at a module in the alarm board or, in the case of a dialer, to a number assigned for the dialer by the Police Department.
- B. The fee required herein shall be paid annually, in advance, on or before January 1 of each year. Any system for which the Town of Guilderland has not received the annual fee on or before January 20 of the applicable year shall be disconnected at the Police Department terminal and a penalty fee as

set by resolution of the Town Board from time to time, plus the yearly fee, shall be due before the terminal will be reconnected.

§ 113-6. Maintenance.

Each and every emergency alarm in the Town of Guilderland shall be properly maintained by personnel licensed by the town pursuant to § 113-4 of this chapter.

§ 113-7. Rules and regulations; violations.

The Chief of Police shall have the authority to promulgate rules and regulations governing the operations, testing and maintenance of each alarm system. The penalty for violation of said rules and regulations shall be suspension or revocation of the applicant's license.

§ 113-8. False alarms; penalties; revocation of license; notice.

[Amended 2-14-1989 by L.L. No. 1-1989]

A. Penalties as set forth herein may be imposed against the person, corporation or other entity which emits a false alarm.

B. The penalties for false alarms which may be imposed against any person, corporation or other entity for the occurrence of false alarms caused by such emergency alarm user's or subscriber's emergency alarm are as follows:

(1) A civil fine not exceeding \$50 for the first such false alarm.

(2) A civil fine not exceeding \$100 for the second such false alarm committed within the same calendar year.

(3) A civil fine not exceeding \$250 for the third and subsequent false alarms committed within the same calendar year.

C. The Chief of Police may revoke a license issued pursuant to this chapter upon the occurrence of the fourth false alarm within the same calendar year. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. The intentional transmission of a false alarm shall be punishable under the New York State Penal Law.

E. A notice of violation hereunder may be served upon such violator by personal service upon the owner, manager or person in control of the premises and may be served by any police officer or employee of the Town of Guilderland.

§ 113-9. Reversing relay.

Each and every emergency alarm system which terminates in a module at the Police Department must be electrically wired at a reversing relay at the subscriber's residence or place of business.

§ 113-10. Time out timer.

Each and every alarm system which is audible at the scene of the alarm shall be installed with a timer which will discontinue the signal after a length of time to be determined by the Chief of Police of the Town of Guilderland in accordance with the delegation of power contained in § 113-7 herein.

§ 113-11. Tape and digital dialer alarms.

A. Each and every dialer alarm, whether tape, digital or otherwise, which shall terminate at the Police Department shall terminate at said Police Department only at the number assigned to said alarm by the Police Department.

B. Tape dialer alarms shall also be programmed to dial the subscriber or a representative of the subscriber.

C. Any new installation of a dialer which shall terminate at the Police Department must be of the digital type, which sends a signal rather than a voice, and must be compatible with the receiving equipment which has been installed at the Police Department.

D. Any change of ownership or replacement of an emergency alarm installation shall be considered a new installation and shall mandate that if a dialer be installed at that location, it must be a digital dialer.

E. In order to encourage present users of tape dialers to convert to digital dialers, the Town of Guilderland may waive one year's license fee to any applicant who replaces the present tape dialer with a digital dialer.

§ 113-12. Liability; response to false alarms.

A. The Town of Guilderland shall not be liable for any defects in operation of emergency alarm systems, nor any failure to respond appropriately, nor for

any erroneous response, nor for the failure or defect of any licensee pursuant to the provisions of this chapter with respect to the installation, operation or maintenance of equipment, the transmission of alarm signals or messages, or the relaying of such signals or messages.

B. In the event that the town finds it necessary to disconnect a module or signaling device, the town shall incur no liability therefrom.

C. In the case of apparent false alarms received, it is mandated that a representative of the subscriber respond to the scene to verify the security of the premises.

CHAPTER 116. ALCOHOLIC BEVERAGES

§ 116-1. Definitions.

§ 116-2. Prohibited acts.

§ 116-3. Possession in vehicles.

§ 116-4. Authorized consumption; permit required.

§ 116-5. Penalties for offenses.

CHAPTER 116. ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Board of the Town of Guilderland 7-14-1981 by L.L. No. 4-1981 (Subpart 15, Div. 2, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 81.

Parks and recreation — See Ch. 212.

§ 116-1. Definitions.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). As used in this chapter, the following terms shall have the meanings indicated:

INTENT TO CONSUME

Includes any of the following:

A. Drinking from the container.

B. Possession with movement of the container to the mouth.

C. Possession with alcohol on the breath of the possessor.

D. Any circumstances evidencing an intent to ultimately consume on any public lands without permission.

OPEN CONTAINER

Any bottle, can or container containing liquor, beer, wine or other alcoholic beverage, as the same is defined by the Alcoholic Beverage Control Law of the State of New York.

§ 116-2. Prohibited acts.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No person shall have in his possession with intent to consume any open bottle or other open container containing liquor, beer, wine or other alcoholic beverage while such person is in or upon any public sidewalk, street, lane, highway, shopping area, place of amusement, park, playground area, public building, public or commercial parking lot or parking area serving a commercial, industrial, professional or eleemosynary place of business, or other public place, or in any vehicle in any such place, except premises duly licensed for sale and consumption of alcoholic beverages on the premises.

§ 116-3. Possession in vehicles.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). An open bottle or open container in any vehicle shall be presumptive evidence that the same is in possession with intent to consume of all the occupants thereof.

§ 116-4. Authorized consumption; permit required.

Notwithstanding any provision of this chapter, it shall not be unlawful for any person to consume an alcoholic beverage in any public park, playground or other public area under the ownership, control or supervision of the Town of Guilderland, provided that such alcoholic beverage is consumed pursuant to a permit therefor issued by the Town of Guilderland, or any duly authorized officer or agent thereof, pursuant to any local law, ordinance, resolution, rule or regulation duly enacted, adopted or promulgated by the Town of Guilderland or by any duly authorized board, officer or agent thereof.

§ 116-5. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A violation of this chapter shall constitute an offense punishable as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 120. ANIMALS

ARTICLE I. Keeping Swine

§ 120-1. Title.

§ 120-2. Definitions.

§ 120-3. Purpose.

§ 120-4. Applicability.

§ 120-5. Permit required.

§ 120-6. Premises eligible for permit.

§ 120-7. Application for permit.

§ 120-8. Investigation of application; issuance of permit.

§ 120-9. Compliance with other laws required.

§ 120-10. Requirements for keeping of swine.

§ 120-11. Inspection.

§ 120-12. Revocation of permit.

§ 120-13. Renewal of permit; nontransferability.

§ 120-14. Penalties for offenses; additional remedies.

ARTICLE II. Control of Dogs and Cats

§ 120-15. Title.

§ 120-16. Purpose.

§ 120-17. Definitions.

§ 120-18. Restrictions.

§ 120-19. Adoption; fee.

§ 120-20. License fees; local fees and penalties; exemptions.

§ 120-21. Enforcement.

§ 120-22. Penalties for offenses.

§ 120-23. Seizure of animals; liability for expenses.

CHAPTER 120. ANIMALS

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

GENERAL REFERENCES

Parks and recreation — See Ch. 212.

Solid waste — See Ch. 236.

Zoning — See Ch. 280.

ARTICLE I. Keeping Swine

[Adopted 6-11-1974 as Ch. 4, Art. III, of 1974 Code]

§ 120-1. Title.

This article shall be known and may be cited as the "Ordinance Controlling, Regulating and Restricting the Keeping of Swine Within the Town of Guilderland, Albany County, New York."

§ 120-2. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

DISTANCE

Whenever the linear distance of a structure or area from a lake, pond, stream, swamp, spring area, highway or dwelling is mentioned, it is intended to mean the shortest horizontal distance from the nearest point of the structure or area to the high-water mark of the lake, pond, stream, swamp or spring area, or to the highway line, or to the nearest point of the dwelling.

DWELLING HOUSE

Any building or structure established or maintained as temporary or permanent living quarters for human beings.

GARBAGE

Waste animal or vegetable matter from homes, institutions, restaurants, hotel kitchens and vegetable markets or fruit markets, and offal from abattoirs and packing houses.

HIGHWAY

Any existing Town, county or state highway, road or street.

MANURE

Excrement from swine.

PREMISES

Land, with or without buildings, owned by or under the control of any person, on which swine are housed, stabled or quartered.

SWINE

Pigs or hogs in excess of eight weeks of age.

SWINE OR HOG FARM

Any establishment that raises more than 10 hogs or raises any number of hogs for the purpose of sale, barter or exchange.

§ 120-3. Purpose.

The provisions of this article controlling, regulating and restricting the keeping of swine within the Town have been adopted for the purpose of promoting the health and general welfare of the residents of the Town. It is intended to prescribe reasonable rules and regulations governing the raising of swine within the Town and to prohibit the establishment of any new swine or hog farms within the Town.

§ 120-4. Applicability.

This article shall apply to all premises located in the Town upon which swine are being kept on June 19, 1962. The owner or operator of any such premises shall have 30 days after July 2, 1962, to make an application for a permit required by this article. The owner or operator of any such premises shall have a period of 60 days after making application for the permit within which to make the necessary arrangements to conform to the requirements of this article. The permit shall be granted only on the condition that the requirements of this article are complied with within 60 days after making the application.

§ 120-5. Permit required.

No person, being the owner or occupant of any land or premises within the Town, shall use or permit the use of his land or premises for the keeping of swine without obtaining a permit therefor, as provided in this article.

§ 120-6. Premises eligible for permit.

No permit required by this article shall be issued to any person to keep swine within the Town except upon premises being used for the raising of swine on June 19, 1962.

§ 120-7. Application for permit.

A. The application for a permit required by this article shall be in writing, signed by the applicant, and shall state:

- (1) The name and address of the applicant.
- (2) The name and address of each partner, if the applicant is a partnership.
- (3) The name and address of each officer and director, if the applicant is a corporation.
- (4) A statement of the total acreage of the farm or premises.

(5) The name and address of the owner or owners of the premises.

B. Each application for a permit required by this article shall be accompanied by a complete plan satisfactorily showing the layout of the farm, the location, size and arrangement of all brood and shelter houses, feeding areas, feeding platforms and pens and the location of any lakes, ponds, streams, swamps or spring areas, upon or adjacent thereto, if there are any. The application shall state the type of construction of the brood and shelter houses and of the feeding platforms. The plan shall show the linear distance to the nearest highway or road and to the nearest dwelling house other than that occupied by the applicant, or by such applicant's employees, if any, residing on the premises.

§ 120-8. Investigation of application; issuance of permit.

A. Each application for a permit required by this article shall be filed with the Town Clerk, who shall thereupon transmit the same to the Health Officer. The Health Officer shall, after investigation, transmit the application to the Town Board, together with his written approval or disapproval thereof, or recommendations pertaining thereto. All applications shall, after such investigation, be approved or rejected by the Town Board, after which the application shall be filed with the Town Clerk, and the applicant notified, in writing, by the Town Clerk of the action taken thereon.

B. The Town Clerk, upon the written application for a license required by this article and upon the approval of the application by the Health Officer and by the Town Board, shall issue the permit sought to become effective from the date thereof and to continue in force for the term specified therein, but in no event longer than through the last day of December next succeeding, for the use of the premises therein specified for the keeping of swine. The permit shall specify the maximum number of swine to be kept on the premises at any one time, which number shall be based upon the acreage and facilities existing at the date of application. Such permit shall not be transferable or assignable.

§ 120-9. Compliance with other laws required.

The issuance of a permit pursuant to this article shall not be deemed to waive compliance by the holder thereof or by the property owner with any statute of the state or ordinance or health regulation of the Town.

§ 120-10. Requirements for keeping of swine.

A. Density of swine population. The density of swine population shall not exceed 30 swine per acre based upon the total acreage of the premises, and in no case shall the total number of swine housed, stabled, quartered or herded exceed 500 on any one premises.

B. Fencing. All premises shall be so fenced that swine shall be effectively prevented from leaving or escaping from such premises.

C. Distance from highways and dwellings. All shelter houses and feeding areas shall be at least 200 feet from the nearest highway and 200 feet from the nearest existing dwelling house other than the dwelling house occupied by the person keeping the swine or by any of his employees. Shelter houses and feeding areas shall not be deemed to include barns used for farrowing purposes.

D. Location of brood houses, feeding areas and shelter houses. All brood and shelter houses, together with the feeding area, shall be located on high ground that is well-drained and which does not become subject to flooding from nearby streams or by accumulated rain or surface water. In no case shall any brooding house, shelter house or feeding area be located so that manure or garbage from any brooding house, shelter house or feeding area may be washed over the surface of the ground to any lake, stream, swamp or spring area.

E. Pens. Individual pens shall be provided for each brood sow at farrowing time. The minimum size of the farrowing pens should be 36 square feet for gilts and 49 square feet for large sows.

F. Construction of brood and shelter houses. All brood and shelter houses shall be so constructed that all parts thereof are accessible for cleaning.

G. Feeding areas. All feeding areas shall be properly fenced in order to permit swine to be excluded from such areas so that the areas can be effectively cleaned.

H. Feeding platforms.

(1) Whenever garbage is fed to swine, watertight feeding platforms shall be provided in such feeding areas. The feeding platforms when made of lumber shall be on skids and have a rail six inches to eight inches high to prevent the garbage from being shoved off the platform. Concrete platforms can be provided with curbs six inches to eight inches high. The total area of the feeding platform to be provided shall not be less than three square feet

per swine based upon the maximum number of swine to be maintained. Each platform shall be sloped to permit drainage to one point so that liquids from the platform can be disposed of by means of a leaching bed. An adequate water supply shall be provided for washing and cleansing of the feeding platform, and such washing shall be disposed of beneath the surface of the ground through suitable leaching pits or subsurface absorption pits. After each daily feeding period, all refuse remaining on the platform together with that spilled on the surface of the ground shall be removed and shall be disposed of by one of the following methods:

(a) Placed in a trench or pit in the ground with at least four inches of soil immediately thrown over the refuse.

(b) Transported daily to the Town incinerator for burning.

(c) Placed in a pile at least 200 feet from any dwelling, residence or highway with at least four inches of soil immediately thrown upon the surface.

(2) The feeding platforms shall be cleaned immediately. Refuse from feeding pens or feeding platforms shall not be placed in piles or remain unburied or uncovered for periods exceeding 12 hours.

I. Handling of garbage collected for purpose of feeding swine. All containers used for transporting garbage through the Town shall be immediately cleaned after use thereof, and the cleaning water, together with the refuse therefrom, shall be disposed of as provided in Subsection H of this section. Garbage delivered to premises for the feeding of swine shall be forthwith placed upon the feeding platform or stored in airtight containers until it is fed to the swine as above provided. Garbage shall not be piled or stored upon the premises, except as provided in this section, for a period of more than one hour after delivery.

J. Immunization against hog cholera. All swine to which garbage is fed shall be immunized against hog cholera.

K. Disposal of manure. Manure, including animal droppings and bedding from all brood and shelter houses, shall be removed at least weekly and shall be properly and promptly disposed of. In the spring and fall months, disposal may consist of distributing it over farmlands that are used yearly for farm purposes. In cases where the manure from swine together with bedding is not distributed in the spring and fall months on lands used yearly for farm purposes, it shall then be disposed of as follows: It shall either be placed in

pits and trenches and immediately covered with not less than four inches of earth or it shall be scattered over the surface of the ground and plowed under within 24 hours. In no case shall such manure, together with bedding, be placed or scattered over the surface of the ground within 1,000 feet of any residence other than that of the holder of a permit issued pursuant to this article or that of an employee of such holder residing on the holder's premises, unless the manure and bedding is plowed under within 24 hours after being so scattered.

§ 120-11. Inspection.

The police officers of the Town, the Health Officer, the Chief Building Inspector and Zoning Coordinator and any other duly authorized agent or employee of the Town shall have the right at any reasonable time to enter upon premises on which swine are kept, and shall have the right at all times to inspect all parts of the premises.

§ 120-12. Revocation of permit.

If a police officer, Health Officer, Chief Building Inspector and Zoning Coordinator or any authorized representative of the Town finds that any premises upon which swine are kept is not being maintained in a clean and sanitary condition and in accordance with the provisions of this article, such facts shall be reported to the Town Board, and the Town Board may direct the Town Clerk to serve an order, in writing, upon the holder of the permit issued pursuant to this article or the person in charge of the premises, directing that the conditions therein specified be remedied within five days after the date of service of the order. If the conditions are not corrected after the expiration of the five-day period, the Town Board may cause a notice, in writing, to be served upon the holder of the permit or the person in charge of such premises, requiring the holder of the permit to appear before the Town Board at a time to be specified in the notice, and show cause why the permit issued pursuant to this article should not be revoked. The Town Board may, after a hearing at which the testimony of witnesses may be taken and the holder of the permit shall be heard, revoke the permit if the Town Board shall find that the premises are not being maintained in a clean and sanitary condition or if the Town Board finds that any provision of this article has been violated or for such other further and sufficient cause. Upon the revocation of the permit, the premises shall forthwith cease to be used for the keeping of swine, and all swine shall be removed therefrom.

§ 120-13. Renewal of permit; nontransferability.

Application for the renewal of any permit issued pursuant to this article shall be filed with the Town Clerk on or before the first day of December next preceding the expiration of the permit. Upon the approval of the application for a renewal of the permit by the Health Officer and the Town Board, the Town Clerk shall issue a renewal permit which shall become effective upon the expiration of the prior permit and continue in force for the term specified therein, but in no event longer than for a period of one year. The renewal permit shall not be transferred or assigned.

§ 120-14. Penalties for offenses; additional remedies.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person who violates any provision of this article shall be guilty of a violation against this article and shall be punishable as set forth in Chapter 1, General Provisions, Article III. In addition, the violation of this article or of any of the provisions thereof shall subject the person violating this article to a civil penalty not to exceed \$250, and, when a violation of this article or any of its provisions is continuous, each 24 hours thereof shall constitute a separate and distinct violation, which penalty shall be recovered by the Town in a civil action. The application of the penalties prescribed in this section or any prosecution for the violation of the provisions of this article shall not be deemed to prevent the revocation of any permit or the forcible removal of conditions prohibited by this article.

ARTICLE II. Control of Dogs and Cats

[Adopted 9-14-1982 by L.L. No. 5-1982 (Subpart 16 of the 1974 Code)]

§ 120-15. Title.

The title of this article shall be the "Animal Control Law of the Town of Guilderland."

§ 120-16. Purpose.

The Town Board of the Town of Guilderland enacts this article for the purpose of protecting the health, safety and well-being of persons and property by restraining the uncontrolled behavior of licensed and unlicensed dogs, for the purpose of providing for the care and disposition of abandoned, lost, strayed, homeless or unwanted animals and for the purpose of establishing fees for the issuance of dog licenses.

§ 120-17. Definitions.

As used in this article, the following words shall have the following respective meanings:

OWNER

A person entitled to claim lawful custody and possession of a dog or who at any time owns or has custody of or control of or harbors a dog or who is otherwise responsible for a dog, including a person who is the head of a household within which a dog is harbored or kept and claimed to be owned by a minor or any other person residing therein.

RUNNING AT LARGE

Being unrestrained in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

§ 120-18. Restrictions.

A. It shall be unlawful for any owner of any dog in the Town of Guilderland to permit or allow such dog to:

(1) Run at large unless accompanied by and under the control of its owner or a responsible person.

(2) Engage in habitual loud howling or barking or to conduct itself in such manner as to habitually disturb the comfort or repose of any person other than the owner of such dog.

(3) Uproot, dig or otherwise damage lawns, vegetables, flowers, garden beds or other property without the consent or approval of the owner thereof.

(4) Chase, jump upon or otherwise harass any person in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.

(5) Habitually chase or bark at motor vehicles.

(6) If a female when in heat, be off the owner's premises unrestrained by a leash.

(7) Deposit any fecal matter on any Town of Guilderland public roadway, gutter, sidewalk, public park or other public area, or private property without the consent of the landowner.

[Added 2-25-1997 by L.L. No. 2-1997]

(a) "Fecal matter" under this subsection is defined as all feces, excrement, manure, dung or solid waste matter discharged by a dog.

(b) It shall be the duty of each dog owner or person having possession, custody or control of a dog to remove said fecal matter from the above-described matters by gathering said fecal matter in a suitable container and disposing of in a safe and sanitary manner.

(c) The provisions of this subsection shall not apply to any individual who requires the use of a Seeing Eye dog, or any disabled persons who, because of their disability, cannot adhere to its requirements.

B. For the purpose of this article, a dog hunting in company with a hunter or hunters shall be considered as accompanied by its owner.

C. The provision of Subsection A(1) of this section shall not apply, however, in the case of a dog kept, maintained or harbored in any area of the Town of Guilderland zoned for agricultural use under the provisions of any ordinance or local law of the Town of Guilderland; provided, however, that no such owner shall permit or allow such dog to attack, chase, harass, molest, worry, injure or kill deer, cattle, horses, poultry or other livestock.

§ 120-19. Adoption; fee.

[Amended 10-1-2002 by L.L. No. 7-2002]

A. Any dog impounded and made available for adoption under the provisions of § 118 of the Agriculture and Markets Law, and any other animal seized under the provisions of § 120-23 of this article and not redeemed in accordance with the provisions for redemption of dogs under § 118 of the Agriculture and Markets Law, may be released from custody for adoption upon payment to the Town Clerk of a fee as set by resolution of the Town Board from time to time (the "adoption fee") and upon the following terms and conditions:

(1) The dog or cat has been spayed or neutered, the cost of which shall be paid by the person intending to adopt the dog or cat; or

(2) The person intending to adopt a dog or cat which has not yet reached sexual maturity has executed a written agreement with the Town of Guilderland, or its designee, to have the dog or cat spayed or neutered within 30 days of the dog or cat reaching six months of age and has deposited with the Town of Guilderland, or its designee, an amount of money, as determined by the Town of Guilderland, or its designee, from time to time, to insure that the dog or cat will be spayed or neutered as set forth in the written agreement (the "spay/neuter deposit").

B. For purposes of this section, the age of the animal at the time of adoption shall be determined by the Town of Guilderland Animal Shelter or Animal Control Officer that releases the animal for adoption, and such age shall be clearly written on the written agreement by the Town of Guilderland, or its designee, prior to the agreement being executed by the person adopting the animal.

C. Spay/Neuter deposits collected pursuant to Subsection A(2) of this section shall be refunded to the adopter upon presentation the Town of Guilderland, or its designee, of written documentation from a licensed veterinarian that the dog or cat has been spayed or neutered, provided that the animal has been spayed or neutered within the time specified in the written agreement, or that because of old age or other health reasons, as certified by a licensed veterinarian examining the dog or cat, spaying or neutering would endanger the animal's life.

D. The revenues from such adoption fees shall be used only for administering and enforcing this article and for the controlling of dogs and cats and enforcing the provisions of Article 7 of the New York State Agricultural Law.

E. Any spay/neuter deposit collected pursuant to Subsection A(2) of this section that is not claimed within 60 days after the animal has reached six months of age shall be deposited in the Animal Population Control Fund established pursuant to § 97-xx of the State Finance Law.

§ 120-20. License fees; local fees and penalties; exemptions.

[Amended 8-4-1998 by L.L. No. 9-1998]

A. In addition to the dog license fees established pursuant to Article 7 of the Agriculture and Markets Law of the State of New York, there shall be a Town of Guilderland local dog license fee in the amount of \$2.50 for each dog license issued. The fee shall apply to spayed, neutered, unsplayed and unneutered dog licenses.

B. The local penalty fee for failure to license a dog shall be \$150.

C. There shall be no local license fee for any license for any guide dog, hearing dog, service dog, war dog or police work dog.

D. The local dog license fee shall not be imposed on any dog license issued to an owner who is 65 years of age or older. In the event that the dog is

owned by more than one person, each such owner must be 65 years of age or older for this exemption to apply.

E. As authorized under the New York State Agriculture and Markets Law, the local license fees and penalties provided for herein shall be used for controlling dogs, subsidizing the spaying or neutering of dogs, subsidizing the Town's animal shelter, subsidizing public humane education programs in responsible dog ownership and enforcing Article 7 of the Agriculture and Markets Law, and any rule, regulation, local law or ordinance adopted pursuant thereto.

§ 120-21. Enforcement.

This article shall be enforced by an Animal Control Officer or police officer of the Town of Guilderland, and such officers shall have all of the powers conferred upon Animal Control Officers by Article 7 of the Agriculture and Markets Law of the State of New York. An Animal Control Officer or police officer observing a violation of this article in his presence shall issue and serve an appearance ticket for such violation. Any person who observes a dog in violation of this article may file a complaint under oath with a Town Justice of the Town of Guilderland specifying the nature of the violation, the date thereof, a description of the dog, and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

§ 120-22. Penalties for offenses.

[Amended 6-1-1999 by L.L. No. 5-1999]

Any person convicted of a violation of this article shall be deemed to have committed a violation and shall be subject to a penalty as set forth in Chapter 1, General Provisions, Article III. The penalties herein provided shall be in addition to those prescribed in § 119 of the Agriculture and Markets Law.

§ 120-23. Seizure of animals; liability for expenses.

Upon request or instruction from a police officer, the Animal Control Officer may seize any animal found abandoned or not properly cared for or lost, strayed, homeless or unwanted and cause the same to be examined by a licensed veterinary surgeon and destroyed pursuant to the provisions of § 374 of the Agriculture and Markets Law, or treated if such animal is found upon such examination to be not so maimed, diseased, disabled or infirm as to be unfit for any useful purpose; provided, however, that the Town of Guilderland shall not

be liable for any fees or expenses incurred in connection with any repair or treatment of such animal by such veterinary surgeon unless such repair or treatment shall be approved and authorized by the Chief Fiscal Officer of the Town of Guilderland.

CHAPTER 124. ASSEMBLIES, MASS PUBLIC

§ 124-1. Purpose.

§ 124-2. Definitions.

§ 124-3. Permit required; application.

§ 124-4. Time limitation.

§ 124-5. Revocation of permit.

§ 124-6. Penalties for offenses.

CHAPTER 124. ASSEMBLIES, MASS PUBLIC

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Subpart 9 of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 81.

Auctions — See Ch. 127.

Parks and recreation — See Ch. 212.

§ 124-1. Purpose.

The purpose of this chapter is to protect the public health, welfare, safety, peace and tranquillity by regulating mass gathering within the Town of Guilderland.

§ 124-2. Definitions.

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

MASS GATHERING

Any assemblage or gathering of people at a carnival, circus or other public amusement of a temporary nature to which a charge is made for admission or in connection with which a charge is made for the use or enjoyment of any facility.

§ 124-3. Permit required; application.

No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit shall have been issued therefor by the Supervisor of the Town of Guilderland as herein provided:

A. A permit under this section may be issued upon a written application by the person who will promote or hold the mass gathering, which application may be in letter form and shall identify the area and location of such mass gathering, the name and address of the person or persons holding or promoting the same, the date or dates thereof and such other information relating thereto as the Supervisor may require. Such application shall be accompanied by a permit issued by the appropriate permit-issuing official pursuant to the provisions of Section 7.5 of Chapter 1 of the State Sanitary Code and shall be further accompanied by copies of all plans, reports and specifications required in the issuance of said permit pursuant to the State Sanitary Code. Such application shall be further accompanied by such additional plans, reports, specifications and other matter as may be required by the Supervisor respecting the provisions of water supply and sewerage facilities, drainage, refuse storage and disposal facilities, sleeping areas and facilities, food service, medical facilities and fire protection. Such application shall further be accompanied by a copy of the performance bond filed pursuant to Section 7.34 of Chapter 1 of the State Sanitary Code.

B. Notwithstanding any of the provisions of this section, the Supervisor may in his discretion deny any application for such permit upon his determination that the police facilities of the Town of Guilderland are or would be insufficient or inadequate to fully protect the public safety and property or upon his determination that the public peace, tranquillity and good order is likely to be unduly disturbed.

§ 124-4. Time limitation.

No mass gathering authorized pursuant to the provisions of this chapter shall extend for a period in excess of seven consecutive days.

§ 124-5. Revocation of permit.

Any permit granted hereunder may be revoked by the Supervisor of the Town of Guilderland if he finds that the mass gathering for which the permit was issued is maintained, operated or occupied in violation of law or the Sanitary Code of the State of New York or of the health district in which such mass gathering takes place.

§ 124-6. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A failure to comply with the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a penalty as set forth in Chapter 1, General Provisions, Article III. For the purposes of this section, each day of a continuing violation shall be deemed a separate violation.

CHAPTER 127. AUCTIONS

§ 127-1. Definitions.

§ 127-2. Conformity required.

§ 127-3. Permit required for sale; fee.

§ 127-4. Application for permit.

§ 127-5. Inventory.

§ 127-6. Inspection of goods by Town Clerk.

§ 127-7. Duration of auction; intervals between auctions.

§ 127-8. Hours during which sales are prohibited.

§ 127-9. Misrepresentation.

§ 127-10. Revocation of permit.

§ 127-11. Penalties for offenses.

CHAPTER 127. AUCTIONS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Ch. 5 of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Mass public assemblies — See Ch. 124.

Peddling and soliciting — See Ch. 216.

§ 127-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

GOODS, WARES AND CHATTELS

Includes all commodities, compounds, chattels, merchandise, clocks, watches, jewelry and all other personal property, but shall not include used household furniture or furnishings, farm livestock or used farm machinery and equipment or real property.

SALE AT PUBLIC AUCTION

Does not include any sale pursuant to the judgment, decree or order of any court, or any sale made by an executor or administrator, or sales by public officers in the manner prescribed by law, or sales pursuant to

statute to satisfy any lien upon the property sold, or resale pursuant to statute of property taken under a conditional sales contract.

§ 127-2. Conformity required.

No public auctioneer and no person acting directly or indirectly through a public auctioneer within the town shall sell, dispose of or offer for sale at public auction, or cause or permit to be sold, disposed of or offered for sale at public auction, any goods, wares and chattels except in compliance with the provisions of this chapter.

§ 127-3. Permit required for sale; fee.

Any person intending to sell at public auction any goods, wares and chattels within the town shall make application to the Town Clerk for a permit to hold the sale at public auction and, at the time of making the application, shall pay a fee Editor's Note: See Ch. A285, Fees. as set by resolution of the Town Board from time to time, which is hereby established as the uniform fee for the issuance of a permit. If such permit is granted, the sale may be conducted as provided in this chapter.

§ 127-4. Application for permit.

An application for a permit required by this chapter shall be in writing, shall be verified and shall be filed not more than 20 nor less than 10 days before the commencement of any auction sale. It shall set forth the name and address of the applicant, the name and address of the public auctioneer and the exact location of the premises in which it is proposed to conduct the sale.

§ 127-5. Inventory.

A. There shall be attached to the application for a permit required by this chapter a written, sworn inventory showing in detail the quantity, quality, kind or grade of the goods, wares and chattels proposed to be sold and stating that no items or articles belonging to any person other than the applicant are included in the inventory. The affidavit to the inventory shall be made by the applicant if he is an individual or, if the applicant is a partnership, by one of the partners, or, if the applicant is a corporation, by the president, secretary, treasurer or general manager thereof.

B. It shall be unlawful for any auctioneer or any other person through an auctioneer to sell, dispose of or offer to sell or dispose of any goods, wares and chattels at a sale at public auction, which goods, wares and chattels have

not been included and described in the inventory filed with the application for a permit required by this chapter to hold the sale.

§ 127-6. Inspection of goods by Town Clerk.

The Town Clerk, before issuing a permit required by this chapter, shall have the right to personally examine the goods, wares and chattels specified in the inventory filed pursuant to this chapter, to determine whether the inventory correctly sets forth the items to be sold.

§ 127-7. Duration of auction; intervals between auctions.

No permit shall be issued pursuant to this chapter to conduct a sale at public auction for a longer period than three consecutive days, Sundays and legal holidays excepted, at any one place in the town. A period of at least 365 days must have elapsed after the conclusion of any auction sale conducted after October 4, 1955, before another permit shall be issued to the same applicant or to any other person for a sale to be conducted at the same place.

§ 127-8. Hours during which sales are prohibited.

No permit shall be issued pursuant to this chapter, and it shall be unlawful, for any public auctioneer or other person to conduct a sale at public auction in the town between the hours of 5:30 p.m. and 10:00 a.m.

§ 127-9. Misrepresentation.

It shall be unlawful for any public auctioneer or any other person to make a printed or oral statement concerning the goods, wares and chattels which are the subject of a sale at public auction, if the statement is false in any particular or has a tendency to mislead any person present, or to misrepresent the quality, quantity, character, condition, value or cost of any such goods, wares and chattels which are the subject of the sale at public auction.

§ 127-10. Revocation of permit.

For any violation of the provisions of this chapter, the Town Clerk may revoke any permit granted or issued pursuant to this chapter for the conduct of any sale at public auction and, if it appears to the Town Clerk that any sale at public auction does in fact defraud or may defraud bidders thereat, the permit to conduct a sale at public auction may be revoked, notwithstanding that any such violation be not specifically shown or proven to the Town Clerk.

§ 127-11. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person violating this chapter shall be guilty of an offense and, upon conviction thereof, shall be subject to a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 131. BICYCLES

§ 131-1. Helmet requirements.

§ 131-2. Bicycle passengers.

§ 131-3. Violations; safety training; civil penalty.

§ 131-4. Waiver of fines.

§ 131-5. Violations.

§ 131-6. When enforcement becomes effective.

§ 131-7. Legislative findings.

CHAPTER 131. BICYCLES

[HISTORY: Adopted by the Town Board of the Town of Guilderland 4-20-1993 by L.L. No. 2-1993 (Subpart 2, Div. 10, Art. II, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 81.

Motorcycles — See Ch. 200.

Parks and recreation — See Ch. 212.

Snowmobiles — See Ch. 232.

Vehicles and traffic — See Ch. 267.

§ 131-1. Helmet requirements.

No person under the age of 14 years shall operate a two-wheeled bicycle unless such person is wearing a helmet meeting the standards of the American National Standards Institute (ANSI z 90.4 Bicycle Helmet Standards) or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling. For the purposes of this section, "wearing a helmet" means having a helmet of good fit fastened securely upon the head with the helmet straps.

§ 131-2. Bicycle passengers.

No person operating a bicycle shall allow a person one or more years of age and less than 14 years of age to ride as a passenger on a bicycle unless:

A. Such passenger is wearing a helmet meeting the standards of the American National Standards Institute (ANSI z 90.4 Bicycle Helmet Standards) or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for use in Bicycling. For the purposes of this section, "wearing a helmet" means having a helmet of good fit fastened securely upon the head with the helmet straps; and

B. Such passenger is in place in a separate seat attached to the bicycle and such seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle.

§ 131-3. Violations; safety training; civil penalty.

A. Any person who violates the provisions of § 131-1 of this chapter and any person under the age of 16 who violates the provisions of § 131-2 of this chapter shall attend a mandatory bicycle safety seminar and provide proof of purchase or rental of a bicycle helmet which meets the standards set out herein. The safety training will be provided by the Traffic Safety Unit of the Guilderland Police Department.

B. Any person 16 years of age and older who violates the provisions of § 131-2 of this chapter shall pay a civil fine not to exceed \$50.

§ 131-4. Waiver of fines.

The court shall waive any fine for which a person who violates the provisions of § 131-1 or 131-2A if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet which meets the requirements of § 131-2A of this chapter. Further, the court shall waive any fine for which a person who violates the provisions of § 131-2B of this chapter if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a seat which meets the requirements of § 131-2B of this chapter. Such waiver shall not apply to a second or subsequent conviction under § 131-1, 131-2A or B of this chapter.

§ 131-5. Violations.

Any person who is in violation of § 131-1 or 131-2 of this chapter may be temporarily detained and issued a verbal warning by any law enforcement official authorized to enforce this regulation for a first offense.

§ 131-6. When enforcement becomes effective.

For the purposes of informing and educating persons who operate bicycles in this town, this chapter shall not be enforced until four months after the effective date of this chapter.

§ 131-7. Legislative findings.

It is the findings of the Town Board that with the continuing growth of population in the town, there has been a concomitant growth in the usage of bicycles by young people and a growth in the amount of vehicular traffic in general on highways within the town. With more people using bicycles and with more traffic on the highways within the town, a greater danger has been presented to the young people in town, especially from debilitating head injury resulting from bicycle accidents. For these reasons, and upon the authority of General Municipal Law § 180 and the other statutes and laws, rules and regulations of the State of New York, it is the finding of the Town Board that an educational program in the usage of bicycle helmets for persons under the age of 14 and in the safety requirements for multiple riders on bicycles is in the best interest of the residents of the town and that said chapter contain appropriate penalties for the violation thereof.

CHAPTER 135. BINGO

§ 135-1. Definitions.

§ 135-2. Authorized games; license required.

§ 135-3. Application for license; contents.

§ 135-4. Action on application; issuance of license.

§ 135-5. Procedure for denial or amendment of license.

§ 135-6. Remittance of portion of license fees to state.

§ 135-7. Form and contents of license; display of license.

§ 135-8. License period.

§ 135-9. Conduct of games.

§ 135-10. Participation by underage persons.

§ 135-11. Frequency of games.

§ 135-12. Alcoholic beverages prohibited.

§ 135-13. Persons authorized to conduct games; use of equipment and premises.

§ 135-14. Admission fees; prizes.

§ 135-15. Advertising.

§ 135-16. Accounting of revenue.

§ 135-17. Examination of books; investigations.

§ 135-18. Authority of Town Board; suspension and revocation of licenses.

§ 135-19. Delegation of authority by Town Board.

§ 135-20. Appeals from determinations of Town Board.

§ 135-21. Immunity from prosecution; limitation.

§ 135-22. Violations; penalties for offenses.

CHAPTER 135. BINGO

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Ch. 3, Art. II, of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 116.

Games of chance — See Ch. 185.

Zoning — See Ch. 280.

§ 135-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

AUTHORIZED ORGANIZATION

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

BINGO or GAME

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

CONTROL COMMISSION

The State Racing and Wagering Board.

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

LICENSE

A license issued pursuant to the provisions of this chapter.

§ 135-2. Authorized games; license required.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It shall be lawful for any authorized organization, upon obtaining a license therefor as provided in this chapter, to conduct the game of bingo within the territorial limits of the town, subject to the provisions of this chapter, the provisions of Article 14-H of the General Municipal Law, as amended, and the provisions of the State Bingo Control Law. Editor's Note: See Article 19-B of the Executive Law.

§ 135-3. Application for license; contents.

A. Each applicant for a license required by this chapter shall file with the Town Clerk a written application therefor in the form prescribed in the rules and regulations of the control commission, duly executed and verified, in which shall be stated the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable the Town Board to determine whether or not it is a bona fide authorized organization; the names and addresses of its officers; the specific kinds of games of chance intended to be held, operated and conducted by the applicant, and the proposed location; the date or dates and the time or times when the games are intended to be held, operated and conducted by the applicant under the license applied for; the items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games and the names and addresses of the persons to whom, and the purposes for which, they are to be paid; the specific purposes to which the entire net proceeds of the games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for holding, operating or conducting such game or for assisting therein except as in this chapter otherwise provided; that no prize or aggregate of prizes will be offered or given under such license of a value in excess of the sum or value authorized to be offered or given by this chapter; a description of all prizes to be offered and given in all such games of chance to be held, operated and conducted under the license; and such other information as shall be prescribed by such rules and regulations.

B. In each application for a license required by this chapter, there shall be designated an active member or members of the applicant organization under whom the game described in the application is to be held, operated and conducted, and to the application shall be appended a statement executed by the applicant and by the member or members so designated, that he or they will be responsible for the holding, operation and conduct of such games in accordance with the terms of the license and the provisions of the rules and regulations governing the holding, operation and conduct of such games and of this chapter, if the license is granted.

C. In the event that any premises, upon which any game is to be held, operated or conducted or which is to be used for any other purpose in connection with the holding, operating or conducting thereof, is to be leased from any person, a written statement shall accompany the application signed and verified under oath by such person or, if a corporation, executed and verified under oath on behalf of such corporation, stating his address and the amount of rent which will be paid for such premises and that such lessor, or if

a corporation all of its officers and each of its stockholders who hold 10% or more of its stock issued and outstanding, are of good moral character and have not been convicted of a crime.

§ 135-4. Action on application; issuance of license.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Town Board shall make an investigation of the qualifications of each applicant for a license required by this chapter and the merits of each application, with due expedition after the filing of the application and, if it shall determine that the applicant is duly qualified to be licensed under this chapter to hold, operate and conduct games under the provisions of this chapter and the rules and regulations governing the holding, operation and conduct thereof in the town; that the member or members of the applicant designated in the application to hold, operate or conduct the games are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime; that such games are to be held, operated and conducted in accordance with the provisions of this chapter and in accordance with the rules and regulations governing the holding, operation and conduct thereof and that the proceeds thereof are to be disposed of as provided by this chapter and, if the Town Board is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games of chance except as otherwise provided in this chapter; and that no prize will be offered and given in excess of the sum or value of \$1,000 in any single game of chance and that the aggregate of all prizes offered and given in all of such games of chance held, operated and conducted on a single occasion under the license shall not exceed the sum or value of \$3,000, it shall issue a license to the applicant for the holding, operation and conduct of the specific kinds of games applied for, accordingly, upon payment of a license fee or fees as set by resolution of the Town Board from time to time for each occasion upon which any games are to be conducted under the license.

§ 135-5. Procedure for denial or amendment of license.

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

B. Any license issued under this chapter may be amended, upon application made to the governing body of the town which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included

in the original license and upon payment of such additional license fee, if any, as would have been payable if it had been so included.

§ 135-6. Remittance of portion of license fees to state.

On or before the 30th day of each month, the Town Clerk shall transmit to the State Comptroller a sum equal to 50% of all license fees collected by the town pursuant to this chapter during the preceding calendar month.

§ 135-7. Form and contents of license; display of license.

Each license issued pursuant to this chapter shall be in such form as shall be prescribed in the rules and regulations promulgated by the control commission and shall contain a description of the games authorized to be held, operated and conducted thereunder, a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom such games will be held, operated and conducted, or the number of times, or the hours during which, such games are authorized to be conducted and the place or places where and the date or dates and time or times when such games are to be conducted and of the specific purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be offered and given in cash, a statement of the amounts of the prizes authorized so to be offered and given; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any game shall be conspicuously displayed at the place where the same is to be conducted at all times during the conduct thereof.

§ 135-8. License period.

No license required by this chapter for the holding, operation and conduct of any game shall be issued under this chapter which shall be effective for a period of more than one year.

§ 135-9. Conduct of games.

Any game licensed pursuant to this chapter shall be subject to the following restrictions in addition to such other restrictions as may be provided in this chapter or contained in the rules and regulations of the control commission:

- A. No person other than a licensee under the provisions of Article 14-H of the General Municipal Law shall conduct a game or shall lease or otherwise

make available for conducting bingo a hall or other premises for any consideration whatsoever, directly or indirectly.

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

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

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

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

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

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

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

I. No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law
Editor's Note: See Article 19-B of the Executive Law. or from another authorized organization.

§ 135-10. Participation by underage persons.

Editor's Note: Original Sec. 3.26, Conduct of games on Sunday, which immediately preceded this section, was repealed 2-24-1982. No person under the age of 18 years shall be permitted to participate in any game or games of chance held, operated or conducted pursuant to any license issued under this chapter unless accompanied by an adult.

§ 135-11. Frequency of games.

No game shall be held, operated or conducted under any license issued under this chapter more often than six days in any one calendar month.

§ 135-12. Alcoholic beverages prohibited.

No game shall be held, operated or conducted in any room or outdoor area where alcoholic beverages are sold or served during the playing of the games.

§ 135-13. Persons authorized to conduct games; use of equipment and premises.

A. No person shall hold, operate or conduct any game under any license issued under this chapter except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game under such license except an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or a member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as provided in this section.

B. No game shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee under this chapter, and no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game held, operated or conducted pursuant to any license issued under this chapter, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof under any circumstances whatever; no rental shall be paid for the use of any premises for holding, operating or conducting any such game of chance thereon or for any other purpose in connection with the holding, operating or conducting thereof unless the amount of such rental is stated in a statement annexed to the application for the license as provided in § 480 of Article 14-H of the General Municipal Law, or which is in excess of the sum stated as the rental to be charged therefor in such statement; and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting, or assisting in the holding, operation or conduct of any game of chance so held, operated or conducted, except that reasonable

compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of compensation prescribed by the rules of the control commission. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 135-14. Admission fees; prizes.

A. A fee as set by resolution of the Town Board from time to time shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be held, operated and conducted under any license issued under this chapter, which admission fee, upon payment thereof, shall entitle the person paying the same to a card entitling him to participate without additional charge in all regular games of chance to be played under such license on such occasion, and no charge in excess of the fee as set by resolution of the Town Board from time to time shall be made for a single opportunity to participate in all special games to be played under the license on such occasion.

B. No prize greater in amount or value than \$1,000 shall be offered or given in any single game conducted under any license and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed \$3,000, and all winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any such game. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 135-15. Advertising.

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

§ 135-16. Accounting of revenue.

Within 15 days after the conclusion of the holding, operating and conducting of any game under this chapter, the authorized organization which held, operated or conducted the game and its members who were in charge thereof shall furnish to the Town Clerk a duly verified statement showing the amount of the gross receipts derived from each game of chance, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate therein, each item of expense incurred, or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net profit derived from each such game of chance, and the use to which such net profit has been or is to be applied and a list of prizes offered and given, with the respective value thereof, and it shall be the duty of such licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

§ 135-17. Examination of books; investigations.

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

§ 135-18. Authority of Town Board; suspension and revocation of licenses.

A. The Town Board issuing any license under this chapter shall have and exercise control and supervision over all games held, operated or conducted under such license, to the end that the games are fairly held and operated and conducted in accordance with the provisions of the license, the rules and regulations promulgated by the control commission and the provisions of this chapter.

B. The Town Board and the control commission shall have the power and authority to suspend any license issued by it and to revoke the license, after notice and hearing, for violation of any such provision, and shall have the

right of entry, by their respective officers and agents, at all times into any premises where any game is being held, operated and conducted or where it is intended that any game shall be held, operated and conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

§ 135-19. Delegation of authority by Town Board.

The Town Board may delegate to an officer or officers thereof designated by it for that purpose any of the authority granted to it by this chapter in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

§ 135-20. Appeals from determinations of Town Board.

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

§ 135-21. Immunity from prosecution; limitation.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1). No person or corporation lawfully conducting, or participating in the conduct of; possessing, selling or in any manner disposing of any shares, tickets or rights to participate in; or permitting the conduct upon any premises owned by him of any game conducted or to be conducted under any license lawfully issued pursuant to this chapter shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this chapter. However, this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of chance under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him or it of any game conducted under any

license known to him or it to have been obtained by any such false pretense or statement.

§ 135-22. Violations; penalties for offenses.

Any person who shall make any false statement in any application for any license required by this chapter or in any statement annexed thereto, or who shall pay any rental for the use of any premises for holding, operating or conducting any game under this chapter or for any other purpose in connection with the holding, operating or conducting thereof, unless the amount of the rental is stated in a statement annexed to the application for the license as provided in this chapter, or who shall pay or receive any sum for such rental in excess of the sum stated as the rental to be charged therefor in the statement executed by him, or who shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating and conducting of games under any license or shall falsify or make any false entry in any book or record so far as they relate to any transaction connected with the holding, operating or conducting of any game under any license, or shall violate any of the provisions of this chapter or of any term of a license shall be guilty of a class A misdemeanor and shall forfeit any license issued to him under this chapter and be ineligible to apply for a license under this chapter for one year thereafter and, in addition thereto, shall be punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

CHAPTER 140. BUILDING PERMITS

ARTICLE I. Permits

§ 140-1. When required.

§ 140-2. Application.

§ 140-3. Fees.

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ARTICLE II. Certificate of Occupancy

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§ 140-10. Issuance; contents.

§ 140-11. Temporary certificate.

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CHAPTER 140. BUILDING PERMITS

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

GENERAL REFERENCES

Building Department — See Ch. 17.

Unsafe buildings — See Ch. 145.

Fire prevention and building construction — See Ch. 171.

Flood damage prevention — See Ch. 177.

Subdivision of land — See Ch. 247.

Zoning — See Ch. 280.

ARTICLE I. Permits

[Adopted 6-11-1974 as Ch. 6, Art. II, Div. 3, of the 1974 Code]

§ 140-1. When required.

No person shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit therefor from the Building Department for each such building or structure; however, no building permit shall be required for the performance of ordinary repairs which are not structural in nature.

§ 140-2. Application.

A. Application for a building permit required by this article shall be made to the Chief Building Inspector and Zoning Coordinator on forms provided by the Building Department, and shall contain the following information:

- (1) A description of the land on which the proposed work is to be done.
- (2) A statement of the use or occupancy of all parts of the land and of the building or structure.
- (3) The valuation of the proposed work.
- (4) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers if either of them is a corporation.
- (5) A brief description of the nature of the proposed work.

(6) A duplicate set of plans and specifications as set forth in Subsection C of this section.

(7) Such other information as may reasonably be required by the Chief Building Inspector and Zoning Coordinator to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.

B. Application for a building permit required by this article shall be made by the owner or lessee, or the agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where the application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make the application.

C. Plan.

(1) Each application for a building permit required by this article shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distances from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys and, where required by the Chief Building Inspector and Zoning Coordinator, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.

(2) Plans and specifications shall bear the signature of the person responsible for the design and drawings.

(3) The Chief Building Inspector and Zoning Coordinator may waive the requirement for filing plans.

D. Amendments to the application for a building permit required by this article or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Chief Building Inspector and Zoning Coordinator.

§ 140-3. Fees.

Upon the filing of an application for a building permit, a fee shall be payable therefor in accordance with such schedule of fees as shall from time to time be adopted by the Town Board by order, rule or resolution.

§ 140-4. Issuance or denial.

A. The Chief Building Inspector and Zoning Coordinator shall examine or cause to be examined all applications for building permits required by this article and the plans, specifications and documents filed therewith; he shall approve or disapprove the application within a reasonable time.

B. Upon approval of the application for a building permit required by this article and upon receipt of the legal fees therefor, the Chief Building Inspector and Zoning Coordinator shall issue the building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto. The issuance of all building permits shall be in compliance with the provisions of §§ 279 and 280-a of the Town Law.

C. Upon approval of the application for a building permit required by this article, both sets of plans and specifications shall be endorsed with the word "approved." One set of approved plans and specifications shall be retained in the files of the Building Department and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site, open to inspection by the Chief Building Inspector and Zoning Coordinator or his authorized representative at all reasonable times.

D. If the application for a building permit required by this article, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all of the requirements of the applicable building regulations, the Chief Building Inspector and Zoning Coordinator shall disapprove the application and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Chief Building Inspector and Zoning Coordinator shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant, in writing.

§ 140-5. Performance of work under permit.

A. A building permit issued pursuant to this article shall be effective to authorize the commencement of work in accordance with the application for the permit and the plans and specifications on which the permit is based for a period of six months after the date of its issuance. For good cause, the Chief Building Inspector and Zoning Coordinator may allow a maximum of two extensions for periods not exceeding three months each.

B. The issuance of a building permit pursuant to this article shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications, except that no building permit shall be valid insofar as it authorizes the performance of work or the use of materials which are not in accordance with the requirements of the applicable building regulations.

§ 140-6. Revocation.

The Chief Building Inspector and Zoning Coordinator may revoke a building permit issued and approved pursuant to this article in the following instances:

- A. Where he 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 finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;
- C. Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Chief Building Inspector and Zoning Coordinator.

§ 140-7. Penalties for offenses.

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

- A. Penalty. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or by imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed six months,

or both. Each week's continued violation shall constitute a separate additional violation.

B. Alternative penalty. In case of any violation of any of the provisions of this chapter or conditions imposed by the Planning Board or Zoning Board of Appeals in addition to the penalties herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land and to prevent any illegal act, conduct or business use in or about such premises.

ARTICLE II. Certificate of Occupancy

[Adopted 6-11-1974 as Ch. 6, Art. II, Div. 4 of the 1974 Code]

§ 140-8. When required.

A. No building erected after January 27, 1962, shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued therefor by the Chief Building Inspector and Zoning Coordinator.

B. No building enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit after January 27, 1962, shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued therefor by the Chief Building Inspector and Zoning Coordinator.

C. No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy shall have been issued by the Chief Building Inspector and Zoning Coordinator.

§ 140-9. Inspection prerequisite to issuance; records.

A. Before issuing a certificate of occupancy required by this article, the Chief Building Inspector and Zoning Coordinator 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 of occupancy; and he may conduct such inspections as he 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 in the Building Department a record of all such examinations and inspections together with a record of findings of violations of the law.

§ 140-10. Issuance; contents.

A. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable provisions of this chapter and other building laws, ordinances and regulations and in accordance with the application, plans and specifications filed in connection with the issuance of the building permit required by Article I, the Chief Building Inspector and Zoning Coordinator shall issue the certificate of occupancy required by this article upon the form provided by him. If it is found that the proposed work has not been properly completed, the Chief Building Inspector and Zoning Coordinator shall refuse to issue the certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

B. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable provisions of this article and other building laws, ordinances and regulations, and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

§ 140-11. Temporary certificate.

Upon request, the Chief Building Inspector and Zoning Coordinator may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed, if such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

§ 140-12. Penalties for offenses.

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

A. Penalty. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or by imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed

within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

B. Alternative penalty. In case of any violation of any of the provisions of this chapter or conditions imposed by the Planning Board or Zoning Board of Appeals in addition to the penalties herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land and to prevent any illegal act, conduct or business use in or about such premises.

CHAPTER 143. BUILDINGS, NUMBERING OF

§ 143-1. Legislative intent.

§ 143-2. Definitions.

§ 143-3. Enumeration required.

§ 143-4. Assignment of numbers.

§ 143-5. Size and display of numbers.

§ 143-6. Display of other numbers prohibited.

§ 143-7. Time limit for compliance.

§ 143-8. Responsibility for enforcement.

§ 143-9. Notice; civil penalty; numbering by town.

§ 143-10. Variances.

§ 143-11. Penalties for offenses.

CHAPTER 143. BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-9-1992 by L.L. No. 1-1992 (Subpart 17, Div. 3, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building Department — See Ch. 17.

Police Department — See Ch. 81.

Building permits — See Ch. 140.

§ 143-1. Legislative intent.

In order to facilitate the location of buildings along the various roads and highways by fire, police and other emergency services, and to facilitate the reporting of emergencies and dispatching of emergency vehicles and personnel under the county 911 system, the Town Board does hereby deem the enumeration of all buildings to be of major importance for all of the Town of Guilderland. In order to effectuate the efficient and accurate enumeration of buildings, the Town Board hereby enacts this chapter.

§ 143-2. Definitions.

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

BUILDING

The principal building or buildings on each lot, and shall not be deemed to include any minor building.

§ 143-3. Enumeration required.

All buildings in the Town of Guilderland existing and those hereafter constructed will have displayed either upon said building or at the driveway entrance thereto a number uniquely identifying said building's location on any given road or highway.

§ 143-4. Assignment of numbers.

The Assessor of the town shall, within 90 days of the effective date of this chapter, notify all property owners of the numbers assigned to any building already existing. The Assessor will assign a number to any new building after the issuance of a building permit and prior to the issuance of a certificate of occupancy. Any new certificate of occupancy issued after the effective date of this chapter shall have written upon its face the building number and street name upon which it is located.

§ 143-5. Size and display of numbers.

A. The figure or figures comprising the number to be displayed on a building shall be at least three inches in height and shall be placed on the front of said building in a prominent and conspicuous place and in such manner as to be plainly legible from the center of the street at all times between sunrise and sunset. The color of said figures shall be in sharp contrast to the color of their background; provided, however, that so far as the purpose or intent of this chapter is concerned, the front of a building shall be construed as that side of the building which faces the street on which the number or numbers of such

building or premises have been allotted and that the number or numbers shall be displayed on such side of such building or premises.

B. The numbers shall be so placed so that they will not be obstructed by trees, shrubbery, porches or other extensions of the building.

C. Wherever practicable, said number shall be placed near some light or source of illumination so that it may be readily seen at night.

D. Where the building upon which the number is to be displayed is more than 75 feet from the edge of the right-of-way, whether improved or not, of the street or road serving the building, the number shall, in addition to the other requirements of this chapter, be displayed on a sign readily visible from the road or street and in no event further back than 25 feet from said road or street right-of-way.

§ 143-6. Display of other numbers prohibited.

Each separate building or dwelling shall be assigned a separate distinguishing number by the Town Board of the Town of Guilderland in conformity with a uniform numbering system encompassing the entire town. The display of any house number other than the number assigned by the town is expressly prohibited.

§ 143-7. Time limit for compliance.

All existing structures in the town to which numbers are assigned by the Assessor shall be required to display the assigned number in the manner required by § 143-5 hereof within six months of the assignment of a number by the Assessor. Any structures for which a certificate of occupancy is issued after the effective date of this chapter will be required to be in compliance with the provisions hereof upon issuance of the certificate of occupancy.

§ 143-8. Responsibility for enforcement.

The Chief Building Inspector and Zoning Coordinator is hereby declared to be responsible for the enforcement of this chapter. The Chief Building Inspector and Zoning Coordinator will cause all property owners to be in compliance.

§ 143-9. Notice; civil penalty; numbering by town.

A. Any property owner found not to be in compliance with any provision herein shall be given a ten-day notice to remedy said violation.

B. Any property owner that fails to comply with said notice shall be liable for a civil penalty in the sum of up to \$250 for each week that the violation shall exist following the issuance of notice to remedy. The penalty herein is declared to be civil in nature.

C. Service of notice. The notice provided for a Subsection A may be given by personal service or by mailing a copy thereof to the last known address of the owner.

D. Numbering of building by town. In the event of the neglect or refusal of any owner, after notice to cause said building to be properly numbered, the Chief Building Inspector and Zoning Coordinator may cause said building to be properly numbered.

E. Report; assessment of costs. The Chief Building Inspector and Zoning Coordinator shall report the cost of numbering said building to the Town Board, and such Board shall order the Assessor to assess the cost of the same upon such premises, and the Assessor shall include the same in the next assessment role.

§ 143-10. Variances.

Upon the application of any person, the Supervisor, or his designee, may vary or modify the requirements contained herein upon such terms and conditions as he deems appropriate. There shall be no appeal from the decision of the Supervisor on an application made under this section.

§ 143-11. Penalties for offenses.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person or persons who shall violate any provisions of this chapter shall be guilty of an offense punishable as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 145. BUILDINGS, UNSAFE

§ 145-1. Stop orders.

§ 145-2. Right of entry of official personnel.

§ 145-3. Tests to determine compliance.

§ 145-4. Unsafe buildings defined; inspection; notice to owner; emergency repair or removal by town; costs and expenses.

§ 145-5. Unlawful acts; penalties for offenses.

§ 145-6. Abatement of violations.

CHAPTER 145. BUILDINGS, UNSAFE

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Ch. 6, Art. II, Div. 1, of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building Department — See Ch. 17.

Building permits — See Ch. 140.

Fire prevention and building construction — See Ch. 171.

§ 145-1. Stop orders.

Whenever the Chief Building Inspector and Zoning Coordinator has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable provisions of this chapter or other building laws, ordinances or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he shall notify the owner of the property, the owner's agent or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. The order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the order and notice upon a conspicuous portion of the building under construction and sending a copy thereof by registered mail.

§ 145-2. Right of entry of official personnel.

Any employee of the Department of Buildings or any member of a fire department or fire company specially authorized by the Chief Building Inspector and Zoning Coordinator to do so, upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

§ 145-3. Tests to determine compliance.

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform with the requirements of the applicable provisions of this chapter and other building laws, ordinances or

regulations, the Chief Building Inspector and Zoning Coordinator may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 145-4. Unsafe buildings defined; inspection; notice to owner; emergency repair or removal by town; costs and expenses.

A. All buildings or structures which are structurally unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are, severally, for the purpose of this section, unsafe buildings. All unsafe buildings are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure of this section.

B. The Chief Building Inspector and Zoning Coordinator shall examine or cause to be examined every building reported as unsafe or damaged, and shall make a written record of such examination.

C. Whenever the Chief Building Inspector and Zoning Coordinator shall find any building or structure, or portion thereof, to be an unsafe building, he shall, in the manner as provided for the service of stop orders in this chapter, give to the owner, agent or person in control of the building or structure written notice stating the defects thereof, which notice shall thereafter be mailed, by registered mail, to the owner or one of the owners of said building and shall be posted on the premises. The notice shall require the owner within a stated time either to complete specified repairs or improvement, or to demolish and remove the building or structure, or portion thereof. The notice shall further state that upon failure of the owner, agent or person in control of the building to repair or demolish the building within the time specified, a hearing will be held before the Town Board at a time and place specified in the notice. The notice shall further contain a statement to the effect that in the event that the building is not so repaired or demolished within such time as the Town Board upon such hearing may determine, the town may then cause such building or structure to be removed. The notice prescribed in this Subsection C may be filed in the office of the Albany County Clerk in the manner and with the effect as provided in Subdivision 16 of § 130 of the Town Law of the State of New York, as amended.

[Amended 11-11-1980 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). **]**

D. If the Chief Building Inspector and Zoning Coordinator finds that there is actual and immediate danger of failure or collapse so as to endanger life, the notice given pursuant to Subsection C shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Chief Building Inspector and Zoning Coordinator. The Chief Building Inspector and Zoning Coordinator shall cause to be posted at each entrance to such building a notice, as follows: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING DEPARTMENT." The notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person or his agents or servants to remove such notice without written permission of the Chief Building Inspector and Zoning Coordinator, or for any person to enter the building except for the purpose of making the required repairs or demolishing it.

E. Editor's Note: Former Subsection E, dealing with surveys and reports, was repealed 11-11-1980, and former Subsections F and G redesignated as Subsections E and F, respectively. In cases of an emergency which, in the opinion of the Chief Building Inspector and Zoning Coordinator, involve imminent danger to human life or health, he shall promptly cause a dangerous building, structure or portion thereof to be made safe or removed. For this purpose, he may at once enter the structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary; he may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private way.

F. Costs and expenses incurred by the Chief Building Inspector and Zoning Coordinator under Subsections C and E of this section, including the cost of demolishing and removing any building or structure pursuant to this section, shall be a town charge and shall be assessed against the land on which such building or structure is located.

[Amended 5-11-1976; 11-11-1980]

§ 145-5. Unlawful acts; penalties for offenses.

A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure, or portion thereof, in violation of any provision of this chapter or to fail in any manner to comply with a notice, directive or order of the Chief Building Inspector and Zoning Coordinator, or to construct, alter or use and occupy any building or

structure, or part thereof, in any manner not permitted by an approved building permit or certificate of occupancy. It shall be unlawful for any person to install or cause to be installed or to alter any electrical wiring for light, heat or power in any structure until an application for inspection has been filed with the New York Board of Fire Underwriters or other qualified inspection agency approved by the town. It shall be unlawful for any person to connect or cause to be connected any electrical wiring in any structure for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters or other qualified inspection agency approved by the town.

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

B. Any person who shall fail to comply with a written order of the Building Department within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter, or any lawful order, notice, directive, permit or certificate of the Building Department made thereunder, shall be punishable by a fine of not more than \$500 or 30 days in jail, or both. Each day that a violation continues shall be deemed a separate offense.

C. Except as provided otherwise by law, a violation of this chapter shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness or otherwise of any person convicted thereof.

D. This section shall not apply to violations of the provisions of the Uniform Fire Prevention and Building Code punishable under § 382 of the Executive Law of the state, nor to violations of the provisions of the Multiple Residence Law punishable under § 304 of the Multiple Residence Law of the state.

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

§ 145-6. Abatement of violations.

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 for a violation prescribed in this chapter.

CHAPTER 166. FIREARMS

§ 166-1. Definitions.

§ 166-2. Prohibition on use and possession of firearms.

§ 166-3. Posting of notices.

§ 166-4. Penalties for offenses.

CHAPTER 166. FIREARMS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 12-10-1985 by L.L. No. 2-1985 (Subpart 11, Div. 3, Art. II, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 81.

§ 166-1. Definitions.

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

FIREARM

A firearm as defined by the New York State Department of Environmental Conservation in Section 180.3 of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR 180.3).

PINE BUSH PRESERVE

That area of land owned by the State of New York and bounded by the following points:

Beginning at the intersection of Siver Road and Willow Street, thence proceeding in a generally northerly direction along Siver Road to its intersection with Lydius Street east, thence proceeding in a generally easterly direction along Lydius Street east to its intersection with Old State Road, thence proceeding in a generally northeasterly direction along Old State Road to its intersection with the Corporation limits of the City of Albany, thence in a generally southwesterly direction along the corporation limits of the City of Albany to the intersection of Willow Street and Siver Road.

§ 166-2. Prohibition on use and possession of firearms.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No person shall discharge a firearm within the Pine Bush Preserve, except police officers during the exercise of their duties.

§ 166-3. Posting of notices.

A. Areas protected by this chapter shall be posted with signs not less than 11 inches square. Such notices shall be posted not more than 500 feet apart, close to and along the boundaries of the area protected. At least one notice shall be posted on each side and one at each corner of the protected area, provided that the corner can be reasonably ascertained. Illegible or torn-down notices shall be replaced at least once a year.

B. Notices shall bear the name of the Town of Guilderland. Such notices shall bear a conspicuous statement which shall cover a space of not less than eight square inches warning persons that it is a violation of this chapter to discharge a firearm within the Pine Bush Preserve and the penalty therefor.

§ 166-4. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The discharge of a firearm in violation of this chapter shall be deemed a violation. Such violator shall be liable for a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 171. FIRE PREVENTION AND BUILDING CONSTRUCTION

ARTICLE I. Fire Prevention

§ 171-1. Short title.

§ 171-2. Definitions.

§ 171-3. Prohibited acts.

§ 171-4. Fire permits; agreements with Board of Fire Commissioners of fire districts; investigations.

§ 171-5. Requirements for doors and stairways in buildings; violations.

§ 171-6. Inspection of premises.

§ 171-7. Penalties for offenses.

§ 171-8. Interpretation.

ARTICLE II. Adoption of State Building Conservation and Fire Prevention Code

§ 171-9. Adoption of standards.

§ 171-10. Administration and enforcement.

§ 171-11. Penalties for offenses.

§ 171-12. Effect upon other statutes.

ARTICLE III. Administration of State Building Conservation and Fire
Prevention Code
§ 171-13. Delegation of authority.
§ 171-14. Variances.

CHAPTER 171. FIRE PREVENTION AND BUILDING CONSTRUCTION

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

GENERAL REFERENCES

Appearance tickets — See Ch. 8.
Building Department — See Ch. 17.
Department of Fire Prevention and Investigation — See Ch. 38.
Building permits — See Ch. 140.
Unsafe buildings — See Ch. 145.
Flood damage prevention — See Ch. 177.
Subdivision of land — See Ch. 247.
Zoning — See Ch. 280.

ARTICLE I. Fire Prevention

[Adopted 6-11-1974 as Subpart 1 1/2, Div. 2, of the 1974 Code]

§ 171-1. Short title.

This article shall be known as the "Fire Law."

§ 171-2. Definitions.

As used in this article, the following terms shall mean or include:

FIRE CHIEF

The chief engineer of any fire district fire department in the Town of Guilderland who has been duly nominated and appointed pursuant to the provisions of either Subdivision 11-a or Subdivision 11-b of § 176 of the Town Law.

PERMIT

A written authorization permitting the performance of any act for which a permit is required by this article, issued by a person authorized or empowered by this article to so issue the same.

§ 171-3. Prohibited acts.

It shall be unlawful for any person or persons to:

A. Pile or accumulate combustible materials, rubbish, woods, brush or waste material within 25 feet of any building or property line

B. Start any grass or brush fire without procuring a permit therefor from the Chief Building Inspector and Zoning Coordinator of the Town of Guilderland or such town official duly authorized and appointed to perform the duties of such Chief Building Inspector and Zoning Coordinator of the Town of Guilderland, or from such other person as may be authorized to issue such a permit under the provisions of this article and any agreements made hereunder as hereinafter provided.

C. Burn rubbish or refuse without the attendance of one or more persons over the age of 16 years throughout the period of combustion.

D. Depart from the scene of any fire commenced under the provisions of Subsections B or C hereof when the person so departing the scene has ignited or caused ignition of such fire or has attended the fire under the provisions of Subsection C.

E. Ignite or cause the ignition of any fire between sunset and sunrise.

F. Burn leaves, dry grass or rubbish on any street, road, highway or right-of-way in the Town of Guilderland.

G. Operate a motor vehicle in such a way as to bring it into contact with or to pass over a hose or other fire equipment while in use in the extinguishment of any fire, unless so directed by a fire chief, fire warden or fire officer in attendance at such fire.

H. Refuse or fail to obey or carry out any lawful direction of a fire chief, fire warden, fire policeman or fireman, given or made while engaged in the extinguishment of a fire.

I. Prevent or obstruct the carrying out of lawful orders of a fire chief or fireman in charge of the operations of a department or fire company.

J. Willfully give a false alarm of fire.

§ 171-4. Fire permits; agreements with Board of Fire Commissioners of fire districts; investigations.

The Town Board of the Town of Guilderland hereby determines and declares that in its judgment it is advisable for the safety and welfare of the inhabitants of the several fire districts in the Town of Guilderland that the issuance of town fire permits under the provisions of this article, and preliminary investigations in relation thereto, should be made by a person or persons most familiar with local grass and brush fire hazard conditions in such fire district and the availability of fire-fighting vehicles and firemen necessary for the proper control and supervision thereof. The Town Board of the Town of Guilderland may enter into an agreement or agreements with the Board of Fire Commissioners of any fire district located wholly or partly within the Town of Guilderland pursuant to the provisions of § 139 of the Town Law providing for the issuance of such permits and the making of preliminary investigations in relation thereto on behalf of the Town of Guilderland by the fire district, such permit and investigation to be limited to the area of such fire district within the town. Any such agreement shall be for such period or time and on such terms as may be agreed upon by and between the Town Board of the Town of Guilderland and the Board of Fire Commissioners of such fire district, and the agreement shall further comply with the provisions of § 139 of the Town Law.

§ 171-5. Requirements for doors and stairways in buildings; violations.

All doors of any public building, multiple dwelling or building or structure used for manufacturing or for the conduct of any business, commerce, profession or trade, whether wholesale or retail, used for ingress or egress to and from such building, shall open outward and shall in no way be blocked or otherwise encumbered. All stairways of such buildings or structures shall be maintained in good condition and shall not be littered or encumbered with boxes, refuse or other combustible material of any nature. The owner or occupant of a building wherein such material is littering, encumbering or blocking any doorway, stairway or hallway shall remove the same and otherwise abate any hazardous condition or conditions violating any provision of this article or any building code operative within the Town of Guilderland within a reasonable time after notice thereof and within 24 hours after the receipt of notice and demand for the removal or abatement thereof, in writing.

§ 171-6. Inspection of premises.

The fire chief of any fire company, fire department, fire district or fire-protection district in the Town of Guilderland or any volunteer fireman thereof, duly deputized or otherwise authorized by such chief to so act, is hereby authorized to enter any building mentioned in the preceding section hereof for the purpose of making any inspection or observation of the premises for the purpose of ensuring compliance with this article.

§ 171-7. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any violation of this article is hereby declared an offense and punishable by a penalty as set forth in Chapter 1, General Provisions, Article III, except that any violation of the provisions of § 171-3J shall be a misdemeanor and shall be punishable as provided in the Penal Law of the State of New York.

§ 171-8. Interpretation.

The provisions of this article shall be deemed minimal requirements for the promotion of the public safety. Wherever the requirements of this article vary with the requirements of any other lawfully adopted rule, law, ordinance, regulation or resolution, the most restrictive, or those requirements imposing the higher standards, shall govern.

ARTICLE II. Adoption of State Building Conservation and Fire Prevention Code

[Adopted 10-12-1976 by L.L. No. 4-1976 (Subpart 1 2/2, Div. 3, of the 1974 Code)]

§ 171-9. Adoption of standards.

The State Building Conservation and Fire Prevention Code is hereby declared accepted by and applicable to the Town of Guilderland in accordance with the provisions of § 392 of the Executive Law. Editor's Note: Said § 392 of the Executive Law was repealed by L. 1981, c. 707, § 12, effective 1-1-1984. See now Article 18 of the Executive Law, the New York State Uniform Fire Prevention and Building Code Act.

§ 171-10. Administration and enforcement.

[Amended 5-12-1981 by L.L. No. 2-1981]

A. There is hereby established in the Town of Guilderland the office of Chief Fire Inspector. The Chief Fire Inspector shall be appointed by the Town Board and shall serve at the pleasure of the Town Board.

B. The Chief Fire Inspector is hereby charged with the duty of administering and enforcing the State Building Conservation and Fire Prevention Code. For such purpose, he is authorized to enter any building or premises at all reasonable hours. He shall order the removal or remedying of all violations and is authorized to issue and serve or cause to be served all orders, notices,

appearance tickets and other process as may be necessary in the enforcement of such code.

§ 171-11. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person who shall violate any of the provisions of such code or fail to comply therewith or who shall violate or fail to comply with any lawful order made in the administration or enforcement thereof shall be guilty of an offense punishable by a penalty as set forth in Chapter 1, General Provisions, Article III. The imposition of one penalty for any violation shall not excuse the violation or constitute an authorization for its continuance. The imposition of any penalty hereunder shall not prevent the enforced removal or termination of a prohibited condition.

§ 171-12. Effect upon other statutes.

Except as provided in Section 5 Editor's Note: Original Section 5 of L.L. No. 4-1976 provided for the repeal of L.L. No. 1-1974. hereof, no other ordinance or local law heretofore enacted shall be deemed abrogated, annulled or repealed by any provision of this article; provided, however, that where this article imposes a greater restriction, its provisions shall control. Any provision of Article I of this chapter that is at variance, in conflict or inconsistent with any provision of this article shall be deemed superseded by this article.

ARTICLE III. Administration of State Building Conservation and Fire Prevention Code

[Adopted 2-14-1978 by L.L. No. 1-1978 (Subpart 1 1/2, Div. 3 1/2, of the 1974 Code)]

§ 171-13. Delegation of authority.

The Zoning Board of Appeals is hereby designated the board of review for the administration of the State Building Conservation and Fire Prevention Code and is empowered to carry out the provisions of this article.

§ 171-14. Variances.

Such Board shall have the power to vary or modify in whole or in part any provision or requirement of the State Building Conservation and Fire Prevention Code where practical difficulties or unnecessary hardships may result from enforcement thereof in accordance with the provisions of § 395 of the Executive Law Editor's Note: Said § 395 of the Executive Law was repealed by L. 1981, c. 707,

§ 12, effective 1-1-1984. See now Article 18 of the Executive Law, the New York State Uniform Fire Prevention and Building Code Act. of the State of New York.

CHAPTER 174. FIRES, INVESTIGATION OF

§ 174-1. Authority; designation of fire investigators; compensation; other expenses.

CHAPTER 174. FIRES, INVESTIGATION OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 3-8-1977 by L.L. No. 1-1977 (Subpart 1 1/2, Div. 4, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Department of Fire Prevention and Investigation — See Ch. 38.

Police Department — See Ch. 81.

Fire prevention — See Ch. 171.

§ 174-1. Authority; designation of fire investigators; compensation; other expenses.

The Supervisor may inquire into the cause and origin of fires occurring in the Town of Guilderland and may take testimony in relation thereto. In the exercise of such power, the Supervisor may from time to time designate as fire investigator any one or more of the officers of the several fire districts, fire-protection districts, fire departments or fire companies in the Town of Guilderland, or any fireman thereof, and may employ necessary assistants therefor. Such fire investigators shall serve at the pleasure of the Supervisor. The Town Board shall fix the compensation of all fire investigators and any assistants employed under the provisions of this chapter, and all expenses incurred under the provisions of this chapter shall be a charge upon and paid by that part of the town outside of the Village of Altamont.

CHAPTER 177. FLOOD DAMAGE PREVENTION

§ 177-1. Findings.

§ 177-2. Purpose.

§ 177-3. Objectives.

§ 177-4. Word usage and definitions.

§ 177-5. Applicability.

§ 177-6. Basis for establishing areas of special flood hazard.

§ 177-7. Interpretation; conflict with other provisions.

§ 177-8. Penalties for offenses.
§ 177-9. Warning and disclaimer of liability.
§ 177-10. Designation of local administrator.
§ 177-11. Establishment of development permit.
§ 177-12. Duties and responsibilities of local administrator.
§ 177-13. General standards.
§ 177-14. Specific standards.
§ 177-15. Floodways.
§ 177-16. Appeals board.
§ 177-17. Conditions for variances.

CHAPTER 177. FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Guilderland 4-7-1987 by L.L. No. 1-1987 (Subpart 35, Div. 9, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building Department — See Ch. 17.
Building permits — See Ch. 140.
Unsafe buildings — See Ch. 145.
Fire prevention and building construction — See Ch. 171.
Freshwater wetlands — See Ch. 181.
Subdivision of land — See Ch. 247.
Zoning — See Ch. 280.

§ 177-1. Findings.

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

§ 177-2. Purpose.

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

A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

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

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

§ 177-3. 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.

§ 177-4. Word usage and definitions.

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

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

APPEAL

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

AREA OF SHALLOW FLOODING

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

AREA OF SPECIAL FLOOD HAZARD

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

BASE FLOOD

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

BASEMENT

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

BREAKAWAY WALL

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

BUILDING

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

CELLAR

The same meaning as "basement."

COASTAL HIGH HAZARD AREA

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

DEVELOPMENT

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

ELEVATED BUILDING

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

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

FLOOD 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.

FLOOD or FLOODING

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

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

FLOODPROOFING

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

FLOODWAY

The same meaning as "regulatory floodway."

FLOOR

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or 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

Lowest level, including 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 or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL

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

MOBILE HOME

The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

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

NEW CONSTRUCTION

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

ONE-HUNDRED-YEAR FLOOD

The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND

At least 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 § 177-12B of this chapter.

SAND DUNES

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

START OF CONSTRUCTION

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

STRUCTURE

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

SUBSTANTIAL IMPROVEMENT

(1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

(a) Before the improvement or repair is started; or,

(b) If the structure has been damaged and is being restored, before the damage occurred.

(2) 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:

(a) 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

(b) 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.

§ 177-5. Applicability.

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

§ 177-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for the Town of Guilderland, of Albany County, New York," dated July 6, 1982, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the Town Clerk's Office, Guilderland Town Hall.

§ 177-7. Interpretation; conflict with other provisions.

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

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

§ 177-8. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be subject to a penalty as set forth in Chapter 1, General Provisions, Article III. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Guilderland 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 §§ 177-16 and 177-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 177-9. Warning and disclaimer of liability.

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

§ 177-10. Designation of local administrator.

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

§ 177-11. Establishment of 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

§ 177-6. 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 § 177-13C(1).
- (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 177-14.
- (5) 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.

§ 177-12. Duties and responsibilities 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 § 177-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 177-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 177-13D(4), in order to administer § 177-14, Specific standards, and § 177-15, 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 §§ 177-13 and 177-14.

(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 § 177-6 and/or § 177-12B, 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 § 177-8 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 § 177-8 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 Subsection G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 177-13. General standards.

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

A. Anchoring.

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

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

B. Construction materials and methods.

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

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

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

E. Encroachments.

(1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazard set forth in § 177-12A(3), Permit review. 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 § 177-12B or 177-13D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(3) In all areas of special flood hazard where floodway data is provided or available pursuant to § 177-12B the requirements of § 177-15, Floodways, shall apply.

§ 177-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 177-6, Basis for establishing areas of special flood hazard, and § 177-12B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any residential 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 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

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

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

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

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

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

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

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

(2) If the structure is to be floodproofed:

(a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 § 177-12B or two feet above the highest adjacent grade where no elevation data is available.

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

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

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

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

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

§ 177-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, § 177-4). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as

provided by §§ 177-6 and 177-12B, 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.

§ 177-16. Appeals board.

A. The Zoning Board of Appeals as established by the Town Board 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 that 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 and 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.

§ 177-17. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 177-16D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the 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.
- (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 181. FRESHWATER WETLANDS

§ 181-1. Title.

§ 181-2. Declaration of policy.

§ 181-3. Definitions.

§ 181-4. Permit required; exceptions.

§ 181-5. Permit application; processing.

§ 181-6. Public hearing on permit application.

§ 181-7. Decision on permit application.

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§ 181-10. Agency powers.
§ 181-11. Compliance with other laws and regulations.
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§ 181-13. Violations; civil penalty.
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§ 181-15. Penalties for offenses.

CHAPTER 181. FRESHWATER WETLANDS

**[HISTORY: Adopted by the Town Board of the Town of Guilderland 8-10-1976 by L.L. No. 3-1976 (Subpart 11, Div. 2, of the 1974 Code).
Amendments noted where applicable.]**

GENERAL REFERENCES

Flood damage prevention — See Ch. 177.
Subdivision of land — See Ch. 247.
Zoning — See Ch. 280.

§ 181-1. Title.

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

§ 181-2. Declaration of policy.

It is declared to be the policy of the Town of Guilderland to exercise its authority pursuant to Article 24 of the State Environmental Conservation Law.

§ 181-3. Definitions.

The following terms, phrases, words and their derivatives wherever used in this chapter shall have the following meanings:

ADJACENT AREA

Any land in the Town of Guilderland immediately adjacent to a freshwater wetland lying within 100 feet of the boundary of a freshwater wetland.

AGENCY

The Conservation Advisory Council of the Town of Guilderland or, if so redesignated, the Conservation Board of the Town of Guilderland.

BOARD

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

BOUNDARY OF A FRESHWATER WETLAND

The outer limit of the vegetation or of the waters, as the case may be, specified in the definition of "freshwater wetlands" herein provided.

FRESHWATER WETLANDS

Lands and waters as defined in Subdivision 1 of § 24-0107 of the Environmental Conservation Law of the State of New York as the same may be from time to time amended and as such lands and waters are shown on the Freshwater Wetlands Map.

FRESHWATER WETLANDS MAP

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

PERSON

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

PLANNING BOARD

The Planning Board of the Town of Guilderland.

POLLUTION

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

PROJECT

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

REGULATED ACTIVITY

Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly; any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind either directly or indirectly; erecting any structures or roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes directly into or so as to drain into a freshwater wetland; that portion of any subdivision of land that involves any land in any freshwater wetland or adjacent area; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 24-0105 of the Environmental Conservation Law of the State of New York as the same may be from time to time amended.

SELECTIVE CUTTING

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

STATE

The State of New York.

§ 181-4. Permit required; exceptions.

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

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

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

(2) The activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of wetlands or adjacent areas, selective cutting of timber, draining land or wetlands for growing agricultural products, and otherwise engaging in the use of wetlands or other land for growing agricultural products; provided, however, that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded from the requirement of a permit hereunder, and that any farmer or other landowner who intends to conduct an activity described in this subsection which would otherwise be a regulated activity shall notify the Agency, in writing, prior to conducting the activity, of his or her intention to engage in such activity, stating the approximate acreage of freshwater wetland or adjacent area affected, the location thereof, the methods to be employed and the uses to be made of such land.

(3) Public health activities, pursuant to orders or regulations of the State Department of Health, Albany County Department of Health or Health Officer of the Town of Guilderland, undertaken in compliance with § 24-0701, Subdivision 5, of the State Environmental Conservation Law.

(4) Activities subject to review by the Public Service Commission of the State of New York under Article 7 of the Public Service Law. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(5) Any actual and ongoing emergency activity which is immediately necessary for the protection or preservation of natural resource values, including search-and-rescue operations, preventive or remedial activities related to large-scale contamination of streams or other bodies of water, floods, storms and public health concerns.

§ 181-5. Permit application; processing.

A. A person proposing to conduct or cause to be conducted a regulated activity upon any freshwater wetland or adjacent area shall file an application for a permit with the Director of Planning of the Town of Guilderland, which application shall be in such form as the Agency may prescribe and shall set forth the full name and address of each applicant and of the person or persons interested in or intending to engage in such activity, the full name and address of the owner or owners of the lands upon which activity is proposed to be conducted, a detailed description of the proposed activity, the location thereof, and the purpose, character and extent thereof, and the names of the owners of record of all lands adjacent to the freshwater wetlands or adjacent areas upon which the proposed activity is to be conducted, and the names and addresses of any claimant or claimants to water rights affecting such wetlands or adjacent areas known to the applicant. The application shall be accompanied by a map showing the freshwater wetland or adjacent area affected and the precise location of the proposed activity thereon, and by a legal description of the premises upon which the proposed activity is to be conducted.

B. Within five days of his receipt of an application completed as herein provided, the Director of Planning shall cause a copy of such completed application to be mailed to any local government outside of the Town of Guilderland having jurisdiction in any area where any part of the proposed activity is located, shall provide the applicant with a notice of application in such form as the Agency may prescribe, which the applicant shall at his own expense cause to be published at least once in each of at least two newspapers having a general circulation in the Town of Guilderland, and shall deliver a copy of such application and notice to the Chairperson of the Agency. Such notice shall state that notices of objection stating the grounds of objection may be filed with the Agency on or before a specified date, that in the absence of a filed notice of objection or upon the Agency's determination that the proposed activity is of such a minor nature as to not affect or endanger the balance of systems within any freshwater wetland the Agency may, in its discretion, dispense with a public hearing upon the application, and that the application, including all maps and documents accompanying and made a part of the same, is available for public inspection at the office of

the Director of Planning of the Town of Guilderland. Notwithstanding any other provision of this section, the Agency may, in its discretion, dispense with the requirement of a notice of application and conduct or cause to be conducted a public hearing upon notice as hereinafter provided.

C. Unless a public hearing upon the application shall have been dispensed with as herein provided, the Agency shall, after the publishing of notice of the application as hereinbefore provided, and no sooner than 30 days nor later than 60 days after receipt by the Director of Planning of a completed application, cause a public hearing upon the application to be conducted upon notice as herein provided. Such notice shall be published at least once in each of at least two newspapers of general circulation within the Town of Guilderland not less than 15 days prior to the date of hearing and shall state the name of the applicant, the time and the place of the hearing on the application, the location and in general terms the scope of the proposed regulated activity. Such notice shall also state that persons wishing to be heard may on or before a specified date file with the Agency a notice of appearance setting forth such person's interest in and reasons for support or opposition to the application. Such notice shall also state that any person may be heard at such hearing without filing a notice of appearance; provided, however, that in the absence of a timely filed notice of appearance and upon a waiver of public hearing by the applicant, the Agency may cancel such hearing and determine the application without such hearing. Such notice shall further state that the application, together with all maps and other documents accompanying the same, is available for public inspection at the office of the Director of Planning of the Town of Guilderland. At least 15 days prior to the date of hearing, a copy of such notice shall be mailed by registered mail to all owners of record of land adjacent to the affected freshwater wetland or adjacent area and to all known claimants of water rights affecting the same and to the clerk of any municipality outside of the Town of Guilderland wherein any part of such proposed activity is located. All costs of publication and mailing of such notice shall be borne by the applicant.

D. Notwithstanding any other provision of this section, the Agency may, in its discretion, dispense with or cancel such public hearing where no notice of objection to the notice of application has been filed as provided in Subsection B of this section, or no notice of appearance has been filed as provided in Subsection C of this section and the applicant has waived such public hearing, or the Agency determines that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within any freshwater wetland. Whenever a notice of public hearing has been published and served as provided in Subsection C of this section, a notice of cancellation shall be published and mailed at least three days before such

public hearing in the manner and to the persons prescribed in respect of the notice of public hearing.

§ 181-6. Public hearing on permit application.

A public hearing held pursuant to this chapter shall be conducted by the Agency, which shall cause a record of the hearing to be made and shall within 10 days after receipt of the hearing record submit to the Planning Board its findings and recommendations, together with the hearing record and all documentary evidence admitted upon the hearing. The Agency shall permit all persons filing notices of appearance to be heard and shall admit such testimony from other persons as it deems relevant and material to the issues. The applicant and all persons filing notices of appearance shall be given an opportunity to examine and cross-examine witnesses on issues of fact and to present oral and written arguments on issues of law and policy. Persons not filing notices of appearance may, in the discretion of the Agency, be permitted to participate to the extent of submitting oral or documentary evidence whenever the Agency deems such evidence relevant or material to any issue raised by the application or where the Agency finds such participation to be in the public interest. Every act, motion or resolution shall require for its adoption the affirmative vote of a majority of all members of the Agency.

§ 181-7. Decision on permit application.

A. Whenever a public hearing has been had upon a permit application, the Planning Board shall, within 30 days from its receipt of the hearing record, including all documentary evidence admitted upon the hearing together with the Agency's findings and recommendations, by written decision, either issue the permit with or without conditions or deny the application.

B. Where a public hearing has been dispensed with, the Agency shall, within 30 days from the filing of a completed application for a permit, submit to the Planning Board its findings and recommendations. Such findings and recommendations shall be based upon the application and any further documents and materials deemed relevant or material by the Agency submitted by the applicant or otherwise obtained and relied upon by the Agency. Such findings and recommendations shall be in writing, and shall set forth the reasons for the Agency's recommendations. Within 30 days from its receipt of such findings and recommendations, the Planning Board shall, by written decision, either issue the permit with or without conditions or deny the application.

C. The Planning Board's determination with or without a public hearing shall be based upon the entire record of the application, including the application and all accompanying documents and materials submitted with it, oral, written or other evidence submitted upon a public hearing, and any additional documents or materials required or otherwise obtained by the Agency.

D. The Planning Board's determination shall require for its adoption the affirmative vote of a majority of all members of the Planning Board; provided, however, that wherever the Planning Board's determination is contrary to the recommendation of the Agency or is at variance with such recommendation in a material respect, the Planning Board shall state its reasons, and such determination shall require for its adoption the affirmative vote of a majority plus one of all members of the Planning Board.

E. A copy of the Planning Board's determination shall be mailed by the Agency within five days of its issuance and filing to the applicant and to the clerk of any municipality outside of the Town of Guilderland within the boundaries of which any part of the proposed regulated activity is located and, if a public hearing has been held, to each person who shall has filed a notice of appearance.

§ 181-8. Standards for permit determinations.

A. In granting, denying or conditioning any permit, the Agency and the Planning Board shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers, and protection or enhancement of the several functions of the freshwater wetlands and the benefits derived therefrom set forth in § 24-0105 of the Environmental Conservation Law.

B. Issuance of permits.

(1) No permit shall be issued pursuant to this chapter unless it shall be found that:

(a) The proposed regulated activity is consistent with the preservation, protection and conservation of freshwater wetlands and the benefits derived therefrom, the prevention of the despoliation and destruction of freshwater wetlands, and the regulation of the development of such wetlands to secure the natural benefits thereof consistent with the general welfare, economic, social and agricultural betterment of the Town of Guilderland;

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

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

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

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

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

C. Duly filed notice, in writing, that the state or any agency or subdivision thereof is in the process of acquiring any freshwater wetland, which is the subject of any such application for a permit, by negotiation or condemnation shall constitute sufficient basis for a denial of any permit.

§ 181-9. Permit conditions and limitations.

In the granting of a permit, conditions or limitations may be imposed designed to carry out the purposes of this chapter in preserving and protecting affected freshwater wetlands, including, but without limitation to, provisions for the inspection of a regulated activity from time to time, the posting of security conditioned upon compliance with the terms and conditions of the permit, advance notification of the commencement of construction and reasonable time limitations.

§ 181-10. Agency powers.

In order to carry out the purposes and provisions of this chapter, the Agency shall have the power to adopt, amend and repeal rules and regulations consistent with this chapter for the purpose of administering the same; to contract for professional and technical assistance and advice; to hold hearings and subpoena witnesses in the exercise of its powers, functions and duties; to recommend the posting of a bond or other security by a permittee conditioned upon faithful compliance with the terms and conditions of such permit and for indemnification to the Town of Guilderland for any restoration costs resulting from a failure of such compliance; and to establish a schedule of costs and fees chargeable to applicants to defray the costs of postage, service of process,

publication, stenographic services and technical and professional services as the Agency may determine.

§ 181-11. Compliance with other laws and regulations.

No permit granted pursuant to this chapter shall abrogate any obligation to comply with any other law, ordinance, rule or regulation applicable to or affecting land use and development. Wherever possible, the Planning Board and the Agency shall, in the exercise of their respective functions hereunder, coordinate the same with such functions as they may exercise under any other state or local law, rule or regulation.

§ 181-12. Suspension or revocation of permit.

The Planning Board may, upon the recommendation of the Agency, suspend or revoke any permit issued pursuant to this chapter upon a finding that the permittee has failed to comply with any of its terms and conditions, has failed to comply with any order, rule or regulation of the Agency or any other law, ordinance, rule or regulation pertaining to land use and development in the affected area, has exceeded the authority granted by such permit, has failed to post any bond or security required by the Planning Board or has failed to undertake or conduct the regulated activity in the manner set forth in the application.

§ 181-13. Violations; civil penalty.

The provisions of Title 1, Title 3 and Title 5 of Article 71 of the Environmental Conservation Law except as herein modified shall be applicable to the enforcement of this chapter. In addition, any person who violates, disobeys or disregards any provision of this chapter or of any permit issued hereunder shall be liable to a civil penalty of not more than \$3,000 for each such violation and an additional penalty of not more than \$500 for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the Attorney General at the request of the Agency, the Planning Board or the Commissioner of Environmental Conservation of the State of New York. Such action may be brought in the name of the Agency, the Planning Board or in the name of such Commissioner.

§ 181-14. Review and appeal.

Any determination of the Planning Board under this chapter may be reviewed in accordance with the provisions of Subdivision 5 of § 24-0705 and Title 11 of

Article 24 of the Environmental Conservation Law, and the provisions of such sections shall be applicable to any such review.

§ 181-15. Penalties for offenses.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person or persons who shall violate any provisions of this chapter shall be guilty of an offense punishable by a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 185. GAMES OF CHANCE

§ 185-1. Authority; title.

§ 185-2. Authorized organizations; license required.

§ 185-3. Sundays games authorized; license required.

§ 185-4. When effective; referendum.

CHAPTER 185. GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Guilderland 11-18-1980 by L.L. No. 4-1980 (Subpart 14, Div. 2, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 135.

§ 185-1. 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 Town of Guilderland."

§ 185-2. Authorized organizations; license required.

The conduct of games of chance within the Town of Guilderland by authorized organizations as defined in § 186 of the General Municipal Law of the State of New York is hereby authorized upon the issuance of a license therefor, upon application to the Town Clerk, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law of the State of New York and the rules and regulations of the New York State Racing and Wagering Board.

§ 185-3. Sundays games authorized; license required.

[Added 6-9-1981 by L.L. No. 3-1981]

The conduct of games of chance within the Town of Guilderland by authorized organizations as defined in § 186 of the General Municipal Law of the State of New York on Sunday between the hours of 1:00 p.m. and 12:00 midnight pursuant to the provisions of § 195 of the General Municipal Law is hereby authorized upon the issuance of a license therefor, upon application to the Town Clerk, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law and the rules and regulations of the New York State Racing and Wagering Board.

§ 185-4. When effective; referendum.

This chapter shall take effect immediately upon filing with the Secretary of State after approval thereof by the voters of the Town of Guilderland voting thereon at a special town election to be held on January 20, 1981. Editor's Note: Local Law No. 4-1980 passed at referendum on 1-20-1981.

CHAPTER 190. INSURANCE

ARTICLE I. Fire Insurance Claims

§ 190-1. Release of proceeds.

CHAPTER 190. INSURANCE

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

ARTICLE I. Fire Insurance Claims

[Adopted 2-14-1978 by L.L. No. 2-1978 (Subpart 12, Div. 3, of the 1974 Code)]

§ 190-1. Release of proceeds.

The Supervisor is authorized to release or return to an insured, upon such terms as he may determine, the proceeds or any part thereof of a fire insurance policy upon which a lien shall have been attached pursuant to § 22 of the General Municipal Law of the State of New York upon an agreement, in writing, signed by such insured to restore the affected property to the same or improved condition it was in prior to the time the lien arose.

CHAPTER 193. KEY BOXES

§ 193-1. Findings and purpose.

§ 193-2. Key box required; exemptions.

- § 193-3. Type and location.
- § 193-4. Contents.
- § 193-5. Time for compliance.
- § 193-6. Penalties for offenses.

CHAPTER 193. KEY BOXES

[HISTORY: Adopted by the Town Board of the Town of Guilderland 3-16-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Fire Prevention and Investigation — See Ch. 38.
Fire prevention and building construction — See Ch. 171.
Investigation of fires — See Ch. 174.

§ 193-1. Findings and purpose.

- A. The Town Board of the Town of Guilderland has been advised by the town's Fire Chiefs of the need to consider a key box local law.
- B. A key box local law provides for the placement in secured, locked containers of keys to important areas within a structure and information that may be vital and necessary to the health, safety and welfare of the occupants and the responding fire fighters. Access to those key areas and advance knowledge of their location and the location of hazardous or potentially hazardous materials enhances the responding fire company's abilities to preserve and protect lives and property.
- C. The purpose of this chapter is to speed the access to buildings for responding fire companies and limit the amount of potential physical damage to structures brought about by the need to access a building or structure promptly to save lives, prevent injuries and protect property.

§ 193-2. Key box required; exemptions.

- A. All buildings located within the Town of Guilderland having an automatic fire alarm system or a fire sprinkler system shall be equipped with a key box.
- B. One- and two-family dwellings and buildings having a twenty-four-hour, seven-day-per-week security guard with access to all areas shall be specifically exempted from the requirements for a key box.

[Amended 1-15-2002 by L.L. No. 1-2002]

§ 193-3. Type and location.

- A. The key box shall be of UL type approved by the Town of Guilderland Fire Prevention and Inspection Department and the chief fire official.
- B. The key box shall be located in a location approved by the Town of Guilderland Fire Prevention and Inspection Department, within unobstructed view of the main entry and shall be mounted six feet above grade.

§ 193-4. Contents.

The key box shall contain the following:

- A. Keys to locked points of egress, interior and exterior.
- B. Keys to locked mechanical and sprinkler riser rooms.
- C. Keys to locked electrical rooms.
- D. Keys to elevator controls and fire alarm control panels.
- E. Keys to other areas as directed by the Town of Guilderland Fire Prevention and Inspection Department.
- F. Access codes to digital keypads.
- G. Hazardous materials information, including material safety data sheets for materials located within the building.
- H. Other pertinent data as directed by the Town of Guilderland Fire Prevention and Inspection Department or the chief fire official.

§ 193-5. Time for compliance.

- A. All existing buildings covered by this local law shall comply within 18 months of the effective date of this chapter.
- B. All new construction covered by this local law, including buildings currently under construction as of the effective date, for which no certificate of occupancy has been issued, shall comply immediately.

§ 193-6. Penalties for offenses.

[Added 1-15-2002 by L.L. No. 1-2002]

Failure to comply with any portion of this chapter shall be deemed a misdemeanor, and the violator shall be liable for a fine of not less than \$500 nor more than \$1,000, and each day such violation continues shall constitute a separate offense.

CHAPTER 200. MOTORCYCLES

ARTICLE I. Operation

§ 200-1. Purpose.

§ 200-2. Title.

§ 200-3. "Motorcycle" defined.

§ 200-4. Operation regulated.

§ 200-5. Penalties for offenses.

ARTICLE II. Registration of Off-Highway Motorcycles

§ 200-6. Definitions.

§ 200-7. Registration required; application; fee.

§ 200-8. Rules and regulations.

§ 200-9. Penalties for offenses.

CHAPTER 200. MOTORCYCLES

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

GENERAL REFERENCES

Bicycles — See Ch. 131.

Parks and recreation — See Ch. 212.

Snowmobiles — See Ch. 232.

Streets and sidewalks — See Ch. 243.

Vehicles and traffic — See Ch. 267.

ARTICLE I. Operation

[Adopted 6-11-1974 as Subpart 2, Div. 8, of the 1974 Code]

§ 200-1. Purpose.

The purpose of this article is to protect the public health, welfare, safety, peace and tranquillity by regulating the operation of motorcycles within the Town of Guilderland.

§ 200-2. Title.

This article shall hereafter be known and cited as the "Town of Guilderland Motorcycle Local Law."

§ 200-3. "Motorcycle" defined.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). For the purposes of this article, the definition of the word "motorcycle," as adopted by § 123 of the Vehicle and Traffic Law, is incorporated herein.

§ 200-4. Operation regulated.

[Amended 10-11-1983 by L.L. No. 3-1983]

A. It shall be unlawful for any person to drive or operate any motorcycle on private lands within the Town of Guilderland within 500 feet of any dwelling or dwelling house between the hours of 11:00 p.m. and 7:00 a.m. except for the purpose of arriving at or departing from said dwelling or dwelling house.

B. It shall be unlawful for any person to drive or operate any motor-driven machine on publicly owned lands within the Town of Guilderland within the area bounded as follows:

On the east and northeast by the corporate limits of the City of Albany; on the south by Western Turnpike; on the west and northwest by a line commencing at the intersection of Western Turnpike and Willow Street and running in a northeasterly direction along the center line of Willow Street to its intersection with the center line of Siver Road, thence in a northerly direction along the center line of Siver Road to its intersection with the center line of Lydius Street, thence northeasterly in a straight line to its intersection with the corporation line of the Town of Colonie at its nearest point; and on the north by the corporate limit of the Town of Colonie; except upon public highways and upon driveways and parking areas appurtenant to publicly owned facilities.

§ 200-5. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A failure to comply with the provisions of this article shall be deemed a violation, and the violator shall be subject to a penalty as set forth in Chapter 1, General Provisions, Article III.

ARTICLE II. Registration of Off-Highway Motorcycles

[Adopted 2-15-1984 by L.L. No. 3-1984 (Subpart 2, Div. 9, of the 1974 Code)]

§ 200-6. Definitions.

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

OFF-HIGHWAY MOTORCYCLE

The same meaning as set forth in Vehicle and Traffic Law § 125-a.

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

§ 200-7. Registration required; application; fee.

A. No person shall operate any off-highway motorcycle within the Town of Guilderland unless such off-highway motorcycle has been registered in accordance with the provisions of this section, and such registration is in full force and effect, and indicia of registration is displayed in accordance with regulations promulgated by the Town Board.

B. Every owner of an off-highway motorcycle which is or is intended to be operated within the Town of Guilderland shall cause to be filed in the office of the Town Clerk an application for registration, on a form to be prepared under the direction of and furnished by the Town Clerk for that purpose, containing:

(1) A brief description of the off-highway motorcycle to be registered, including the name of the manufacturer and the factory number of such vehicle;

(2) The name and address of the owner of such vehicle and the name and address of any operator or operators of such vehicle other than the owner; and

(3) Such other information as the Town Board may from time to time require by order or resolution.

C. Upon receipt of a sufficient application for registration, the Town Clerk shall register such off-highway motorcycle and maintain a record of the registration of such motorcycle under the distinctive number assigned to such motorcycle and shall issue a certificate of registration, together with such indicia of registration as shall be determined by the Town Board. A fee as set by resolution of the Town Board from time to time payable to the Town of

Guilderland shall be paid to the Town Clerk upon the registration of such off-highway motorcycle.

§ 200-8. Rules and regulations.

The Town Board is hereby empowered to make and promulgate, from time to time, by order or resolution, such rules and regulations relating to the use and operation of off-highway motorcycles on off-highway trails and in off-highway competitions, including the requirement of instruction and training, as the Town Board may determine in the interest of promoting the public welfare, convenience and safety. For the purpose of implementing and enforcing such rules and regulations, the Town Board may impose such restrictions, limitations and conditions upon the issuance of certificates of registration under this article as the Town Board may deem appropriate.

§ 200-9. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The operation of an off-highway motorcycle in violation of this article shall be deemed a violation. Such violator shall be subject to a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 205. NOISE

ARTICLE I. General Provisions

§ 205-1. Short title.

§ 205-2. Declaration of policy.

§ 205-3. Interpretation.

§ 205-4. Definitions and word usage.

ARTICLE II. Prohibited Acts

§ 205-5. Unreasonable noise prohibited.

§ 205-6. Specific acts considered to be unreasonable noise.

§ 205-7. Prima facie evidence of noise disturbance.

ARTICLE III. Exceptions

§ 205-8. Exceptions enumerated.

ARTICLE IV. Enforcement

§ 205-9. Enforcement and administration.

ARTICLE V. Penalties

§ 205-10. Penalties for offenses.

ARTICLE VI. Variances

§ 205-11. Application for special variance.

§ 205-12. Public hearing and decision.

§ 205-13. Applicant to obtain other necessary permits.

§ 205-14. Variance to be available for inspection.

§ 205-15. Activity open to inspection.

§ 205-16. Revocation of variance.

§ 205-17. Powers and duties of Zoning Board of Appeals.

CHAPTER 205. NOISE

[HISTORY: Adopted by the Town Board of the Town of Guilderland 12-16-2003 by L.L. No. 6-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Mass public assemblies — See Ch. 124.

Motorcycles — See Ch. 200.

ARTICLE I. General Provisions

§ 205-1. Short title.

This chapter shall be known and may be cited as the "Town of Guilderland Noise Control Ordinance."

§ 205-2. Declaration of policy.

It is hereby declared to be the public policy of the Town of Guilderland ("the Town") to reduce the ambient noise level in the Town, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the Town, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the Town. It is the public policy of the Town that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the Town affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the Town. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

§ 205-3. Interpretation.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall abridge the powers and responsibilities of any Police Department or law enforcement agency to enforce the provisions of this chapter. Nothing herein shall be construed to abridge the

emergency powers of any Health Department or the right of such department to engage in any necessary or proper activities.

§ 205-4. Definitions and word usage.

A. All terminology defined herein which relates to the nature of sound and the mechanical detection and recording of sound is in conformance with the terminology of the American National Standards Institute (ANSI) or its successor body.

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

AGRICULTURAL ZONE

As defined in § 280-13 of the Town Code.

AGRICULTURAL EQUIPMENT

Necessary equipment used to conduct agriculture as that term is defined in § 280-5 of the Town Code.

AMBIENT NOISE

The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-WEIGHTED SOUND LEVEL

The sound-pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA."

COMMERCIAL AREA

A group of commercial properties and the abutting public right-of-way and public spaces.

COMMERCIAL PROPERTY

Any premises, property, or facility involving traffic in goods or furnishings of services for sale or profit, including but not limited to:

- (1) Dining and/or drinking establishments;
- (2) Banking and other financial institutions;
- (3) Establishments for providing retail services;
- (4) Establishments for providing wholesale services;
- (5) Establishments for recreation and entertainment;
- (6) Office buildings;
- (7) Transportation;

(8) Warehouses;

(9) Hotels and/or motels.

CONSTRUCTION

Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

dBA

The abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting, also known as "dBA." All references to "decibel" or "dB" shall be presumed to mean "dBA" unless otherwise specified.

DECIBEL

The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals), abbreviated "dB."

DEMOLITION

Any dismantling, intentional destruction, or removal of buildings or structures.

EMERGENCY

Any occurrence or circumstances involving actual or imminent physical or property damage which demands immediate action.

EMERGENCY WARNING DEVICE

Any sound signal device that is to warn of an emergency.

EMERGENCY WORK

Any work or action necessary to deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging of waterways or abating life-threatening conditions.

FREQUENCY

The number of sound pressure oscillations per second, expressed in hertz, abbreviated "Hz."

MOTOR VEHICLE

Any vehicle that is propelled or drawn on land by an engine or motor.

MUFFLER

A device or system for abating the sound of escaping gasses of an internal combustion engine.

MULTI-DWELLING-UNIT BUILDING

Any building wherein there are two or more dwelling units.

NOISE

Any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the Town.

NOISE DISTURBANCE

Any sound which:

- (1) Endangers or injures the safety or health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

PERSON

Any individual, association, partnership, corporation or other entity and includes any officer, employee, department or agency of the above.

PLAINLY AUDIBLE

Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley, or boardwalk, that is leased, owned or controlled by a governmental entity, no matter how designated.

PUBLIC SPACE

Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE

Either:

- (1) The imaginary line, including its vertical extension, that separates one parcel of real property from another; or
- (2) The vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

RESIDENTIAL AREA

A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY

Property used for human habitation.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER

Any instrument, including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

SOUND PRESSURE LEVEL

The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

SOUND REPRODUCTION DEVICE

Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, television, tape recorder, phonograph, loudspeaker, public-address system or any other sound-amplifying device.

SOUND SOURCE

Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

UNREASONABLE NOISE

Any sound which is defined in § 205-5, 205-6, or 205-7 herein as unreasonable.

VIBRATION

An oscillatory motion of solid bodies of deterministic or random natures described by displacement, velocity or acceleration with respect to a given reference point.

ARTICLE II. Prohibited Acts

§ 205-5. Unreasonable noise prohibited.

No person shall make, cause, allow, or permit to be made any unreasonable noise within the geographical boundaries of the Town or within those areas over which the Town has jurisdiction except as otherwise provided herein. The standards to be considered in determining whether an unreasonable noise exists include, but are not limited to, the following:

- A. The volume of the noise;
- B. The frequency of the noise;
- C. Whether the noise is unusual and incongruous with the surrounding environment;
- D. The volume and frequency of the ambient noise, if any;
- E. The proximity of the noise source to any residential, educational, medical, religious or judicial facility;
- F. The use, nature and character of the zoning district of the immediate area where the noise source exists;
- G. The time of day or night the noise occurs; and
- H. The duration of the noise.

§ 205-6. Specific acts considered to be unreasonable noise.

In addition to the general prohibition set forth in § 205-5 hereof, any of the following acts and causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities are declared to be in violation of this chapter and to constitute unreasonable noise:

- A. Sound reproduction systems: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, television, receiver or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device.
- B. Loudspeakers and public-address systems: using or operating any loudspeaker, public-address system or similar device between the hours of

8:00 p.m. and 9:00 a.m. of the following day such that the sound therefrom creates a noise disturbance across a residential real property line.

C. Animals and birds: owning, possessing or harboring any animal or bird that frequently or for continued duration makes or creates a noise disturbance across a residential real property line. A noise disturbance is created by a dog barking continually for 10 minutes or intermittently for 30 minutes.

D. Loading and unloading: loading, unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form between the hours of 10:00 p.m and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential real property line.

E. Motor vehicles:

(1) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period of longer than five minutes in any sixty-minute period while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet of a residential area;

(2) Operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance or that is otherwise not in compliance with the provisions of any state or federal law, including but not limited to §§ 375 and 386 of the New York State Vehicle and Traffic Law;

(3) Spinning or squealing the tires of any motor vehicle; or

(4) Allowing noise from a motor vehicle alarm to continue in excess of 15 minutes' duration after it has been activated.

F. Construction, repair and demolition: operating or permitting the operation of any tool or equipment used in construction, repair, demolition or excavation between the hours of 6:00 p.m. and 7:00 a.m. the following day or at any time on weekends or legal holidays. Such operation does not constitute a violation if the tool or equipment is used in an emergency situation or if the tool or equipment is equipped with a functioning muffler or if the operator is issued a variance pursuant to Article VI of this chapter.

G. Sound devices on public transportation: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, television receiver or similar device on or in any method of public transportation in such a manner that the sound from such device is audible to any other person.

H. Miscellaneous sound producers: creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, whistle, yell, shout, bell, musical instrument, tool, engine, etc.

§ 205-7. Prima facie evidence of noise disturbance.

The following shall be considered prima facie evidence of noise disturbance:

A. A sound-level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 50 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.

B. A sound-level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 45 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.

C. A sound-level reading taken at a residential property, arising from another residential property, above 55 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.

D. A sound-level reading taken at a residential property, arising from another residential property, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.

E. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 75 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.

F. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.

G. A sound-level reading taken at a commercial property at any time, arising from any property source, above 75 dBA.

H. A sound-level reading taken at an industrial property at any time, rising from any property source, above 75 dBA.

I. A sound reproductive device level in or from a motor vehicle acceding 50 dBA as measured from the nearest curb or edge of the roadway or be plainly audible more than 25 feet in any direction from the motor vehicle from which the sound emanates.

J. A sound plainly audible at a distance of 50 feet from its source.

ARTICLE III. Exceptions

§ 205-8. Exceptions enumerated.

Regardless of the decibel limits or the time of day or night, the provisions of this chapter shall not apply to:

A. Sound and vibration emitted for the purpose of alerting people in an emergency.

B. Sound and vibration emitted in the performance of correcting an emergency.

C. Sounds created by bells or chimes of a church, synagogue or other house of worship, when a part of a religious observance or service.

D. Sounds created by any government agency by the use of emergency warning devices.

E. Sound from agricultural equipment when operated in an agricultural zone.

F. Sounds from domestic power tools, or lawn and garden equipment when operated with a muffler.

G. Sound from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal.

H. Sound from a burglar alarm of any building or residence, provided such burglar alarm shall terminate its operation within 15 minutes after it has been activated.

- I. Sound generated by Town-sponsored conceits and events designed to promote the health, safety or welfare of the citizens of the Town.

ARTICLE IV. Enforcement

§ 205-9. Enforcement and administration.

The noise control requirements established by this chapter shall be administered and enforced jointly by Town Code Enforcement Officers, the Town police and such other employees and/or officials authorized by the Town Board. An alleged violation of the provisions of this chapter may be established upon the verbal or written complaint of at least one person or as personally observed by such Town Code Enforcement Officers, Town police or such other employees and/or officials authorized by the Town Board. Town Code Enforcement Officers, Town police or such other employees and/or officials authorized by the Town Board may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter. Such abatement must be made within a reasonable time period and according to the conditions prescribed by the officer. Violation of any provision of this chapter or of an abatement order shall be cause for a summons to be issued.

ARTICLE V. Penalties

§ 205-10. Penalties for offenses.

A. Any person who violates any provision of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to penalties in the following manner:

(1) Upon a first conviction, by a fine not less than \$50 and not more than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.

(2) Upon a second conviction, by a fine not less than \$100 and not more than \$1,000 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.

(3) Upon a third or subsequent conviction, by a fine not less than \$250 and not more than \$3,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.

B. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct violation.

ARTICLE VI. Variances

§ 205-11. Application for special variance.

A. The Town Zoning Board of Appeals shall have the authority to grant special variances for limited times and purposes of this chapter.

B. Any person who owns or operates any stationary noise source may file an application with the Town Code Enforcement Officer for a special variance from any of the provisions of this chapter. The application shall consist of a letter signed by the applicant and shall contain information, including but not limited to:

- (1) The name and address of the applicant;
- (2) The nature and location of the noise source for which such application is made;
- (3) The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted;
- (4) The nature and intensity of noise that will occur during the period of the variance;
- (5) The section or sections of this chapter for which the permit of variance shall apply;
- (6) A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring therefrom;
- (7) A specific schedule of noise control measures;
- (8) A presentation of adequate proof that noise levels occurring during the period of the variance will not constitute a danger to public health;
- (9) A presentation of adequate proof that compliance with this chapter would impose an arbitrary or unreasonable hardships upon the applicant without equal or greater benefit to the public;
- (10) The names and addresses of all owners of contiguous land within 500 feet of the premises. The applicant in like manner shall give notice of the application by certified mail, return receipt requested, to all property owners

surrounding the sound source site within a radius of 500 feet from the borders of said site; and

(11) A filing fee of \$25.

C. The applicant's failure to supply the required information required by this article shall be cause for rejection of the application.

D. The duration of the permit of a special variance shall not exceed one year but may be limited by the Zoning Board of Appeals to any period of time up to one year.

§ 205-12. Public hearing and decision.

Upon prior reasonable public notice the Zoning Board of Appeals shall hold a hearing on the special variance application. The Zoning Board of Appeals, upon reviewing all input from the hearing and obtaining any additional data or information as deemed necessary, shall then pass upon the application by resolution. The decision shall be transmitted to the Town Code Enforcement Officer, who will advise the applicant of such decision by transmitting a copy of the special variance application to the applicant, with the decision and conditions, if any, imposed by the Zoning Board of Appeals attached.

§ 205-13. Applicant to obtain other necessary permits.

This chapter does not preclude the necessity of the applicant to obtain the approval or permit required by any other agency before proceeding with the action approved under the approved special variance. No action may be initiated by the applicant until such time that other permits, as may be required, are issued.

§ 205-14. Variance to be available for inspection.

The applicant or the applicant's agent shall have readily available the approved special variance at the location or site for which the variance has been issued and shall show same to any agent of the Town whenever requested.

§ 205-15. Activity open to inspection.

Activity conducted under the special variance shall be open to inspection at any time by any agent of the Town.

§ 205-16. Revocation of variance.

The permit of a special variance may be revoked by the Zoning Board of Appeals if:

- A. There is a violation of one or more conditions of the variance;
- B. There is a material misrepresentation of fact in the permit application; or
- C. There is a material change in any of the circumstances relied upon the Zoning Board of Appeals in granting the variance.

§ 205-17. Powers and duties of Zoning Board of Appeals.

A. In determining whether to grant or deny the application, the Zoning Board of Appeals shall balance the hardship to the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts of granting the special variance.

B. In connection with this section, the Zoning Board of Appeals shall cause the taking of sound level readings in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.

C. The Zoning Board of Appeals shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site, including time limits on permitted activity in the event that it shall grant any variance hereunder.

CHAPTER 212. PARKS AND RECREATION

ARTICLE I. General Provisions

§ 212-1. Director to establish rules.

§ 212-2. Erection of signs.

§ 212-3. Penalties for offenses.

§ 212-4. Issuance of notices of violation.

ARTICLE II. Carry In - Carry Out Policy

§ 212-5. Adoption of policy.

§ 212-6. Removal of trash.

§ 212-7. Notice of policy.

ARTICLE III. Traffic Control Devices

§ 212-8. Obedience required.

§ 212-9. Penalties for offenses.

CHAPTER 212. PARKS AND RECREATION

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

GENERAL REFERENCES

Bicycles — See Ch. 131.

Motorcycles — See Ch. 200.

Peddling and soliciting — See Ch. 216.

Snowmobiles — See Ch. 232.

Solid waste — See Ch. 236.

ARTICLE I. General Provisions

[Adopted 6-5-1990 by L.L. No. 7-1990 (Subpart 7 of the 1974 Code)]

§ 212-1. Director to establish rules.

The Director of Parks and Recreation is hereby authorized, subject to approval of the Town Board by resolution, to promulgate and establish rules regulating or restricting the use of any Town park.

§ 212-2. Erection of signs.

Upon the adoption of any rule regulating or restricting the use of any Town park, the Director of Parks and Recreation shall cause to be erected in the area or areas where such regulations or restrictions are imposed appropriate signs indicating such regulation or restriction, and thereupon any violation of any such regulation or restriction shall subject the violator to the penalties hereinafter provided.

§ 212-3. Penalties for offenses.

[Amended 6-1-1999 by L.L. No. 5-1999]

Any violation of any regulation or restriction imposed or adopted under this article shall subject such violator to a penalty as set forth in Chapter 1, General Provisions, Article III.

§ 212-4. Issuance of notices of violation.

[Amended 6-1-1999 by L.L. No. 5-1999]

The Town Board may by resolution authorize such Town employees as it may determine to issue and serve in such manner as it may determine notices of violation of any such park restriction or regulation. Such notice may state that a charge of violation may be disposed of by a voluntary payment to the Town Clerk of such sum as the Town Board may by such resolution determine and that upon failure of the person so served to respond to such notice within such period of time as the Town Board may determine, the Town may commence action for the maximum penalty herein provided or otherwise cause such violator to be prosecuted according to law.

ARTICLE II. Carry In - Carry Out Policy

[Adopted 5-6-1997]

§ 212-5. Adoption of policy.

The Guilderland Town Board, recognizing the importance of protecting our environment and keeping our parks open for the enjoyment of all Town residents, shall adopt the following policy to apply to all parks within the Town.

§ 212-6. Removal of trash.

Anyone using park facilities in the Town of Guilderland shall be required to remove any trash, garbage, litter or similar items when leaving the park. Anyone who violates this policy may be charged for the cost of removing such trash.

§ 212-7. Notice of policy.

The Department of Parks and Recreation shall post notices of this policy in all Town parks and shall give copies of this policy to all persons renting Town park facilities.

ARTICLE III. Traffic Control Devices

[Adopted 7-17-2001 by L.L. No. 9-2001]

§ 212-8. Obedience required.

A. Every person shall obey the instructions of any official traffic control device applicable to him or her while in a Town park, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle as described in the New York State Vehicle and Traffic Law.

B. No provision of this article for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

C. Whenever official traffic control devices are placed in position approximately conforming to the requirements of this article, such devices shall be presumed to have been so placed by an official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

§ 212-9. Penalties for offenses.

A violation of this article is punishable by a fine:

A. For the first offense, a maximum of \$100;

B. For the second offense within 18 months, a maximum of \$200; or

C. For the third offense within 18 months, a maximum of \$300.

CHAPTER 216. PEDDLING AND SOLICITING

§ 216-1. Legislative intent.

§ 216-2. Definitions.

§ 216-3. Exemptions.

§ 216-4. License required.

§ 216-5. License application.

§ 216-6. Investigation and issuance of license.

§ 216-7. License information; nontransferability; term.

§ 216-8. Rules and regulations; special use permit.

§ 216-9. Suspension and revocation of license.

§ 216-10. Penalties for offenses.

CHAPTER 216. PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Guilderland 12-11-1979 by L.L. No. 6-1979 (Subpart 13 of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 280.

§ 216-1. Legislative intent.

It is the intent of the Town Board of the Town of Guilderland to regulate the activities of peddlers in order to preserve the peace, safety and general welfare of the town and its inhabitants.

§ 216-2. Definitions.

[Amended 7-10-1984 by L.L. No. 8-1984]

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

PEDDLER

An individual, firm, corporation, club, society, partnership, unincorporated association, and any principal or agent thereof who, in or upon any street or highway, or going from place to place, from house to house, or from street to street, by foot, wagon, automotive vehicle or any other type of conveyance, or who, from a wagon, automotive vehicle, railroad car or other vehicle or conveyance with or without going from place to place, house to house, or street to street, sells or barter, offers for sale or barter, carries or exposes for sale or barter or takes or offers to take orders for, goods, wares, merchandise, meats, fish, fowl, vegetables, fruit, flowers, garden or farm products or provisions, or services of any kind. The term "peddler" shall include the words "hawker," "huckster" and "solicitor."

§ 216-3. Exemptions.

[Amended 7-10-1984 by L.L. No. 8-1984]

The provisions of this chapter shall not apply:

- A. To any sales conducted pursuant to statute or by order of any court;
- B. To sales of personal property at wholesale to dealers in such articles;
- C. To sales to merchants having an established place of business within the town;
- D. To the peddling of meats, fish, fowl, fruit, vegetables and garden produce by a gardener or farmer or his employees where the products sold or offered for sale are the produce of the vendor's farm, garden or orchard;

E. To sales by dealers in milk, baked goods, heating fuel and daily newspapers;

F. To sales by any person soliciting at the express invitation of the person solicited or soliciting to establish customers;

G. To sales by any school group, veterans, fraternal or charitable organizations, volunteer firemen's association, religious, civic or service group or other nonprofit organization or association that maintains a chapter or place for the regular conduct of business or meetings within the County of Albany; and

H. To any veteran who has procured a license from the State of New York pursuant to § 32 of the General Business Law.

§ 216-4. License required.

It shall be unlawful for any person to act within the Town of Guilderland as a peddler without having a valid license therefor obtained as prescribed in this chapter.

§ 216-5. License application.

A. Every applicant for a license under this chapter shall file with the Town Clerk a sworn application, in writing (in duplicate), on a form to be furnished by the Town Clerk setting forth the following:

- (1) The name and address of the applicant, both legal and local, if different.
- (2) The date of birth.
- (3) Citizenship of the applicant.
- (4) The social security number of the applicant.
- (5) A brief description of the nature of the business and the goods or services to be sold.
- (6) Expected inclusive dates of soliciting activity and reasons why activity will require such period of time.
- (7) The name of the streets or areas of the Town of Guilderland where peddling will be conducted.

(8) Three photographs of the applicant, two inches by two inches in dimension, taken within 30 days of the date of the application. Such photographs shall show the head, full face and shoulders of the applicant. One copy of the photograph shall be attached to the application, one to the license, and the third shall be delivered to the Chief of Police of the Town of Guilderland.

(9) A list of all other municipalities in which the applicant has peddled within the last three years, together with inclusive dates of such activities, together with a list of previous peddlers license permit numbers, noting which are still in effect.

(10) A list of previous employments, exclusive of peddling during the last three years.

(11) The name and address of the firm or organization represented, if any.

(12) An itemized statement of all merchandise or services to be sold or offered for sale, including a price list.

(13) A letter of authorization from the firm or organization the applicant purports to represent, if applicable.

(14) A letter of authorization from each business supplying merchandise or services which the applicant sells or solicits orders for.

(15) Copies of all order and receipt forms used by the applicant in soliciting sales or orders.

(16) The name and address of counsel for the applicant.

(17) If a vehicle is to be used, a description of the same together with the license plate number or other means of identification. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

(18) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance or local law, the nature of the offense and the punishment or penalty assessed therefor.

(19) The names and addresses of at least two reliable property owners of the County of Albany, Schenectady, Rensselaer or Saratoga in the State of New York, who will certify as to the applicant's good character and reputation for business responsibility, or, in lieu thereof, any other available

evidence as to the good character and business responsibility of the applicant which will enable the Town Clerk to properly evaluate such character and reputation for business responsibility.

B. An applicant intending to use an employee peddling or soliciting in the Town of Guilderland shall with respect to each such employee set forth the information prescribed in Subsection A(1) through (8) of this section.

C. No license shall be issued authorizing peddling by any person under the age of 18 years.

D. Each application for a license shall be accompanied by a fee Editor's Note: See Ch. A285. as set by resolution of the Town Board from time to time payable to the Town Clerk to cover the cost of investigating and administering the application. An additional fee as set by resolution of the Town Board from time to time shall accompany the application for each employee of the applicant. Such fees shall be nonrefundable except that the Town Board may, in its discretion, waive or refund any such fees payable or paid by any nonprofit charitable, civic or service organization.

[Amended 11-16-1993; 8-15-1995 by L.L. No. 12-1995]

§ 216-6. Investigation and issuance of license.

A. The Town Clerk shall make or cause to be made such investigation of the applicant's background, character and fitness as the Clerk may deem necessary for the protection of the public welfare and safety. Based upon such investigation, the Town Clerk shall either approve or disapprove the application. Upon approval, a license shall be issued containing the information set forth in the following section.

B. Upon disapproval, the Town Clerk shall state the reasons therefor and promptly notify the applicant thereof. Thereupon the applicant may request a hearing before the Town Clerk. Within three days of the receipt of such request, the Town Clerk shall issue a notice of hearing and shall thereafter hold the same in accordance with the procedure prescribed in § 216-9C of this chapter. The determination of the Town Clerk following such hearing shall be final and conclusive.

§ 216-7. License information; nontransferability; term.

A. The license shall bear the signature of the Town Clerk and the seal of the town and shall set forth:

- (1) The name, address and photograph of the licensee.
- (2) The specific activity licensed.
- (3) The type of goods or services to be offered for sale.
- (4) The date of issuance.
- (5) The expiration date.
- (6) The license plate number and other identifying description of any vehicle used in such peddling. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The license shall be nonassignable and upon request shall be produced and exhibited to any police officer or prospective customer of the licensee. No license shall be valid for a period of more than 60 days from the issuance date and in no event shall it be valid after the last day of the year in which it is issued.

§ 216-8. Rules and regulations; special use permit.

[Amended 7-10-1984 by L.L. No. 8-1984]

A. No peddler, whether licensed pursuant to this chapter or exempt therefrom, shall within the Town of Guilderland:

- (1) Willfully misstate any fact relating to merchandise or services offered for sale.
- (2) Willfully offer for sale any article of an unwholesome or defective nature.
- (3) Call attention to himself or his vending activity by a public address system or by creating a public disturbance or loud and unusual noise.
- (4) Willfully and for the purpose of vending enter upon premises clearly displaying a sign prohibiting solicitation.
- (5) Fail to promptly leave premises upon request of any occupant of such premises.
- (6) Fail to furnish to a vendee upon request a legible receipt signed and dated by the licensee containing a description of the merchandise or services ordered or sold, the price thereof and the payment received.

B. Special use permit.

(1) No peddler shall be permitted a stationary location nor shall he be permitted to operate from a stationary location on public or private lands fronting on public highways located in the Town of Guilderland and known as "New York State Route 20," "New York State Route 155," "Carmen Road" and/or "New York State Route 146," unless such peddler shall first make application for and obtain a special use permit from the Zoning Board of Appeals. No special use permit shall be granted until the Zoning Board of Appeals shall find and determine that:

(a) Such use or operation is reasonably necessary or convenient to the public health, welfare or the economic or social benefit of the community;

(b) No undue traffic congestion or hazard, both vehicular and pedestrian, will be created; and

(c) The use or operation shall not impede or inconvenience the public.

(2) The Zoning Board of Appeals is hereby authorized and empowered to and shall in any special use permit issued pursuant to this chapter impose such additional specific terms and conditions as it shall deem reasonably necessary to ensure or promote public health, safety and convenience.

§ 216-9. Suspension and revocation of license.

A. Any license issued pursuant to this chapter may be revoked by the Town Clerk after notice and hearing for any of the following causes:

(1) Any violation of this chapter.

(2) Conviction of any crime or misdemeanor involving moral turpitude.

(3) Any misrepresentation or false statement contained in the license application or made in the course of business as a peddler.

(4) Fraud, misrepresentation or false statement made in the course of business as a peddler.

(5) Conducting the business of peddling in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. The Town Clerk may suspend any license pending any hearing as herein prescribed.

C. Notice of hearing for revocation of a license shall be given, in writing, and shall set forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the licensee at his last known address not less than 10 business days prior to such hearing. The hearing shall be held within 21 business days from the date of suspension of the license. The determination of the Town Clerk following such hearing shall be final and conclusive.

§ 216-10. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person committing an offense against or violating this chapter or any section or provision thereof is guilty of a violation and shall, upon conviction thereof, be subject to a penalty as set forth in Chapter 1, General Provisions, Article III. In lieu of, or in addition to, any fine or imprisonment, or both, imposed hereunder, each such offense may be punishable by a civil penalty not to exceed \$250 to be recovered in an action or proceeding in a court of competent jurisdiction. For each day such offense or violation continues, the violator shall be subject to a separate civil penalty.

CHAPTER 225. SEWERS

ARTICLE I. Purpose; Terminology

§ 225-1. Purpose.

§ 225-2. Definitions and word usage.

ARTICLE II. Use of Public Sewers Required

§ 225-3. Unlawful discharges and uses.

§ 225-4. Connection required.

ARTICLE III. Private Sewage Disposal

§ 225-5. Public sewer not available.

§ 225-6. Permit required prior to construction; inspection.

§ 225-7. Compliance with state regulations.

§ 225-8. Availability of connection to public sewer.

§ 225-9. Responsibilities of owner.

§ 225-10. Construal of provisions.

ARTICLE IV. Building Sewers and Connections

§ 225-11. Permit required for work.

§ 225-12. Types of permits; application; fees.

§ 225-13. Costs; liability.

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§ 225-35. Penalties for offenses.

CHAPTER 225. SEWERS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 5-13-1980 by L.L. No. 2-1980 (Subpart 4, Div. 3, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building Department — See Ch. 17.
Building permits — See Ch. 140.
Solid waste — See Ch. 236.
Sprinkler systems — See Ch. 239.
Subdivision of land — See Ch. 247.
Water — See Ch. 272.

ARTICLE I. Purpose; Terminology

§ 225-1. Purpose.

The purposes of these rules and regulations are specifically stated as follows:

- A. To prohibit excessive volumes and/or inordinate rates of flow of sewage and wastes into a Town and/or county sewerage system.
- B. To prohibit the contribution of sewage, industrial wastes or other wastes of a flammable nature or which create in any way a poisonous or hazardous environment for sewerage maintenance and operation personnel.
- C. To prohibit the contribution of sewage, industrial wastes or other wastes which may cause maintenance difficulties in the lateral and trunk sewers, force mains, pumping stations, sewage regulators and other structures and appurtenances of the Town and/or county sewerage system.
- D. To prohibit the contribution of sewage, industrial wastes or other wastes which may create operating difficulties at the water pollution control plants as they may be constructed, modified or improved in the future.
- E. To prohibit and/or to regulate the contribution of sewage, industrial wastes or other wastes which require for treatment at the plants greater expenditures than are required for equal volumes of normal sewage.
- F. To require the treatment, before introduction into the Town sewers, of such wastes as may otherwise impair the strength and/or durability of the structures appurtenant to the sewer system, by direct or indirect chemical action, or interfere with the normal treatment processes. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- G. To provide cooperation with the Albany County Sewer District, the Albany County Department of Health and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and bacteriological quality of watercourses within or bounding the county.
- H. To protect the public health and to prevent nuisances.

§ 225-2. Definitions and word usage.

- A. Unless the context specifically indicates otherwise, the meanings of terms in these rules and regulations shall be as follows:

BOD (denoting "biochemical oxygen demand")

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. (68° F.) expressed in milligrams per liter (mg/l). Measurement shall be as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater.

CHLORINE DEMAND

The difference between the amount of chlorine added to water, sewage or industrial wastes and the amount of residual chlorine remaining at the end of a twenty-minute contact period at room temperature.

COMBINED SEWER

A sewer designed to receive and transport both surface runoff and sewage.

COMMISSION

The Board of Commissioners appointed by the County Legislature to the Albany County Sewer District.

CONTAMINATION

An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

COOLING WATER

The water discharged from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD, or suspended solids, in excess of 10 parts per million by weight, or toxic substances as limited elsewhere herein.

COUNTY

The County of Albany.

COUNTY SEWERAGE SYSTEM

The trunk sewers, force mains, pumping stations, sewage regulators, water pollution control plants (sewage treatment plants) and other appurtenant structures owned and operated by the Albany County Sewer District.

COUNTY SEWER DISTRICT

Any county sanitary sewer district as created, altered or modified by action of the Albany County Legislature.

DEPARTMENT OF HEALTH

The Albany County Department of Health.

DIRECTOR

The Executive Director of the Albany County Sewer District or, in the case of a sewer district outside the Albany County Sewer District, the Superintendent of the Department of Sanitation.

GARBAGE

Food wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling and storage and sale of produce.

HEALTH OFFICER

The duly appointed Commissioner of Health of Albany County.

INDUSTRIAL WASTES

The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION or NYSDEC**

The New York State Department of Environmental Conservation or other duly authorized official of said Department.

NORMAL SEWAGE

Sewage, industrial wastes or other wastes which, when analyzed, show by weight the following characteristics:

- (1) BOD: 2,000 pounds per million gallons (240 milligrams per liter) or less.
- (2) Chlorine demand: 208 pounds per million gallons (25 milligrams per liter) or less.
- (3) Suspended solids: 2,500 pounds per million gallons (300 milligrams per liter) or less.

OTHER WASTES

Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, cinder, ashes and all other discarded matter not normally present in sewage or industrial wastes.

PERSONS

Any individual, firm, company, association, society, corporation or group contributing directly or indirectly to a Town sewer system.

pH

The negative logarithm of the hydrogen ion concentration in moles per liter. It indicates the intensity of acidity and alkalinity of the pH scale running from 0.0 to 14.0. A pH value of 7.0, the midpoint of the scale, represents neutrality. Values above 7.0 represent alkaline conditions, and those below 7.0 represent acid conditions.

POLLUTION

The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

PRETREATMENT

The reduction of the amount of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6, General Pretreatment Regulations for Existing and New Sources of Pollution.

PROPERLY SHREDDED GARBAGE

Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewer to which it is discharged, with no particle having a dimension greater than 1/2 inch in any dimension.

PUBLICLY OWNED TREATMENT WORKS (POTW)

As defined by Section 212 of the Act (33 U.S.C. § 1292); includes any sewers that convey wastewater to the POTW, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

PUBLIC SEWER

A sewer controlled by a public body.

RECEIVING WATERS

A natural watercourse or body of water into which treated or untreated sewage is discharged.

SANITARY SEWAGE

Sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from stormwater, surface water, industrial wastes and other wastes.

SANITARY SEWER

A sewer which carries sewage and to which storm- , surface and ground waters are not intentionally admitted.

SEWAGE

A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground- , surface and storm water as may be inadvertently present. The admixture of sewage as above defined with industrial wastes or other wastes also shall be considered sewage within the meaning of this definition.

SEWAGE SURCHARGE

The demand payment for the use of a Town sewerage system for handling and sewage, industrial wastes or other wastes accepted for

admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage.

SEWER

A pipe or conduit for carrying sewage.

SIGNIFICANT INDUSTRIAL USER

A user who:

(1) Has a discharge flow of 25,000 gallons or more per average work day;

(2) Has a flow greater than 5% of the flow in the municipality's wastewater system;

(3) Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act (33 U.S.C. § 1292);

(4) Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Has been identified as one of the 21 industrial categories pursuant to Section 307 of the Act (33 U.S.C. § 1292); or

(5) Is found by the municipality to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

SLUG

Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during normal operation.

SPDES

Denotes the State Pollution Discharge Elimination System established by Article 17 of the Environmental Conservation Law of the State of New York for issuance of permits authorizing discharges to the waters of the state.

STORM SEWER (STORM DRAIN)

A sewer which carries storm- and surface waters and drainage, but excludes sewage and industrial wastes other than cooling waters and other unpolluted waters.

SUPERINTENDENT

The duly designated Superintendent of the Department of Water and Wastewater Management of the Town of Guilderland, or his authorized deputy, agent or representative.

SUSPENDED SOLIDS

Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by flotation, skimming and sedimentation. Measurement shall be as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater.

TOWN

The Town of Guilderland and the lands contained therein.

TOWN BOARD

The legally constituted Town Board of the Town of Guilderland.

TOXIC SUBSTANCES

Any substance whether gaseous, liquid or solid which, when discharged to a public sewer in sufficient quantities, may be hazardous to sewer district personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life, or to create a hazard to recreation in the receiving waters of the effluent from a sewage treatment plant.

WATER POLLUTION CONTROL PLANT

Any arrangement of devices and structures used for treating sewage.

B. "Shall" is mandatory; "may" is permissive.

ARTICLE II. Use of Public Sewers Required**§ 225-3. Unlawful discharges and uses.**

A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town of Guilderland or in any area under the jurisdiction of said Town any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the Town of Guilderland or in any area under the jurisdiction of said Town any sewage or other polluted wastes except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 225-4. Connection required.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting

on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Town is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

ARTICLE III. Private Sewage Disposal

§ 225-5. Public sewer not available.

Where a public sanitary sewer is not available under the provisions of Article II, § 225-4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

§ 225-6. Permit required prior to construction; inspection.

A. Before commencement of construction of a private sewage disposal system or the issuance of a building permit by the Town Building Department, the owner shall first obtain a written permit from the Albany County Health Department. The application for such permit shall be made on a form furnished by the Albany County Health Department and may be supplemented by any plans, specifications and other information as are deemed necessary by the Albany County Health Department.

B. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Albany County Health Department. The applicant shall notify the Albany County Health Department when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Albany County Health Department.

§ 225-7. Compliance with state regulations.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§ 225-8. Availability of connection to public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public

sewer within 90 days in compliance with this chapter. Any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with clean fill by the owner at no expense to the Town.

§ 225-9. Responsibilities of owner.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

§ 225-10. Construal of provisions.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Albany County Health Department.

ARTICLE IV. Building Sewers and Connections

§ 225-11. Permit required for work.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Department of Sanitation.

§ 225-12. Types of permits; application; fees.

There shall be three classes of building sewer permits: for residential service, for duplex or commercial service and for service to establishments producing industrial wastes. In any case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee as set by resolution of the Town Board from time to time shall be paid to the Town at the time the application is filed.

§ 225-13. Costs; liability.

[Amended 6-17-2003 by L.L. No. 4-2003]

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any cost or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall pay to the Town at the time of the issuance of a building permit, for a single-family home, a one time hook-up

fee of \$2,085. For industrial and commercial customers (including apartment complexes), the minimum charge will be \$2,085 but is subject to additional charges based upon the projected usage as follows: \$695 per 100 gallons per day usage based upon standard engineering estimates subject to approval by Town of Guilderland Department of Water and Wastewater Management. The fees collected shall be used for the past, present and future costs related to the construction, maintenance and improvements of the sanitary sewer system of the Town of Guilderland, including the treatment plant and sewer main system.

§ 225-14. Building connections.

A. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

B. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

§ 225-15. Specifications.

A. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, joining, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the Uniform Fire Prevention and Building Code, the American Society for Testing and Materials (ASTM) and WPCF Manual of Practice No. 9 shall apply. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

C. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a

building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

D. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the Uniform Fire Prevention and Building Code, the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 225-16. Inspection; connection to public system.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

§ 225-17. Safety measures at excavation sites.

All excavations for building sewer installation shall be adequately sheeted and guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent.

ARTICLE V. Use of Public Sewers

§ 225-18. Sanitary sewers.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer. Any combined sewers shall become separated.

§ 225-19. Storm sewers.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer or natural outlet after the discharger has obtained approvals and permits from federal and state agencies.

§ 225-20. Prohibited discharges.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer. However, the discharge of these may be accepted conditionally by the County Sewer District or Town improvement area involved unless it will cause the POTW to violate its SPDES permit or the receiving water quality standards.

C. Any waters or wastes having a pH lower than 5.5, or having a pH higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

§ 225-21. Discharges to be reviewed for acceptability.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent and/or the Director that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent and/or the Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability

of wastes in the water pollution control plant and other pertinent factors. The substances prohibited in the first instance but subject to review by the Superintendent and/or Director are:

A. Any liquid or vapor having a temperature higher than 150° F. (65° C.) or in such quantities that the temperature at the treatment works influent exceeds 40° C. (104° F.), unless the works is designated to accommodate such heat.

B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F.

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor 3/4 horsepower or greater shall be subject to the review and approval of the Superintendent and/or the Director. Not more than 30% of ground garbage, on the dry basis, shall pass a No. 40 United States Standard Sieve. Garbage grinders shall not be used for disposal of:

(1) Plastic, paper products, inert materials or garden refuse.

(2) Wastes generated in preparation of food not normally consumed on the premises.

D. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

E. Any water or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances unless their concentration is reduced to a point that will not adversely affect any of the biochemical, chemical or other sewage treatment process. The concentration in sewage of any of the toxic substances shall not exceed the concentrations judged by the Director to be toxic to biological sewage treatment processes or to the biota of the receiving waters.

F. Any water or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Director as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent or Director in compliance with applicable state or federal regulations.

H. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

I. Any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the Town sewage treatment plant or to exceed the limitation set forth in a categorical pretreatment standard. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage and include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act (33 U.S.C. § 1292). If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration by the Superintendent (refer to Appendix A Editor's Note: Appendix A is on file in the office of the Town Clerk.). Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

J. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludge or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse with reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act (33 U.S.C. § 1292), and criteria, guidelines or regulations affecting sludge use or disposal development pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act

or state criteria applicable to the sludge management method being used.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 225-22. Action to be taken for discharges determined unacceptable.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 225-21 of Article V herein, and which in the judgment of the Superintendent and/or Director may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent and/or Director may:

- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;
- C. Require control over the quantities and rates of discharge; and/or
- D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

§ 225-23. Industrial discharges; permit required.

A. It shall be unlawful for any person to discharge directly or indirectly into public sewers or into any private sewer sewage combined with industrial wastes or other wastes, industrial wastes or other wastes the characteristics of which, at the point of discharge, exceed the concentration limits prescribed for normal sewage under Article I herein, or fall within the categories prohibited under Article V herein, except under the issuance of a permit therefor by the Superintendent and upon such terms and conditions as may be established by the Superintendent in the issuance of such a permit.

B. The maximum time period for the permit shall be five years, with provisions for an extension. Terms and conditions of the permit may be subject to modification and change by the Town. Proper notification of the changes shall be granted the permittee with a reasonable time schedule for compliance. An industrial discharger shall apply for a permit modification if production or process is changed that, in effect, altered the wastewater characteristics in any manner including quantity of flow.

C. The permit shall not be reassigned, transferred or sold to a new owner, user, for different premises or a new or changed operation.

§ 225-24. Application for industrial sewer connection.

Each applicant for a permit to discharge sewage combined with industrial wastes or other wastes into public sewers shall fill out and file with the Superintendent an Industrial Sewer Connection Application as a prerequisite for the consideration of such a permit. The following is a partial list of information to be furnished by the applicant:

A. Plot of the property showing accurately all sewers, drains and house connections.

B. Plans and specifications covering any work proposed to be performed under the permit.

C. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property or premises, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses.

D. Detailed plans showing facilities and operating procedures to provide protection from accidental discharge of prohibited materials or other wastes from significant contributing industries be submitted to the Town for review and shall be acceptable to the Town before construction of the facilities.

E. The name and address of the person or firm who will be responsible for the performance of the work to be covered by the permit and the name and address of the person or firm who will be responsible for operating the facilities in accordance with the terms and conditions of the permit.

§ 225-25. Terms and conditions of permit; revocation; accidental discharges.

A. Terms and conditions as may be required and imposed by the Superintendent in the issuance of the permit are as follows:

(1) A limitation upon the volume of sewage and the rate of flow permitted from the premises.

(2) The installation and maintenance by the permittee, at his own expense, of facilities or equipment for intermittent or continuous measurement of

sewage, industrial wastes or other wastes discharged from the premises into a public sewer.

(3) The installation and maintenance by the permittee, at his own expense, of detention tanks or other facilities or equipment for reducing the maximum rates of discharge of sewage to such a percentage of the twenty-four-hour rate as may be required by the Superintendent.

(4) The installation and maintenance by the permittee, at his own expense, of such preliminary treatment facilities as may be required by the Superintendent.

(5) The installation and maintenance by the permittee, at his own expense, of a suitable control or sampling manhole or manholes in any sewer discharging to a public sewer for which a permit is issued.

(6) The installation and maintenance by the permittee, at his own expense, of grease, oil and sand interceptors, separators or traps that are necessary for the proper handling of liquid wastes containing such substances in excessive quantities or any flammable waste or other harmful ingredients.

(7) The submission to and approval by the Superintendent of the plans for any of the facilities or equipment required to be installed and maintained by the permittee.

(8) Such other terms and conditions as may be necessary to protect the sewer system and carry out the intent and provisions of these rules and regulations.

B. Such terms and conditions may also provide that subsequent to the commencement of operation of any preliminary treatment facilities, periodic reports shall be made by the permittee to the Superintendent setting forth adequate data upon which the acceptability of the sewage, industrial wastes or other wastes, after treatment, may be determined.

C. Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the permittee at his expense.

D. A violation by the permittee of the permit shall be a cause for revocation or suspension of the permit.

E. An industrial user shall notify the Town immediately upon accidentally discharging wastes in violation of this chapter. This notification shall be followed, within 15 days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines imposed on the municipality under applicable state and federal regulations.

F. A notice shall be furnished and permanently posted on the industrial user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter. Also, copies of this chapter are to be made available to user's employees.

G. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the user shall approximately label such entry points to warn against discharge of such wastes in violation of this chapter.

H. When pretreatment regulations are adopted by USEPA or NYSDEC for any industry, then that industry must immediately conform to the USEPA or NYSDEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of P.L. 95-217. Additionally, such industries shall comply with any more-stringent standards necessitated by local conditions as determined by the Town.

I. No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant specific limitation developed by the Town or state unless authorized by state or federal regulations.

§ 225-26. Sampling and testing of wastes.

Whenever sewage, industrial wastes or other wastes having characteristics other than prescribed for normal sewage as defined in Article I herein, or falling within the categories of waste prohibited from public sewers pursuant to these rules and regulations, is discharged into public sewers from any premises, the Superintendent and/or the Director shall have the right to take samples and tests as may be necessary to determine the nature and concentration of such

wastes, and shall have the right to reassess his determinations by taking samples and tests at any time or by periodic rechecks without notice to the person discharging such wastes.

A. Samples shall be taken and flow measurements made normally at the control manhole or manholes.

B. In the event that the requirement for a control manhole or manholes have been specifically waived, the samples shall be taken at a point or points to be selected by the Superintendent.

§ 225-27. Control manholes.

When required by the Superintendent and/or the Director, and/or operator, or classified as a significant industrial user, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such meters and other appurtenances in the building sewer as are necessary to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent and/or the Director. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 225-28. Measurement and analyses of wastes.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these rules and regulations shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest suitable one downstream in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

ARTICLE VI. Protection from Damage

§ 225-29. Damage to system; violations.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Town of Guilderland sewerage system. Any person violating this provision shall be subject to immediate arrest under charge of criminal tampering.

ARTICLE VII. Powers and Authority of Inspectors

§ 225-30. Right of entry; access to records.

A. The Superintendent and/or the Director or other duly authorized employee of the Town and/or of the county bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurements, sampling and testing the quantity and quality of waste discharges to the sewers or waterways or facilities for waste treatment in accordance with the provisions of this chapter.

B. The Town may at reasonable times have access to and copy any records, inspect any monitoring equipment, or method required, by wastewater discharge permits or Town ordinance and sample any effluent which the owner or operator of such source is required to sample. Where a user has security measures in force, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town will be permitted to enter without delay.

§ 225-31. Observance of safety rules.

While performing the necessary work on private properties referred to in Article VII, § 225-30 above, the Superintendent and/or the Director or their duly authorized representatives shall observe all safety rules applicable to the premises established by the company.

§ 225-32. Refusal to permit entry.

Refusal to permit the entry upon private lands required to perform the necessary work referred to in Article VII, § 225-30 above, shall be punishable by such penalties as may be prescribed under Article VIII.

§ 225-33. Entry on easements.

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the

purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewerage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the fully negotiated easement pertaining to the private property involved.

§ 225-34. Cease and desist order.

The Town is authorized to issue an order to cease and desist and direct those persons not complying with such prohibitions, limits requirements or provisions of this chapter or the wastewater discharge permit to:

- A. Comply forthwith;
- B. Comply in accordance with a time schedule set forth by the Town; or
- C. Take appropriate remedial or preventive action in the event of a threatened violation.

ARTICLE VIII. Enforcement and Penalties

§ 225-35. Penalties for offenses.

A. A violation of the provisions of Articles II to V, inclusive, of these rules and regulations is an offense, and each such violation may be punished by a penalty as set forth in Chapter 1, General Provisions, Article III. In lieu of, or in addition to, such fine or imprisonment, or both, each such violation shall be subject to a civil penalty not exceeding \$250 for any one case, to be recovered in an action or proceeding brought by the Town Attorney of the Town of Guilderland in a court of competent jurisdiction. Each day of a continuing violation shall be subject to a separate such fine, imprisonment or civil penalty. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. The Town Attorney may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with these rules and regulations or restrain by injunction any violation of these rules and regulations, notwithstanding the provisions of Subsection A hereof for a penalty or other punishment.

C. Where any violation of these rules and regulations causes expenses to the Town, such violation may also be punished by a civil suit against the violator, brought by the Town Attorney of the Town of Guilderland in the name of the Town in a court of competent jurisdiction, to recover such additional cost.

D. Any person who knowingly makes any false statements, representation, record, report, plan or other documentation filed with the municipality or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall be punished by a penalty as set forth in Chapter 1, General Provisions, Article III. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

CHAPTER 227. SIDEWALKS

§ 227-1. Authority.

§ 227-2. Required sidewalk locations.

§ 227-3. Time of installation.

§ 227-4. Construction specifications.

§ 227-5. Maintenance.

§ 227-6. Obstructions; penalties for offenses.

§ 227-7. Exceptions.

§ 227-8. Liability.

§ 227-9. Enforcement.

§ 227-10. Repair or installation by Town.

CHAPTER 227. SIDEWALKS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 9-17-2002 by L.L. No. 8-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Streets — See Ch. 243.

Subdivision of land — See Ch. 247.

Zoning — See Ch. 280.

§ 227-1. Authority.

Unless otherwise indicated, the provisions of this chapter of the Guilderland Town Code are adopted pursuant to the powers granted the Town in §§ 130 and 200-a of the New York State Town Law.

§ 227-2. Required sidewalk locations.

A. Sidewalks shall be required on both sides of all state and county roads wherever properties abutting such roads have access to municipal water lines, except such roads abutting agricultural zoned property, and shall be

required on any other Town road, or part thereof, by resolution of the Town Board after a public hearing, or by provision of state law.

B. On all roads other than those enumerated in § 227-2A, the Planning Board and the Zoning Board of Appeals are authorized, in their discretion, to require the installation of sidewalks, bike paths, or other pedestrian facilities as a condition of approval for property under review. The Planning Board and the Zoning Board of Appeals shall consider sidewalks, bike paths, or other pedestrian facilities as a condition of approval for property under review when said property is in proximity to schools, parks, businesses, religious institutions, existing neighborhoods, undeveloped land zoned for residential or commercial construction, existing sidewalks, or roads with the potential for high traffic volumes.

§ 227-3. Time of installation.

A. Sidewalks shall be installed by the property owner of all commercial zoned property abutting roads enumerated in § 227-2A of this chapter prior to the issuance of a certificate of occupancy or within six months of the issuance of a building permit if a certificate of occupancy is not required.

B. Sidewalks shall be installed by the developer of all commercial zoned property and the developer of all residential zoned property abutting roads enumerated in § 227-2A of this chapter within a reasonable time, as determined by the Planning Board.

C. Sidewalks shall be installed by the developer of any commercial zoned property and the developer of any residential zoned property, if required by the Planning Board pursuant to § 227-2B of this chapter, prior to the issuance of a certificate of occupancy or prior to any new road being dedicated to the Town if a certificate of occupancy is not required.

D. Sidewalks shall be installed by the property owner of any commercial zoned property, if required by the Zoning Board of Appeals pursuant to § 227-2B of this chapter, prior to the issuance of a certificate of occupancy or within six months of the issuance of a building permit if a certificate of occupancy is not required.

E. If the installation of a sidewalk is deemed premature by the State of New York, the Planning Board or the Zoning Board of Appeals due to the lack of adjoining sidewalks, the property owner shall place such funds as are adequate to construct the sidewalks, at the prevailing wage, in an escrow

account to be held by the Town of Guilderland until such time that the Town can install said sidewalks.

§ 227-4. Construction specifications.

A. Sidewalks shall be five feet in width, constructed of concrete, and placed within the right-of-way of the road.

B. Sidewalks shall be separated from the curb of the road by at least five feet, whenever practicable. The space between the curb of the road and the sidewalk shall contain grass or other appropriate landscaping. The space between the curb of the road and the sidewalk, if three feet or less, may contain brick, stone, decorative stamped asphalt, or other similarly aesthetic material as determined by the Planning Board or the Zoning Board of Appeals.

C. Sidewalks shall be designed to connect with existing sidewalks.

D. Sidewalks shall be constructed to comply with design standards of the Americans with Disabilities Act.

E. Sidewalks crossing a driveway or other vehicle entrance shall remain at the same level as the sidewalk adjacent to the driveway or vehicle entrance, whenever practicable.

§ 227-5. Maintenance.

A. The Town shall be responsible for the maintenance, including snow removal, of all sidewalks that are in the right-of-way of the road, and any other sidewalks over which the Town has been granted a maintenance easement.

B. The property owner shall be responsible for the maintenance, including snow removal, of any sidewalk that is not in the right-of-way of the road, unless the Town has been granted a maintenance easement over such sidewalk.

C. The space between the curb of the road and the sidewalk shall be maintained by the property owner.

§ 227-6. Obstructions; penalties for offenses.

A. The depositing of any snow, except from residue deposited off the edge of the plow blade, on sidewalks within the right-of-way of a state, county, or

Town road or in front of fire hydrants is expressly prohibited. Operators of municipal plows are exempt from the requirements of this subsection. The Zoning Enforcement Officer is hereby authorized to issue tickets to the actual violator, if known, or to the property owner where such violation occurred. Failure to comply with any portion of this subsection shall be deemed a misdemeanor, and the violator shall be liable for a fine of \$250 for the first offense and \$500 for any subsequent offense, and each day such violation continues shall constitute a separate offense.

B. Any physical obstruction on a sidewalk within the right-of-way of a state, county, or Town road, except for purposes of construction or to protect the health and safety of the public, is expressly prohibited. The Zoning Enforcement Officer is hereby authorized to issue tickets to the actual violator, if known, or to the property owner where such violation occurred. Failure to comply with any portion of this subsection shall be deemed a misdemeanor, and the violator shall be liable for a fine of \$250 for the first offense and \$500 for any subsequent offense, and each day such violation continues shall constitute a separate offense.

§ 227-7. Exceptions.

The following exceptions shall apply to this chapter:

A. Notwithstanding other provisions of § 227-4A to the contrary, sidewalks abutting a state, county, or Town road may be constructed outside the right-of-way of the road, provided that the Town has an easement over the sidewalk, which the Town in its absolute discretion deems sufficient.

B. Agricultural zoned property shall be exempt from the provisions of this chapter.

C. Nothing within this chapter shall prohibit the Town from installing sidewalks within the right-of-way of roads located within the Town, at Town expense.

§ 227-8. Liability.

Issues regarding civil liability shall be pursuant to § 243-1 of the Guilderland Town Code.

§ 227-9. Enforcement.

The Zoning Enforcement Officer shall be charged with the enforcement of the provisions of this chapter and shall report violations to the Town Clerk for the

purpose of providing legal notice to the owner of said property. The Town Clerk shall provide notice to the Town Board of continued violations for the purpose of considering orders of assessment.

§ 227-10. Repair or installation by Town.

The Town may repair or install a sidewalk of any property owner who violates this chapter by an order of assessment of the Town Board against the property owner, not to exceed the cost of the installation.

CHAPTER 229. SMOKING

§ 229-1. Legislative purpose.

§ 229-2. Definitions.

§ 229-3. Smoking tobacco in town-owned buildings.

§ 229-4. Designation of permitted smoking areas.

§ 229-5. Penalties for offenses.

CHAPTER 229. SMOKING

[HISTORY: Adopted by the Town Board of the Town of Guilderland 2-4-1986 by L.L. No. 1-1986 (Subpart 19, Div. 2, of the 1974 Code). Amendments noted where applicable.]

§ 229-1. Legislative purpose.

It is the purpose of the Town Board to protect and preserve in a reasonable manner the health, comfort and environment of the residents and employees of the Town of Guilderland by the regulation of smoking tobacco in buildings owned by the Town of Guilderland, New York.

§ 229-2. Definitions.

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

BUILDINGS OWNED BY THE TOWN OF GUILDERLAND

Any structure which is leased by the Town of Guilderland or to which the Town of Guilderland has fee simple title.

SMOKING

Includes the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

§ 229-3. Smoking tobacco in town-owned buildings.

It shall be unlawful for any person to smoke tobacco in any form in any buildings owned by the Town of Guilderland except in permitted smoking areas.

§ 229-4. Designation of permitted smoking areas.

The Town Board is hereby empowered to designate, from time to time, by order or resolution, an area or areas within any building owned by the Town of Guilderland where smoking shall be permitted.

§ 229-5. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A person who violates the provisions of this chapter is guilty of a violation punishable by a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 232. SNOWMOBILES

§ 232-1. Purpose.

§ 232-2. Title.

§ 232-3. Definitions.

§ 232-4. Operation regulated.

§ 232-5. Penalty.

CHAPTER 232. SNOWMOBILES

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-11-1974 as Subpart 2, Div. 7, of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles — See Ch. 131.

Motorcycles — See Ch. 200.

Parks and recreation — See Ch. 212.

Vehicles and traffic — See Ch. 267.

§ 232-1. Purpose.

The purpose of this chapter is to protect the public health, welfare, safety, peace and tranquillity by regulating the operation of snowmobiles within the Town of Guilderland.

§ 232-2. Title.

This chapter shall hereafter be known and cited as the "Town of Guilderland Snowmobile Local Law."

§ 232-3. Definitions.

For the purposes of this chapter, the following words shall have the meanings indicated:

SNOWMOBILE

A self-propelled vehicle designed for travel on snow or ice, steered by skis or runners, and supported in part by skis, belts or cleats.

§ 232-4. Operation regulated.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It shall be unlawful for any person to drive or operate any snowmobile on private lands within the Town of Guilderland within 500 feet of any dwelling or dwelling house between the hours of 11:00 p.m. and 7:00 a.m. without written authorization from the owner or occupant of the dwelling.

§ 232-5. Penalty.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). A failure to comply with the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 236. SOLID WASTE

ARTICLE I. Collection and Disposal

§ 236-1. Legislative intent.

§ 236-2. Definitions.

§ 236-3. Unlawful disposal.

§ 236-4. Accumulation and storage.

§ 236-5. Manner of collecting and disposing of refuse.

§ 236-6. Rules and regulations for Town facilities.

§ 236-7. License required for commercial use.

§ 236-8. Application for license.

§ 236-9. Issuance or denial of license; fees.

§ 236-10. Revocation of license; grounds.

§ 236-11. Dumping prohibited.

§ 236-12. Storage and disposal of hazardous wastes.

§ 236-13. Penalties for offenses; civil enforcement and remedies.

ARTICLE II. Recycling

§ 236-14. Title.

§ 236-15. Purpose.

§ 236-16. Statutory authority.

§ 236-17. Designation of recyclables; disposal.

§ 236-18. Separation required.

§ 236-19. Disposal as waste prohibited.

§ 236-20. Fees.

§ 236-21. Penalties for offenses.

CHAPTER 236. SOLID WASTE

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

GENERAL REFERENCES

Keeping swine — See Ch. 120, Art. I.

Parks and recreation — See Ch. 212.

Sewers — See Ch. 225.

Water — See Ch. 272.

Subdivision of land — See Ch. 247.

Zoning — See Ch. 280.

ARTICLE I. Collection and Disposal

[Adopted 10-2-1990 by L.L. No. 9-1990 (Subpart 5, Div. 1, of the 1974 Code)]

§ 236-1. Legislative intent.

The Town Board of the Town of Guilderland, by enacting this article, hereby declares its intent and purpose to be the protection of the general health, safety and welfare of the residents of the Town of Guilderland and the protection of the public and private water supplies and water resources of the Town by regulating the disposal of garbage and rubbish within the Town and to prohibit the storage or disposal of industrial hazardous wastes. The Town Board also recognizes that sanitary and construction landfills are being filled at an unprecedented rate. In order to preserve such landfills, it is necessary to institute and enforce a solid waste recycling program. Editor's Note: The list of items to be separated and recycled in accordance with New York State recycling laws, including landfill hours and fees, is on file in the Town offices.

§ 236-2. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

GARBAGE

Waste animal or vegetable matter from homes, institutions, restaurants, hotel or motel kitchens and vegetable markets or fruit markets, offal from abattoirs and packing houses, dead animals or parts thereof, and any other matter which shall be capable of putrefaction.

REFUSE-COLLECTING ACTIVITIES

The loading or unloading of refuse-collecting vehicles.

[Added 2-25-1997 by L.L. No. 4-1997; amended 8-19-1997 by L.L. No. 10-1997]

REFUSE-COLLECTING VEHICLE

Any motor vehicle designed to compact and/or transport refuse.

[Added 2-25-1997 by L.L. No. 4-1997; amended 8-19-1997 by L.L. No. 10-1997]

RESIDENTIAL DISTRICT

Any district defined in Chapter 280, Zoning, as a residential district; including but not limited to Single-Family Residential Districts, R-40, R-30, R-20, R-15, R-10, R-7.5, Multiple Residence District, Townhouse Dwelling District, Planned Unit Development District and Mobile Dwelling District.

[Added 2-25-1997 by L.L. No. 4-1997; amended 8-19-1997 by L.L. No. 10-1997]

RUBBISH

Includes any one or more of the following: garbage, trash, tin cans, ashes, cinders, glass, discarded paper, cardboard, wood, brush, lumber, discarded solids or liquids, used or waste material of any kind or other material or substances intended to be disposed of.

§ 236-3. Unlawful disposal.

No person shall use any of the lands within the Town as a dump or dumping grounds, nor shall any person throw, dump, deposit or place on such lands or cause to be thrown, dumped, deposited or placed on such lands any rubbish or garbage or attempt to dispose of such rubbish or garbage by burying it on such lands or burning or incinerating it on such lands except as otherwise provided in this article.

§ 236-4. Accumulation and storage.

No rubbish or garbage shall be accumulated or stored on any premises within the Town, other than premises established or provided as public dumping grounds under this article, except as follows:

A. No person shall allow the accumulation or storage of rubbish or garbage upon any premises of which he is the owner, lessee or occupant unless the garbage or rubbish shall be kept in suitable and sufficient receptacles for receiving and containing such garbage and rubbish that may accumulate or be used upon the premises. No receptacle shall be kept near any public place longer than may be reasonably necessary for the removal of the contents thereof.

B. No person shall allow the accumulation and storage of rubbish or garbage upon premises of which he is the owner, lessee or occupant except for the purpose of being collected.

C. No garbage or mixed rubbish and garbage shall be burned on any premises in an open fire.

D. No liquid waste shall be deposited on the grounds surface, allowed to enter into surface waters or be buried within the Town of Guilderland. No garbage or rubbish shall be buried on any premises within the Town other than at a sanitary or construction and demolition landfill maintained by the Town. The owner of premises within the Town may apply to the Zoning Board of Appeals or Planning Board for a permit to bury on-site derived solid construction and demolition waste materials consisting of wood, timber, stumps, concrete, mortar or clay material, provided that the applicant:

(1) Files with said Board a map depicting and detailing the specific location of the burial site.

(2) Files a landfill management plan and a detailed landscaping plan showing all final contours of the disturbed area and demonstrates that the area will be covered with a minimum of six inches of topsoil and a turf grass and/or other suitable landscape erosion control system.

(3) Installs vents as required by the Town-designated engineer to prevent the accumulation of methane and other noxious gases.

(4) Demonstrates and ensures that the site area will not interfere with any erosion control or storm drainage system.

(5) Makes a deposit, as required by the reviewing board or engineer, of a sum of money into a Town-maintained escrow account to ensure that all restoration work to the site is completed in a satisfactory manner.

(6) Provides proof of notification of the New York State Department of Environmental Conservation Region 4 office of the landfill operation and site.

(7) Shall not place or locate any building or structure, either wholly or partially, on any burial site, nor shall the burial site encroach upon Town or other public easement areas. In addition, the owner shall file an as-built drawing with the Town Clerk and Building Department depicting the exact location of said burial site.

E. No person shall throw, dump, deposit or place in their rubbish or garbage for collection, nor shall any person throw, dump, deposit or place in any sanitary landfill or transfer facility, any item or items designated by the Town Board by resolution as recyclable.

F. Any recyclable item or items shall be separated and segregated from garbage, rubbish and refuse and placed in proper containers for recycling and deposit at a municipal landfill or transfer facility.

G. Commercial haulers shall keep separate and segregate from garbage, rubbish and refuse any and all recyclable item or items left for collection pursuant to Subsection E and F of this section and properly deposit such item or items at a municipal landfill or transfer facility for recycling.

§ 236-5. Manner of collecting and disposing of refuse.

A. Rubbish and garbage shall be collected in vehicles properly and adequately equipped to contain and carry the materials collected without effluent therefrom spilling into public streets, highways or other places.

B. No rubbish or garbage collected within the Town shall be delivered, dumped or offered for disposal on any land or at any location, site or area in the Town or on any land or at any location, site or area outside of the Town except upon premises established, operated or maintained by the Town as a public dump, subject to all rules, regulations and restrictions governing the use of such premises as are herein prescribed, and upon premises the use of which has been authorized for sanitary landfill dumping under this article.

C. Notwithstanding the provisions of Subsection B of this section, garbage collected subject to this article may be delivered for consumption by swine, to swine or hog farms operating under permits duly issued by the Town under this Code, or to such other premises for consumption by swine as the Town Board may approve. Garbage shall not be delivered to, dumped or offered for disposal at swine or hog farms in quantities greater than that which can be promptly consumed by such swine.

D. It shall be unlawful for any person to operate a refuse-collecting vehicle for the purpose of refuse or rubbish collecting activities in a residential district or within 500 feet of a residential district within the Town of Guilderland during the hours of 7:00 p.m. to 7:00 a.m. daily.

[Added 2-25-1997 by L.L. No. 4-1997; amended 8-19-1997 by L.L. No. 10-1997]

§ 236-6. Rules and regulations for Town facilities.

A. Persons who may use Town facilities. No person not a resident of the Town shall deposit or cause to be deposited any substance of any kind on premises established as a public landfill or transfer station of the Town, operated and maintained by the Town, except as the nonresident may be licensed as provided in this article. Identification insignia may be issued by the Town Clerk to all residents of the Town desiring to use the dump, and the person in charge of the dump may deny the use of said premises to any person failing to exhibit such identification.

B. Materials originating out of the Town. No person shall deposit or cause to be deposited on premises established as a public landfill of the Town and operated and maintained by the Town as such any rubbish, garbage or substance of any kind which originated or was collected from outside of the Town.

C. Manner of disposal generally. No person shall deposit or cause to be deposited any garbage, rubbish or substance of any kind on premises established as a public landfill of the Town and operated and maintained by the Town as such, except at the places and in the manner directed by the person in charge of the premises under the authority of the Town Board, if such person is so designated, or by a sign or signs erected upon the premises by the authority of the Town Board.

D. Machinery. No automobile, vehicle, machine, appliance or other article shall be dumped upon any premises operated and maintained by the Town

as a public sanitary landfill unless it shall have been dismantled and the body cut and flattened out so as to permit it to be disposed of in accordance with standards of landfill dumping as prescribed by Section 19.2(a)(4) of the State Sanitary Code.

E. Burning. No person shall burn or cause to be burned at Town sanitary landfill premises any garbage, rubbish or any substance of any kind except by permission and under the direction of the person in charge of such premises under the authority of the Town Board.

F. Trees; sewage. No person shall deposit or cause to be deposited upon Town sanitary landfill premises any trees or logs having a diameter in excess of four inches unless the trees or logs shall be cut into lengths of not more than four feet, nor shall any person deposit or cause to be deposited upon such premises the contents of any sewage disposal facility or the contents of any septic tank or any septic tank effluence.

G. Scavenging. No person shall scavenge or otherwise collect material or substances of any kind from Town sanitary landfill premises for his own use or for any other disposition thereof.

H. Hours of use. The Town Board may from time to time fix and establish hours of use of Town sanitary landfill premises and shall cause the same to be conspicuously posted upon said premises. No person shall deposit or cause to be deposited any substance of any kind on Town sanitary landfill premises at any time or times other than during the hours so prescribed.

I. Fees or charges. The Town Board may from time to time fix and establish a schedule of fees Editor's Note: See Ch. A285, Fees. or other charges for the use of the Town sanitary landfill premises, and the charges shall be collected by the Town Clerk.

§ 236-7. License required for commercial use.

No person engaged in the business, trade or occupation of collecting for hire garbage or rubbish for disposal or engaged in the business of tree surgery, tree planting or tree or brush removal, either principally or incidentally to the conduct of any other trade or business, or engaged in the business of the construction or demolition of buildings or other structures or engaged in any industrial activity, shall deposit or cause to be deposited, upon premises operated as a public sanitary landfill by the Town, rubbish or garbage generated or produced as a result of or in connection with such business activity unless such person has been licensed as provided in this article.

§ 236-8. Application for license.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Each applicant for a license required by this article shall make an application therefor, in writing, executed under oath, to be furnished to the Town Clerk, which application shall set forth the following information: The residence, age and address of the applicant if an individual and, if a corporation, partnership or association, the names and addresses of the officers thereof and the address of the place of business of the corporation, partnership or association; a description of the vehicles to be used for the collection of rubbish or garbage and the license plate number thereof; a general statement of the area or areas of the Town wherein the applicant proposes to collect rubbish or garbage and the place or places and manner of disposition thereof.

§ 236-9. Issuance or denial of license; fees.

A. Upon proper application and payment of the fee as provided in this subsection, the Town Clerk shall issue to the applicant a license required by this article for each vehicle to be used for the collection of rubbish or garbage. No license shall authorize the use of more than one vehicle. The fee Editor's Note: See Ch. A285, Fees. for the issuance of a license to residents of the Town and nonresidents of the Town shall be as set by resolution of the Town Board from time to time. This sum is intended to cover the expense to the Town of issuing the license and of periodic inspections and investigations to ascertain that the licensee is collecting and disposing rubbish and garbage in compliance with this article. Any license issued under this section shall be effective from the date of its issuance until the last day of December of the year in which issued, after which a new application for a license shall be made.

B. Notwithstanding any other provision of this article, a license required by this article shall not be granted where, in the opinion of the Town Supervisor, the granting thereof will cause or may be deemed likely to cause an undue burden on the disposal facilities of such dump or its capacity to absorb the garbage or rubbish proposed to be deposited by the applicant or may otherwise unduly interfere with the orderly operation and maintenance of the dump.

§ 236-10. Revocation of license; grounds.

A license issued pursuant to this article for the commercial use of the Town dump may be revoked by the Town Board, after a hearing thereon, upon notice, in writing, served upon the licensee, by mail or otherwise, requiring the licensee

to appear before the Town Board at a time to be specified in the notice and show cause why the license should not be revoked. If, upon the hearing, the Town Board shall find that the licensee has failed to comply with any of the provisions of this article with respect to the collection and disposal of rubbish, garbage or recycling or that any provision of this article has been violated or that the licensee has made a material misrepresentation upon his application for the license, the Town Board shall revoke the license.

§ 236-11. Dumping prohibited.

No person shall receive or accept for disposal or deliver, dump or offer for disposal any garbage, refuse or recyclable material on any land or at any location, site or area in the Town, other than upon a site or area established, operated or maintained by the Town as a public landfill or transfer station.

§ 236-12. Storage and disposal of hazardous wastes.

Storage or disposal of such industrial hazardous wastes as are identified and listed as such by the New York State Commissioner of Environmental Conservation pursuant to Title 9 of Article 27 of the New York State Environmental Conservation Law are prohibited within the Town of Guilderland.

§ 236-13. Penalties for offenses; civil enforcement and remedies.

A. Any person who violates any provision of this article, other than § 236-4E and E, shall be guilty of a violation punishable by a penalty as set forth in Chapter 1, General Provisions, Article III, or by performing services for a public or not-for-profit corporation, association or agency, or by both such fine and imprisonment or by both such fine and public service.

[Amended 6-1-1999 by L.L. No. 5-1999]

B. Any person who violates § 236-4E and E of this article dealing with recyclable materials shall be guilty of a violation punishable by a penalty as set forth in Chapter 1, General Provisions, Article III.

[Amended 6-1-1999 by L.L. No. 5-1999]

C. Any person who violates any provision of this article shall be subject to a civil penalty enforceable and collectible by the Town in the amount not to exceed \$250 for each such violation, which penalty shall be recovered by the Town in a civil action.

[Amended 6-1-1999 by L.L. No. 5-1999]

D. In the event of a violation of this article of a continuing nature or character, each day the violation shall continue or be permitted to exist shall constitute a separate violation.

E. Conviction for any violation of this article shall constitute cause for revocation of any license issued under this article, in the discretion of the Town Board.

F. In addition to the penalties and punishments provided in this section, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.

ARTICLE II. Recycling

[Adopted 2-4-2003 by L.L. No. 1-2003]

§ 236-14. Title.

This article shall be known as the "Recycling Law."

§ 236-15. Purpose.

It shall be the purpose of this article to encourage and facilitate the maximum recycling practicable on the part of each and every household, business and institution within the Town of Guilderland (the Town). It shall further be the purpose of this article to establish, implement and enforce minimum recycling related practices and procedures to be applicable to all waste generators within the Town.

§ 236-16. Statutory authority.

This article is enacted pursuant to the authority granted by §§ 10 and 120-aa of the New York State Municipal Home Rule Law.

§ 236-17. Designation of recyclables; disposal.

A. Recyclables designated by the Town for inclusion by this article may be disposed of at the Town's transfer station by households within the Town, and initially include the following:

(1) Corrugated paper: cardboard containers, boxes and packaging which are cleaned of contamination by food wastes, adhesives, metals or plastics and which have been flattened. This does not include press board.

(2) Glass: empty, washed glass jars, bottles and containers of clear, green and amber (brown), excluding ceramic, window glass, auto glass, mirror and kitchenware.

(3) Metal: all ferrous and nonferrous metals, including steel, aluminum and composite cans and containers (cleaned of food waste), excluding scrap metal, wire, pipes, tubing, aerosol cans, paint cans and metal containers that contained hazardous liquids and abandoned automobiles.

(4) Newspaper: common machine finished paper made chiefly from wood pulp used for printing newspapers and magazines; must be dry and free of contaminants.

(5) Office paper: all bond paper, including computer print-out, stationery, photo copy and ledger paper.

(6) Plastics: all HDPE Nos. 1, 2 and 3 type plastics, including empty food, beverage, detergent, bleach and hair care containers, but excluding all oil containers, plastic bags, toys and hangars.

B. Businesses, institutions, private haulers and any other waste generator, other than households located within the Town, are prohibited from disposing of recyclable or nonrecyclable waste at the Town's transfer station.

§ 236-18. Separation required.

Every household, business and institution within the Town shall separate recyclable materials from other nonrecyclable waste regardless of whether such recyclables and waste are disposed of at the Town's transfer station or disposed of at a solid waste facility by a private hauler.

§ 236-19. Disposal as waste prohibited.

It shall be a violation of this article for anyone to attempt to dispose of recyclable material as waste.

§ 236-20. Fees.

The Town Board may, by resolution, establish a schedule of fees for the disposal of waste items at the Town's transfer station, including recyclables.

§ 236-21. Penalties for offenses.

A violation of this article shall be deemed a violation and the violator may be liable for a fine of not more than \$50 for the first violation and not less than \$250 nor more than \$500 for each violation thereafter, and each violation shall constitute a separate offense.

CHAPTER 239. SPRINKLER SYSTEMS

§ 239-1. Applicability.

§ 239-2. Definitions.

§ 239-3. New buildings required to have sprinkler systems.

§ 239-4. Existing structure.

§ 239-5. Building permit.

§ 239-6. Certificate of occupancy.

§ 239-7. Exception.

§ 239-8. Penalties for offenses.

§ 239-9. Variances.

§ 239-10. Administration.

CHAPTER 239. SPRINKLER SYSTEMS

[HISTORY: Adopted by the Town Board of the Town of Guilderland 9-3-1991 by L.L. No. 6-1991 (Subpart 1 1/2, Div. 5, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 8.

Department of Fire Prevention and Investigation — See Ch. 38.

Police Department — See Ch. 81.

Building permits — See Ch. 140.

Fire prevention and building construction — See Ch. 171.

Investigation of fires — See Ch. 174.

Flood damage prevention — See Ch. 177.

Subdivision of land — See Ch. 247.

Zoning — See Ch. 280.

§ 239-1. Applicability.

This chapter shall apply to all parts of the Town of Guilderland outside the Village of Altamont.

§ 239-2. Definitions.

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

APPROVED SPRINKLER SYSTEM

A sprinkler system approved by the New York Board of Fire Underwriters, the National Fire Protection Association or other nationally recognized approval organization as determined by the Town Building Inspector, which approval shall have been obtained prior to installation of this system. Such system, to be approved, shall meet all standards of installation and operation as prescribed by such approval bodies and the manufacturer of the system. Any such installation and the operation thereof shall be also subject to the approval of the Town of Guilderland Building Inspector.

BUILDING INSPECTOR

The Chief Building Inspector and Zoning Coordinator of the Town of Guilderland or his/her designated representative.

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

§ 239-3. New buildings required to have sprinkler systems.

A. All classifications of buildings listed below, which are constructed after the effective date of this chapter within an approved Town of Guilderland water district, shall be required to have approved sprinkler systems installed and operational:

- (1) Multiple dwellings consisting of three or more living units (except no system will be required in enclosed closets 50 square feet or less in area and in bathrooms).
- (2) Office buildings.
- (3) Administrative buildings.
- (4) Bank buildings.
- (5) Professional buildings.
- (6) Retail and personal service buildings (mercantile).
- (7) Industrial buildings.
- (8) Storage buildings.
- (9) Amusement park buildings.
- (10) Armories.

- (11) Art galleries
- (12) Assembly halls.
- (13) Auditoriums.
- (14) Bathhouses.
- (15) Bowling alleys.
- (16) Clubrooms.
- (17) Coliseums and stadiums.
- (18) Courtrooms and buildings.
- (19) Dance halls.
- (20) Exhibition halls or buildings.
- (21) Gymnasiums.
- (22) Indoor tennis courts or other sport courts.
- (23) Lecture halls.
- (24) Libraries.
- (25) Lodge halls or rooms.
- (26) Hotels.
- (27) Motels.
- (28) Lodging and boarding houses (including bed-and-breakfast establishments).
- (29) Motion-picture theaters.
- (30) Museums.
- (31) Nightclubs.
- (32) Recreation centers.

- (33) Restaurants.
- (34) Skating rinks.
- (35) Theaters.
- (36) Churches, synagogues and similar places of worship.
- (37) Schools, colleges and similar places of education, including dormitories.
- (38) Outpatient clinics.
- (39) Day-care centers.
- (40) Any building in which child care is provided for any number of children for hire.
- (41) Clinics.
- (42) Hospitals.
- (43) Infirmarys.
- (44) Sanatoriums.
- (45) Boathouses.
- (46) Nursing homes.
- (47) Group homes.
- (48) Halfway houses.
- (49) Any other buildings the use of which includes regular overnight sleeping by human occupants, except for one- or two-family residential dwelling units.

§ 239-4. Existing structure.

A building listed in § 239-3 hereinabove which is existing on the effective date of this chapter, which is located in an approved Town of Guilderland water district, shall comply with this chapter when said building is reconstructed, remodeled or enlarged to the extent that the cost of construction exceeds 50%

of the market value of the building as shown on the Town of Guilderland Assessor's records.

§ 239-5. Building permit.

No building permit shall be issued for the construction of any new building, structure or portion nor for the reconstruction, remodeling or enlargement of any existing building described in § 239-4 hereof required to have an approved sprinkler system pursuant to this chapter unless an approved sprinkler system is included in the plans for such construction submitted for the building permit.

§ 239-6. Certificate of occupancy.

No certificate of occupancy shall be issued for occupancy or use of any building structure, or portion thereof, required to have an approved sprinkler system unless such system is installed, inspected, tested and approved to the satisfaction of the Town of Guilderland Building Inspector.

§ 239-7. Exception.

Notwithstanding the terms of this chapter, sprinklers shall not be required to be installed in spaces where the discharge of water would be hazardous. In such places, other fire-extinguishing equipment approved by the New York Board of Fire Underwriters, National Fire Protection Association or other nationally recognized approval organization and by the Town of Guilderland Building Inspector shall be required.

§ 239-8. Penalties for offenses.

A. Failure to comply with any provision of this chapter shall be deemed a misdemeanor, and the violator shall be liable for a fine up to \$1,000 or imprisonment not to exceed 1 year, or both, and each day such violation continues shall constitute a separate offense. The Building Inspector is hereby authorized to issue an appearance ticket for any violation of this chapter pursuant to Chapter 171, Fire Prevention and Building Construction, and Chapter 177, Flood Damage Prevention, and any successor statutes. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. An action or proceeding in the name of the Town of Guilderland may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter, or to vacate the occupancy or building in the case of imminent danger to life or

property. Such remedy shall be in addition to penalties otherwise prescribed by law.

§ 239-9. Variances.

A. Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this chapter, application for variances consistent with the spirit of this chapter may be made to and acted upon by the Zoning Board of Appeals of the Town of Guilderland. The Board is empowered to grant a variance when the Board has found:

- (1) The application of the strict letter of this chapter would create a practical difficulty or unnecessary hardship for the applicant.
- (2) The omission of an approved sprinkler system from all or part of a building will not significantly jeopardize human life.

B. In granting any variances, the Zoning Board of Appeals may impose such conditions as such Board may reasonably determine necessary to mitigate the consequences of the omission of an approved sprinkler system from all or any part of a building, including the requirement that alternative forms of fire-extinguishing equipment be provided or a requirement of additional alarms or other devices to ameliorate the effects of having no sprinkler systems.

§ 239-10. Administration.

The requirements set forth in this chapter shall be in addition and shall supplement the requirements set forth in Chapter 171, Fire Prevention and Building Construction, and Chapter 177, Flood Damage Prevention. The plans, specifications, rating body approvals and other materials required by the Building Inspector relating to the sprinkler systems shall be submitted to the Building Inspector in conjunction with an application for a building permit pursuant to said laws and pursuant to Chapter 280, Zoning.

CHAPTER 241. STORMWATER MANAGEMENT

ARTICLE I. Illicit Discharges, Activities and Connections to Storm Sewer System

§ 241-1. Purpose; intent.

§ 241-2. Definitions.

§ 241-3. Applicability.

§ 241-4. Responsibility for administration.

§ 241-5. Discharge prohibitions.

§ 241-6. Prohibition against activities contaminating stormwater.
§ 241-7. Prevention, control and reduction of stormwater pollutants by use of best management practices.
§ 241-8. Suspension of access to MS4; illicit discharges in emergency situations.
§ 241-9. Industrial or construction activity discharges.
§ 241-10. Access and monitoring of discharges.
§ 241-11. Notification of spills.
§ 241-12. Enforcement; penalties for offenses.
§ 241-13. Appeal of notice of violation.
§ 241-14. Corrective measures after appeal.
§ 241-15. Injunctive relief.
§ 241-16. Alternative remedies.
§ 241-17. Violations deemed public nuisance.
§ 241-18. Remedies not exclusive.
ARTICLE II. Stormwater Management and Erosion and Sediment Control
§ 241-19. Findings of fact.
§ 241-20. Purpose.
§ 241-21. Definitions.
§ 241-22. Applicability.
§ 241-23. Exemptions.
§ 241-24. Stormwater pollution prevention plans.
§ 241-25. Performance and design criteria.
§ 241-26. Maintenance, inspection and repair of stormwater facilities.
§ 241-27. Inspections; recordkeeping; guarantees; enforcement; penalties for offenses; restoration.
§ 241-28. Fees for services.

CHAPTER 241. STORMWATER MANAGEMENT

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

GENERAL REFERENCES

Hazardous materials emergency response plan — See Ch. 42.
Fire prevention and building construction — See Ch. 171.
Flood damage prevention — See Ch. 177.
Freshwater wetlands — See Ch. 181.
Sewers — See Ch. 225.
Subdivision of land — See Ch. 247.
Water — See Ch. 272.

ARTICLE I. Illicit Discharges, Activities and Connections to Storm Sewer System

[Adopted 10-16-2007 by L.L. No. 1-2007]

§ 241-1. Purpose; intent.

The purpose of this article of the Town Code is to provide for the health, safety, and general welfare of the citizens of the Town through the regulation of nonstormwater discharges, hereinafter defined, to the MS4 to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4, hereinafter defined, in order to comply with requirements of the SPDES, hereinafter defined, general permit for MS4s. The objectives of this article are:

- A. To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit No. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- C. To prohibit illicit connections, hereinafter defined, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater (as hereinafter defined), grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 241-2. Definitions.

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

BEST MANAGEMENT PRACTICES (BMPs)

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include

treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT

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

CONSTRUCTION ACTIVITY

Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised, a copy of which is annexed hereto as Appendix A. Editor's Note: Appendix A is on file in the Town offices. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEC

The New York State Department of Environmental Conservation.

HAZARDOUS MATERIALS

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

ILLICIT CONNECTIONS

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 241-5 of this article.

INDUSTRIAL ACTIVITY

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

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

- A. Owned or operated by the Town;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NONSTORMWATER DISCHARGE

Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON

Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT

Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PREMISES

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

SPECIAL CONDITIONS

- A. Discharge compliance with water quality standards: the condition that applies where the Town has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. 303(d)-listed waters: the condition in the Town's MS4 permit that applies where the MS4 discharges to a surface water listed in Section 303(d) of the Clean Water Act as amended by the Water Quality Act of 1987, Public Law 100-4. Under this condition the stormwater management program must ensure no increase of the listed pollutants of concern to the 303(d)-listed water.

C. Total maximum daily load (TMDL) strategy:

(1) The condition in the Town's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges.

(2) The condition in the Town's MS4 permit that applies if a TMDL is approved in the future by the EPA for any water body or watershed into which an MS4 discharges. Under this condition the Town must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Town must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

SPDES

State Pollutant Discharge Elimination System.

SPDES STORMWATER DISCHARGE PERMIT

A permit issued by the DEC that authorizes the discharge of pollutants to waters of the state.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee, the Town Engineer or other public official(s) designated by the Town to enforce this article. The SMO may also be designated by the Town to accept and review stormwater pollution prevention plans, forward the plans to the applicable Town board and inspect stormwater management practices.

303(d) LIST

A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the DEC as required by Section 303(d) of the Clean Water Act as amended by the Water Quality Act of 1987, Public Law 100-4. Section 303(d)-listed waters are estuaries,

lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL)

The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

TOWN

The Town of Guilderland.

WASTEWATER

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

§ 241-3. Applicability.

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

§ 241-4. Responsibility for administration.

The SMO shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town.

§ 241-5. Discharge prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Subsection A(1) below. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article, unless the DEC or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water,

water from fire-fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge but requires a verbal notification to the SMO prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the DEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the Town's MS4 or allows such a connection to continue.

§ 241-6. Prohibition against activities contaminating stormwater.

A. Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of the Town's MS4 SPDES permit.

(2) Cause or contribute to the Town being subject to the special conditions, as defined in § 241-2, Definitions, of this article.

B. Such activities include improper management of pet waste or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit authorization.

C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town's MS4 SPDES permit authorization.

§ 241-7. Prevention, control and reduction of stormwater pollutants by use of best management practices.

Best management practices. Where the SMO has identified illicit discharges, as defined in § 241-2 of this article, or activities contaminating stormwater, as defined in § 241-6 of this article, the Town may require implementation of BMPs to control those illicit discharges and activities.

A. The owner or operator of a commercial or industrial establishment shall provide, at his own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

B. Any person responsible for a property or premises which is, or may be, the source of an illicit discharge, as defined in § 241-2 of this article, or an activity contaminating stormwater, as defined in § 241-6 of this article, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

C. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

§ 241-8. Suspension of access to MS4; illicit discharges in emergency situations.

A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened

discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of a person, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to any person.

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

§ 241-9. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

§ 241-10. Access and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this article.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.

(3) The Town shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

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

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

(6) If the SMO has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this article or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 241-11. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Town in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice

addressed and mailed to the Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 241-12. Enforcement; penalties for offenses.

A. Notice of violation.

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

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (d) The performance of monitoring, analyses, and reporting;
- (e) Payment of a fine; and
- (f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine up to \$5,000 but not less than \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine up to \$10,000 but not less than \$500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which

were committed within a period of five years, punishable by a fine up to \$15,000 but not less than \$700 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 241-13. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which Board shall hear the appeal within 30 days after the filing of the appeal and, within five days of making its decision, file its decision in the office of the Town Clerk and mail a copy of its decision by certified mail to the discharger.

§ 241-14. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within five business days of the decision of the Town authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 241-15. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 241-16. Alternative remedies.

A. Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the SMO, where:

- (1) The violation was unintentional;
- (2) The violator has no history of previous violations of this article;
- (3) Environmental damage was minimal;
- (4) The violator acted quickly to remedy the violation; and
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops;
- (2) Storm drain stenciling or storm drain marking; or
- (3) River, stream or creek cleanup activities.

§ 241-17. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this 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.

§ 241-18. 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.

ARTICLE II. Stormwater Management and Erosion and Sediment Control

[Adopted 10-16-2007 by L.L. No. 2-2007]

§ 241-19. Findings of fact.

It is hereby determined that:

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

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

C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat. Improper clearing of vegetation and burial of vegetative and other wastes can result in unstable soil conditions and the production of noxious gases through decomposition of said wastes.

D. Improper design and construction of SMPs can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation.

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

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

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development activities.

H. The regulation of stormwater runoff discharges from real property activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

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

§ 241-20. Purpose.

The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and those jurisdictions dependent on our water quality and to address the findings of fact above. This article seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of minimum measures 4 (construction runoff) and 5 (postconstruction maintenance) of the SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s) Permit No. GP-02-02 or as amended or revised;

B. Require work on real property to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) general permit for construction activities GP-02-01 or as amended or revised;

C. Minimize increases in stormwater runoff from activities on real property in order to reduce flooding, silt, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

D. Minimize or decrease pollution caused by stormwater runoff from activities on real property which would otherwise degrade local water quality;

E. Minimize or decrease the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable;

F. Reduce or decrease stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through SMPs and to ensure that these management practices are properly maintained and eliminate threats to public safety. Specific consideration of stormwater runoff shall be provided to critical watersheds; and

G. Eliminate unstable soil conditions and the production of noxious gases which result from improper stormwater practices, improper grading practices, improper clearing of vegetation and the burial of vegetative and other wastes.

§ 241-21. Definitions.

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

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation or the construction of new structures associated with agricultural activities.

BUILDING

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

CHANNEL

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

CLEARING

Any activity that removes the vegetative surface cover.

DEC

The New York State Department of Environmental Conservation.

DESIGN MANUAL

The New York State Stormwater Management Design Manual, as amended. This manual serves as the official guide for stormwater management principles, methods and practices.

EROSION CONTROL MANUAL

The New York Standards and Specifications for Erosion and Sediment Control manual, as amended. This is commonly known as the "Blue Book."

IMPERVIOUS COVER

Surfaces, improvements and structures that cannot effectively be infiltrated by rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

LAND DEVELOPMENT ACTIVITY

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

LANDOWNER

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

MAINTENANCE AGREEMENT

A document which provides for long-term maintenance of SMPs. It is anticipated this document will be recorded in the Albany County Clerk's office and will act as a property deed restriction or encumbrance.

NONPOINT SOURCE POLLUTION

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

PHASING

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

POLLUTANT OF CONCERN

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

PROJECT

Any construction or development activity upon real property.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent sediment from leaving the site.

SENSITIVE AREAS

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

SPDES

The New York State Pollutant Discharge Elimination System.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

An SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land, a copy of which is annexed hereto as Appendix A. Editor's Note: Appendix A is on file in the Town offices.

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

An SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards, a copy of which is annexed hereto as Appendix B. Editor's Note: Appendix B is on file in the Town offices.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

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

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT

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

STORMWATER MANAGEMENT FACILITY

One or a series of SMPs installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT PRACTICES (SMPs)

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

STORMWATER MANAGEMENT OFFICER (SMO)

An employee or officer designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable Town board or department, inspect SMPs, and enforce this article.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

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

STORMWATER RUNOFF

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

SURFACE WATERS OF THE STATE OF NEW YORK

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

SWPPP

See "stormwater pollution prevention plan."

TOWN

The Town of Guilderland.

TOWN-DESIGNATED ENGINEER (TDE)

Engineering consultants as are determined to be necessary by the respective Town board to enable full performance of that board's duties.

§ 241-22. Applicability.

- A. This article shall be applicable to all real property within the Town.
- B. All land development activities subject to subdivision, site plan review and/or special use permits shall be reviewed subject to the standards contained in this article. In this instance, the SWPPP shall be submitted along with the subdivision, site plan application and or special use permit.
- C. All land development activities not subject to subdivision, site plan review and/or a special use permit shall be required to submit an SWPPP to the SMO, who shall review the SWPPP for compliance with the requirements of this article.

§ 241-23. Exemptions.

Notwithstanding the foregoing, the following activities are exempt from the permit requirements under this article. However, even those projects which are exempt from the permit requirements must meet the standards set forth in this article.

- A. Agricultural activity as defined in this article.
- B. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater management facility.
- C. Repairs to any SMP or stormwater management facility deemed necessary by the SMO.
- D. Cemetery graves.
- E. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- F. Emergency activities immediately necessary to protect life, property or natural resources.
- G. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- H. Landscaping and horticultural activities in connection with an existing structure that do not change the drainage patterns.

I. Creation or restoration of wetlands pursuant to a state or federal wetlands permit.

J. Creation, restoration, or preservation of pine bush habitat by the Albany Pine Bush Preserve Commission.

§ 241-24. Stormwater pollution prevention plans.

A. SWPPP requirement. No approval of a land development activity shall be issued until an SWPPP has been accepted in accordance with the specifications in this article. A grading permit shall be issued along with the approved SWPPP.

B. Contents of SWPPPs. All SWPPPs shall, at a minimum, have an erosion and sediment control plan which shall provide the following background information and erosion and sediment controls. Development within impaired watersheds or where a five-acre variance request is submitted to the DEC may require additional data.

(1) Background information about the scope of the project, including location, type and size of project and preconstruction photographs of the site and immediate downstream conditions in a digital format.

(2) Site map/construction drawing(s) for the project, including a general location map. The site map should be at a scale no smaller than one inch equals 100 feet (e.g., one inch equals 500 feet is smaller than one inch equals 100 feet). At a minimum, the site map should show:

- (a) The total site area;
- (b) All improvements;
- (c) Areas of disturbance;
- (d) Areas that will not be disturbed;
- (e) Existing vegetation;
- (f) On-site and adjacent off-site surface water(s);
- (g) Wetlands and drainage patterns that could be affected by the construction activity;
- (h) Existing and final slopes;

(i) Locations of on-site and off-site material, waste, borrow or equipment storage areas; and

(j) Location(s) of the stormwater discharges(s).

(3) Description of the soil(s) present at the site.

(4) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the Erosion Control Manual, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP and DEC variance approval.

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

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

(7) Information regarding the location of disposal of any material to be removed from the site. Off-site disposal areas may not be within regulated wetlands, buffer zones, protected watercourse areas, or other environmentally sensitive areas unless applicable permits are obtained. The proposed method of any on-site processing and reuse of organic materials shall be specified and may require certification by a New York State registered professional engineer or landscape architect as a safe and effective means of disposal.

(8) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout.

(9) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

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

(11) Temporary practices that will be converted to permanent control measures.

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

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

(14) Name(s) of the receiving water(s).

(15) Delineation of SWPPP implementation responsibilities for each part of the site.

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

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

(18) A slope stability analysis, if requested by a Town department or board, where grading is proposed on steep or slippage-prone slopes.

(19) A stormwater management report in accordance with the "Standard Format for Stormwater Management Plans and Reports," which is available at the Town Building Department, a copy of which is annexed hereto as Appendix C. Editor's Note: Appendix C is on file at the Town offices.

(20) A "Stormwater Maintenance Escrow Agreement" if the stormwater facilities are being conveyed to the Town once they are installed and approved, or a "Stormwater Control Facility Maintenance Agreement" if the stormwater facilities will remain privately owned. Either of these agreements can be obtained from the Town, copies of which are annexed hereto as Appendixes D and E. Editor's Note: Appendixes D and E are on file at the Town offices.

C. Postconstruction stormwater runoff control.

(1) In addition to the SWPPP described above, land development activities meeting any of the three conditions below shall also be required to provide a report as to water quantity and water quality controls (postconstruction stormwater runoff controls):

(a) Stormwater runoff from project activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties; or

(b) Stormwater runoff from land development activities disturbing five or more acres at one time; or

(c) Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the DEC's list of impaired waters as set forth in Section 303(d) of the Clean Water Act, as amended by the Water Quality Act of 1987, Public Law 100-4, or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(2) The additional report to be provided for postconstruction stormwater controls shall be provided with the SWPPP application and shall include:

(a) Description of each postconstruction SMP.

(b) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction SMP.

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

(d) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.

(e) Dimensions, material specifications and installation details for each postconstruction SMP.

(f) Maintenance schedule to ensure continuous and effective operation of each postconstruction SMP.

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

(h) An inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 241-26 of this article.

(i) If the land development activity meets either of the conditions described in § 241-24C(1)(b) or (c) above (activity disturbs five acres or more or runoff discharges a pollutant of concern to either an impaired water or a TMDL-designated watershed), then the SWPPP shall be prepared by a landscape architect, certified professional in erosion and sediment control (CPESC), soil scientist or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all SMPs meet the requirements in this article.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or SMP installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

(4) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 241-25. Performance and design criteria.

Every soil disturbance shall meet the criteria set forth in the New York Standards for Erosion and Sediment Control, and all land development activities shall be subject to all of the following performance and design criteria:

A. Technical standards. For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. SMPs that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

(1) The Erosion Control Manual;

(2) The Design Manual; and

(3) The Town Standard Format for Stormwater Management Plans and Reports, a copy of which is annexed hereto as Appendix C. Editor's Note: Appendix C is on file in the Town offices.

B. Equivalence to technical standards. Where SMPs are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in the Design Manual [see Subsection A(2) above], and the SWPPP shall be prepared by a landscape architect, CPESC, soil scientist or professional engineer.

C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

D. Permitting process; additional standards.

(1) Applications shall be made on forms prescribed by the Town, which shall be accompanied by the required fee, if any, established by the Town Board.

(2) The SMO or other Town designee shall review the application and act to approve, approve with modification, or deny the requested SWPPP.

(3) In the event that the submittal is denied, the applicant may have the decision reviewed by the Town Planning Board.

(4) The smallest practical area of land shall be exposed at any one time during the project.

(5) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.

(6) To protect areas in excess of one acre exposed for a period over two weeks during development, the following controls shall be applied:

(a) Temporary vegetation, mulch, geotextiles, and/or emulsion shall be provided as needed to prevent soil erosion. Application of these materials shall be by approved equipment;

(b) On areas that will be exposed for short periods of time (daily) where weather conditions are conducive to airborne soil particles, a construction fence shall be installed, as directed by the SMO; and

(c) On areas such as temporary roadways, when dry conditions prevail, the contractor shall be required to apply water or take other measures as required to prevent dust during daily construction activities.

(7) Sediment basins, debris basins, silting basins, silt fencing, or silt traps shall be installed and maintained to remove sediment from runoff waters on lands undergoing development.

(8) Permanent final vegetation and structures shall be installed as soon as practical in the development.

(9) The development plan should be fitted to the type of topography and soils so as to create the least erosion potentials.

(10) Wherever feasible, natural vegetation should be retained and protected.

(11) In areas of proposed fill, all existing vegetation and other organic material, including the root mat, shall be removed prior to placement of fill. The material shall be disposed of in an appropriate off-site facility or processed for reuse on site in a manner that will not be conducive to adverse effects of decomposition, such as the production of odors or of concentrations of noxious or explosive gases or the creation of unstable subsurface conditions. The proposed method of on-site processing and reuse shall be specified in the permit application and may require certification by a licensed professional engineer as a safe and effective means of disposal.

(12) No vegetation or other waste materials shall be buried on the site unless otherwise approved by the Town in accordance with Chapter 236 of the Town Code. Editor's Note: See Ch. 236, Solid Waste.

(13) All fill placed on the site shall be as free of organic material as is practicable.

E. Deposit; performance of site work; inspection.

(1) To ensure that the site work is performed in accordance with the controls of this article, before obtaining approval the applicant shall deposit with the Town a cash escrow as set forth in the fee schedule adopted by the Town Board by separate resolution.

(2) Said site work shall be performed and completed in accordance with the approved plan and schedule of vegetation removal and disposal, grading, construction operation and erosion control methods on file with the SMO or other designated party at the time of issuance of the approval.

(3) Upon completion of the site work set forth in the plan, the applicant will request the SMO or TDE to inspect the work; upon approval of the site work, the SMO or TDE will direct the Town to release all of the applicant's money deposited pursuant to Subsection E(1) above.

(4) Upon the failure of the applicant to perform the site work in accordance with the site plan submitted as aforesaid, the Town and/or its agents shall be permitted to enter upon the premises and complete the necessary site work and charge the cost of the site work to the funds on deposit with the Town pursuant to Subsection E(1) above, and the Town shall be authorized to pay any charge or charges approved by the SMO or TDE without further approval of the applicant. If the Town should undertake completion of any site work upon the applicant's failure to do so, any sums remaining on deposit with the Town after completion of said site work shall be returned to the applicant.

§ 241-26. Maintenance, inspection and repair of stormwater facilities.

A. Maintenance and inspection during construction.

(1) The Town, or its designee, shall have the power to make necessary inspections. The Town may employ, at its discretion, a Construction Inspector to act as its agent for the purpose of assuring satisfactory completion of permit requirements. The inspection provided may include, but not necessarily be limited to, all grading, drainage, stormwater management systems and erosion control measures and may include soil testing as necessary to determine compliance with the provisions of this article and the conditions of the approval.

(2) The Town, or its designee, will determine an amount sufficient to defray the costs of such inspection. The applicant shall deposit said amount of

moneys with the Town in an escrow account prior to the issuance of the approval. The Town shall be authorized to pay the costs of inspection by its Construction Inspector from the moneys on deposit in said account and shall return to the applicant any such moneys, including interest, on balance in the account at the time of completion of the permitted site work, provided that all inspection costs have been paid. If the moneys on deposit prove to be insufficient for the costs of required inspections, the Town shall require that the applicant deposit additional moneys in an amount sufficient to satisfy the costs of such additional inspections as may be required.

(3) The applicant or developer of the land development activity or his representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(4) For land development activities meeting any of the conditions set forth in § 241-24C(1) above (project activity of between one and five acres of land during course of job, exclusive of one-family residences and construction activities at agricultural properties; stormwater runoff from land development activities disturbing five or more acres; or stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water or a TMDL-designated watershed), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town to ensure that the stormwater management facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the Albany County Clerk after approval by the Town Attorney.

C. Maintenance after construction. The owner or operator of permanent SMPs installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this legislation. Proper operation and maintenance also includes, as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with the water quality standards set forth in § 241-25C.

D. Maintenance agreements. The Town shall approve a formal maintenance agreement for stormwater management facilities which are going to be privately owned after construction. The agreement shall be binding on all subsequent landowners and recorded in the office of the Albany County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of a sample Stormwater Control Facility Maintenance Agreement, a copy of which is annexed hereto as Appendix E. Editor's Note: Appendix E is on file in the Town's offices. The Town, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 241-27. Inspections; recordkeeping; guarantees; enforcement; penalties for offenses; restoration.

A. Inspection.

(1) In addition to the DEC inspections required to be performed by the applicant, the Town SMO, or the SMO's designee, may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the SWPPP as approved. To obtain inspections, the applicant shall notify the

Town enforcement official at least 24 hours before any of the following or as required by the SMO:

- (a) Start of construction;
- (b) Installation of sediment and erosion control measures;
- (c) Completion of site clearing;
- (d) Completion of rough grading;
- (e) Completion of final grading;
- (f) Close of the construction season;
- (g) Completion of final landscaping; or
- (h) Successful establishment of landscaping in public areas.

(2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted on the site, including on structures located thereon, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the SMO.

B. Inspection of stormwater facilities after project completion.

(1) Inspection programs shall be established on any reasonable basis, including but not limited to:

- (a) Routine inspections;
- (b) Random inspections;
- (c) Inspections based upon complaints or other notice of possible violations;
- (d) Inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants;
- (e) Inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to

cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and

(f) Joint inspections with other agencies inspecting under environmental or safety laws.

(2) Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other SMPs.

C. Submission of reports and records plans. The Town SMO may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article. All applicants are required to submit record plans for any SMPs located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a licensed professional.

D. Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

E. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town in its approval of the SWPPP, the Town may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) has (have) been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

F. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

G. Recordkeeping. The Town may require entities subject to this article to maintain records demonstrating compliance with this portion of the Town's local laws and regulations.

H. Notice of violation. When the Town determines that a project is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner and also, if necessary, to the developer, the builder, the subcontractor or anyone else responsible for the work being performed. The notice of violation shall contain:

- (1) The name and address of the landowner, developer or applicant.
- (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring.
- (3) A statement specifying the nature of the violation.
- (4) A description of the remedial measures necessary to bring the project into compliance with this article, and a time schedule for the completion of such remedial action.
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- (6) A statement that the determination of violation may be appealed to the Town by filing a written notice of appeal within 15 days of service of notice of violation.

I. Stop-work orders. The Town may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all

work of any nature on the site, including on any structures located thereon, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town confirms that the project is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

J. Violations. Any land development activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law.

K. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article law shall be guilty of a violation punishable by a fine up to \$5,000 but not less than \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine up to \$10,000 but not less than \$500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine up to \$15,000 but not less than \$700 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

L. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this article, the SMO may prevent the occupancy of said building or land.

M. Restoration of lands. Any violator may be required to restore and repair any damage resulting from noncompliance with the regulations herein. In the event that restoration or repair is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 241-28. Fees for services.

The Town may require any person undertaking activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs,

inspections, or SMP maintenance performed by Town personnel or performed by a third party for the Town.

CHAPTER 243. STREETS

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§ 243-36. Final acceptance by Town Board.

CHAPTER 243. STREETS

[HISTORY: Adopted by the Town Board of the Town of Guilderland as indicated in article histories. Amendments noted where applicable. Editor's Note: The title of this chapter was amended 9-17-2002 by L.L. No. 8-2002.]

GENERAL REFERENCES

Sewers — See Ch. 225.

Sidewalks — See Ch. 227.

Subdivision of land — See Ch. 247.

Water — See Ch. 272.

Zoning — See Ch. 280.

ARTICLE I. Notification of Defects

[Adopted 3-9-1976 by L.L. No. 1-1976 (Subpart 10 of the 1974 Code)]

§ 243-1. Civil actions against Town.

[Amended 2-14-1984 by L.L. No. 1-1984; 9-17-2002 by L.L. No. 8-2002]

A. No civil action shall be maintained against the Town of Guilderland or the Superintendent of Highways or any other Town officer or employee for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, crosswalk, street marking, sign or device, park, playground, parking area, building, structure, utility or any other property owned, operated or maintained by the Town or any improvement district thereof being out of repair, defective, unsafe, dangerous, obstructed or encumbered by snow or ice, unless it appears that written notice of the defective, unsafe, dangerous or obstructed condition, or specifying the particular place of such snow or ice, was actually given, in the case of a street, highway, bridge, culvert or crosswalk, to the Town Superintendent of Highways, and, in any other case, to the Town Clerk, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove such defect, danger, snow, ice or obstruction.

B. No civil action shall be maintained against the Town of Guilderland or the Town Superintendent of Highways or any other Town officer or employee for damages or injuries to person or property sustained by reason of any defect in its sidewalks or in consequence of the existence of snow or ice upon any of

its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Town Superintendent of Highways pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 243-2. Record of written notices.

Whenever such notice shall have been given, the Town Clerk shall keep an indexed record in a separate book of all such written notices and shall state therein the date of receipt of such notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received.

§ 243-3. Validity.

[Added 2-14-1984 by L.L. No. 1-1984]

In the event that any section, paragraph, clause or other provision of this article is or shall be held or adjudged invalid or unconstitutional, such validity shall not affect the validity of any other provision of this article.

ARTICLE II. Block Parties

[Adopted 10-12-1982 by L.L. No. 6-1982 (Subpart 17, Div. 2, of the 1974 Code)]

§ 243-4. Permit required.

The Superintendent of Highways is authorized to issue a permit for the holding of a neighborhood block party, celebration or event on a Town street; provided, however, that no such permit shall be issued under this article nor shall any street be blocked for the holding of a garage sale, yard sale, bazaar, rummage sale or other similar activity having as its principal purpose fund-raising for an individual or an organization, or for a political meeting or rally, carnival, or a theatrical or musical performance such as a rock concert or similar event.

§ 243-5. Application for permit; fee.

An application for such permit shall be filed with the Superintendent of Highways not less than three days prior to the holding of such event. The application shall state the name and address of the applicant, the name of the street or streets and a description of the portion or portions thereof desired to be blocked, a description of the party, celebration or event proposed to be held, the date and hours thereof, and such further information as the Superintendent of Highways may require, and shall be accompanied by a fee as set by resolution of the Town Board from time to time, which shall be nonrefundable in the event the permit is denied.

§ 243-6. Blocking of streets.

Such permit may authorize the blocking of a street or such portion thereof as shall be described therein on the date and during the hours therein stated. No such permit, however, shall be issued where the Superintendent of Highways finds that the blocking of any street or portion thereof will unduly interfere with the flow of vehicular traffic or cause such congestion as will endanger the public or seriously impair its safety.

§ 243-7. Restrictions.

No permit issued hereunder shall:

- A. Authorize the blocking of any street after the hour of 8:00 p.m. and before the hour of 11:00 a.m.;
- B. Authorize the obstruction of any street by any thing or object which cannot be readily moved to allow the passage of emergency or hazard vehicles; or
- C. Have the effect of authorizing the blocking of any street or portion thereof more than twice in any calendar year.

§ 243-8. Penalties for offenses.

[Added 9-17-2002 by L.L. No. 8-2002]

Any person or persons who shall violate any provisions of this article shall be guilty of an offense punishable by a penalty as set forth in Chapter 1, General Provisions, Article III.

ARTICLE III. Street Specifications

[Adopted 7-9-1985]

§ 243-9. Title.

This article shall be known and may be cited as the "Streets or Highways Resolution of the Town of Guilderland."

§ 243-10. Purpose.

The purpose of this article is to regulate the design and construction of streets, thoroughfares or highways and all utilities therein in the Town of Guilderland, Albany County, New York. This article is to be used in conjunction with, and is complementary to, Chapter 247, Subdivision of Land, and Chapter 280, Zoning.

§ 243-11. Terminology and word usage.

- A. Wherever used in this article, the word "street" and/or "right-of-way" shall also mean a thoroughfare, highway or road.
- B. Wherever used in this article, words in the singular number include the plural, and words in the plural number include the singular.
- C. The word "shall" is mandatory and not directory. Words used in the present tense include the future.

§ 243-12. Application for approval of plans.

All applications for approval of plans shall be made in accordance with Chapter 247, Subdivision of Land, and Chapter 280, Zoning.

§ 243-13. Application for dedication of streets.

All applications for the dedication of streets and rights-of-way to the Town of Guilderland shall be accompanied by a warranty deed or, if a warranty deed is not possible, by a quitclaim deed conveying said street and rights-of-way to the Town with all releases from mortgages or other claimants, together with a proper title search covering at least 30 years to the time application is made, and also a tax search. Such application shall also be accompanied by a plan or plans which shall:

- A. Be at a scale of one inch equals 50 feet. The use of any other scale must have had prior approval of the Town Planning Board.
- B. Show contours based on United States Geological Survey (USGS) datum and at an interval not greater than two feet. Interpolation of contours from other mapping shall not be accepted.

C. Show a minimum of two benchmarks based on USGS datum.

D. Show a location plan, at a minimum scale of one inch equals 2,000 feet, giving the location of the plot with relation to established streets.

E. Show, on a separate plan of the same scale as the subdivision plan, all drainage areas tributary to the development; show drainage area limits tributary to each catch basin or inlet with a tabulation of runoff to each structure and the total to each outfall; show detention area details with storage volume calculations including maximum detention times to drain completely and all based on the Stormwater Management Plan as defined in Chapter 247, Subdivision of Land. Calculation of runoff shall be based on a method in general use for the area involved and approved by the Town Engineer. The method used shall be approved by the Town Engineer, or designated engineer, and shall be recognized as producing a problem-free storm drainage system. Calculations for all stormwater structures shall be based on rainfall intensities resulting from a storm of a ten-year return. The designer shall examine and report on the routing and effects on the area and system for the one-hundred-year storm event. The storm drainage plans, calculations and narratives shall be submitted to the Town Engineer and/or the Town-designated engineer for review.

F. Show all proposed streets, roads or highways and lots with necessary survey data.

G. Show all monuments located as specified in Article VI, § 247-3, of Chapter 247, Subdivision of Land.

H. Show proposed finished street with road or highway grade. A separate supplementary map of that portion of streets, roads or highway to be conveyed shall be submitted showing building lots and restrictions and names of abutting owners. (See also Chapter 247, Subdivision of Land.)

I. Show the proposed names of all streets and proposed lot numbers. (See also Chapter 247, Subdivision of Land.)

J. Show the average daily traffic volume in vehicles per day to be using each street with peak a.m. and p.m. hour totals at intersections with existing streets with an evaluation and recommendation by a licensed traffic engineer, at the owner/developer's expense, as to the ability of receiving streets to function at a satisfactory level of service.

K. Show the locations of soil borings along the streets or roads. Minimum boring depth shall be 10 feet, and the boring logs shall indicate depth to the water table, soil types, date of boring and other information normally shown on such logs. Locate borings on proposed street center lines and at 300 feet spacings. The Highway Superintendent or the Superintendent of Water and Wastewater may require a more extensive soil investigation with an evaluation and recommendation by a soils engineer, at the expense of the subdivision owner/developer, as to the suitability of the subgrade to perform satisfactorily. (See also §§ 243-18 through 243-20 of this article.)

L. Show a complete profile of the streets at a horizontal scale of one inch equals 50 feet and a vertical scale of one inch equals five feet, together with the street plan (use a standard highway plan-profile format sheet to conform with this article, Chapter 247, Subdivision of Land, and Chapter 280, Zoning, which profile shall show the original ground surface, finished grade proposed, all utilities including water mains, sanitary sewers, storm sewers together with all structures proposed).

M. Show size, type of pipe, class, valves, alignment and hydrant locations for potable water distribution system, after consultation with the Superintendent of Water and Wastewater as to the needed capacity and ability of the existing Town distribution system to supply the requirements, all in accordance with the Town Water Management and New York State Health Department regulations and acceptable design and construction practice.

N. Show size, type and class of pipe, alignment, grade and connections to existing outfall sewer, after consultation with the Superintendent of Water and Wastewater as to the ability of the existing Town system to handle the proposed additions, all in accordance with Town Wastewater Management and New York State Health and Environmental Conservation Departments regulations and acceptable design and construction practice.

§ 243-14. Requirements for acceptance of streets.

No street designed and constructed after the date of the passing of this article shall be accepted as a Town street except as it shall conform to the regulations herein provided and as it is in conformance with Chapter 247, Subdivision of Land, and Chapter 280, Zoning.

A. Water distribution systems shall be designed and constructed in accordance with Chapter 272, Water, using the latest amendments and details as available from the Superintendent of Water and Wastewater.

B. Sanitary sewage collection and disposal systems shall be installed in accordance with Chapter 225, Sewers, using the latest amendments and details as available from the Superintendent of Water and Wastewater.

C. Public utilities shall be installed without expense to the Town and under the supervision of the Town Superintendent of Highways and the Superintendent of Water and Wastewater. The installation of said utilities shall be accomplished without cutting of pavement within the Town highway rights-of-way, and a permit shall be obtained from the Highway Superintendent for the work to be done. Power, telephone and gas, where installed under the pavement, shall be placed in a protective sleeve. Unless a specific permit is issued by the Highway Superintendent, no pavement shall be broken and all facilities shall be jacked, bored or driven under said pavement only under his direction.

§ 243-15. Arrangements of streets or highways.

The arrangement of streets or highways hereinafter laid out shall, wherever possible, provide for the continuation of the principal streets existing in the adjoining subdivisions, or of their proper projection when the adjoining property is not subdivided, and shall be of a width as great as that of such existing streets, but in no case have a right-of-way width less than 60 feet.

§ 243-16. Minimum right-of-way widths.

The minimum width of street or highway rights-of-way hereinafter laid out shall be 60 feet. These widths shall be measured from right-of-way line to right-of-way line. Said width shall be measured normal to the lines on tangents and on the radial lines on curves.

§ 243-17. Reserve strips.

There shall be no reserve strips controlling access to streets except where control of such strips is definitely placed in the Town under the offer to dedicate.

§ 243-18. Property lines.

Property lines at all street intersections shall be rounded sufficiently to allow a minimum radius on the property line of 25 feet. (Also see Chapter 247, Subdivision of Land.)

§ 243-19. Designs for highway intersections.

A proposed design for each highway intersection shown on the approved subdivision plan shall be submitted to the Town for approval, and such approval shall have been granted prior to the construction of any of the proposed highways and prior to the final approval of the highway profiles by the Town. Each intersection shall be shown on a separate sheet (normally 8 1/2 inches by 11 inches or nine inches by 12 inches) and shall be drawn to a scale of one inch equals 30 feet. The intersection shall be designed to shed all surface water to inlet structures on the existing, or proposed, highway drainage system, and such structures shall generally be placed at the P.C. or P.T. of curves. The design drawings shall show the edges of the pavements, with intersecting edges of pavements being connected by a curve having a minimum radius of 40 feet. The drawings shall also show right-of-way lines, the center lines of pavements, proposed elevations along the edges of pavements, proposed elevations along the center lines of pavements and proposed elevations along the right-of-way lines. The design drawings shall also show the location of all storm drain lines, structures on the storm drain lines with elevations of grates or covers, and curve data for all horizontal curves shown on the intersection design.

§ 243-20. Collection and disposal of subsurface water from highways.

All pipe and necessary appurtenances for the proper and satisfactory collection and disposal of subsurface, or underground, water from the rights-of-way of the proposed highways shown on the approved subdivision plan, in order to establish a satisfactory roadbed for such highways, shall be supplied and installed by the owner of the subdivision in accordance with the pertinent specifications of the Town. The necessity for draining subsurface water from the right-of-way of a proposed highway, the locations where such drainage is required, and the extent of piping necessary to effect such drainage shall be determinations of the Superintendent of Highways. These determinations by the Superintendent of Highways may precede the construction of the proposed highway or may occur during construction as underground water conditions become evident. The Town Superintendent of Highways will notify the owner of such determinations as soon as possible after such determinations are made. Type of pipe, diameter and gauge of pipe, pipeline gradients, method of pipe placement and all materials required for the installation of such drainage shall conform to the requirements and specifications of the Town.

§ 243-21. Turnarounds.

Streets designed to have one end permanently closed shall be provided at the closed end with a turnaround roadway having a minimum radius for the outside

property line of at least 80 feet. Full pavement area shall extend to within 15 feet of the outside right-of-way line. (See Chapter 247, Subdivision of Land.)

§ 243-22. Street grades.

Street grades shall not exceed 8% nor be less than 0.8%. Particular attention shall be given to street design at intersections. Approach grades shall not exceed 3% within 120 feet of the street right-of-way line intersected and shall not exceed 1 1/2% within 40 feet of the right-of-way line intersected. Combinations of grades over 6% with curves of minimum radius shall not be used. Where the algebraic difference in street grades exceeds 2%, the grades shall be connected by a vertical curve to produce a safe transition.

§ 243-23. Street intersections.

Street intersections shall be at 90° within 100 feet of the intersected right-of-way line. Street tangents with a deflection angle greater than 5° shall be connected by a minimum radius of curve of 250 feet, measured to the inside right-of-way line. Street layouts for proposed higher density development than standard R-15 or R-20, that is for clustered or townhouse development, may be approved at less radius of curve, but traffic safety provisions and necessary street signage must be as recommended by a qualified traffic safety engineer employed and paid by the owner/developer at no cost to the Town.

§ 243-24. Block length.

Intersecting streets shall be so planned that blocks between street lines shall be not more than 1,200 feet in length, and any variance from this length because of an unusual topographic condition or more efficient land use shall have prior approval of the Planning Board. (Also see Chapter 247, Subdivision of Land.)

§ 243-25. Trees; shrubs; grassed areas.

The planting of street trees within the right-of-way is prohibited; however, shrubs with a mature height not greater than 18 inches, combined with grassed areas, shall be planted and maintained until street dedication by the landowner/developer. These areas shall include the center mall areas of divided streets and turnarounds. The plan for this planting shall have prior approval of the Highway Superintendent.

§ 243-26. Monuments.

A. Sufficient monuments shall be placed to properly reproduce each and every street laid out. Street monuments shall be placed in the immediate vicinity of all intersections and at intervals not exceeding 500 feet on tangent lengths of over 1,000 feet. Where monuments are placed between intersections, they shall be placed in pairs, one on each side of the street, and shall be accurately correlated to one another by bearing (angle) and distance.

B. Monuments shall be of concrete that is 4,000 pounds per square inch, reinforced with four No. 3 deformed reinforcing and four inches square and four feet in length. A galvanized or stainless steel pin 3/8 inch in diameter shall be anchored on center and flush with the top of the monument. The top of the monument shall be set flush with the finished grade.

§ 243-27. Storm sewers; design specifications.

A. In general, storm sewers will be required and shall be designed to carry the flow tributary. The distance which water shall be allowed to run in open ditches will be determined in each individual case depending upon the various factors involved. In areas of minimum grade, this distance shall not exceed 750 feet, and in areas of maximum grade, this distance shall not exceed 250 feet.

B. Storm sewers, where installed, shall be of reinforced concrete pipe or corrugated metal pipe (galvanized steel), fully coated, with paved invert, and, generally, shall be laid on grades to produce a velocity of not less than three feet per second nor more than eight feet per second when flowing full. Under special conditions involving circumstances such as level terrain and shallow surface water outlet, permission to install storm sewers at grades producing velocities of not less than two feet per second when flowing full may be granted by the Town Superintendent of Highways. Storm sewer design shall be on the basis of local ten-year storm frequency studies and shall be such that a minimum of four feet zero inches is maintained from invert of pipe to finish ground surface directly above.

C. Reinforced concrete pipe shall conform to ASTM Specifications Class III for Reinforced Concrete Pipe. In certain locations, the Highway Superintendent may require the use of ASTM designation C-76 Class IV or Class V.

D. Corrugated galvanized steel pipe, multiplate pipe and pipe arches shall be fully coated with a paved invert and shall not be less than the gauge recommended by the American Association of State Highway Officials but not

less than 16 gauge. Lengths of C.M.P. shall be joined with corrugated collars. All pipe ends shall be corrugated. All joints are to be encased in graded filter gravel, 15 inches either side of the joint to a minimum depth of 12 inches above and six inches below the pipe. Local soil conditions may increase these requirements. All C.M.P. 48 inches in diameter and larger shall be strutted. Struts shall be removed after total compaction of the backfill material in six-inch lifts has been completed.

E. The use of helically-formed corrugated steel pipe shall require reformed annular ends to receive standard connectors. The use of dimpled connectors is prohibited.

F. All storm sewers shall be constructed accurately to line and grade, properly bedded, and shall be so constructed that all joints are watertight.

G. Typical installation details are shown on the attached drawing, Town of Guilderland - Construction Detail Sheet. Editor's Note: The Town of Guilderland - Construction Detail Sheet drawings are on file in the Town offices. The design of stormwater inlet basins and manholes shall be acceptable to the Town Superintendent of Highways and shall be in accordance with current standard modern practice. In no case will the use of concrete manhole block less than eight inches in width be permitted.

H. All concrete block manhole structures are to be plastered inside and out, with five-eighths-inch mortar. The design of poured, precast or prefabricated manhole structures shall be Fort Miller standard, or equal, and must have the approval of the Town Superintendent of Highways and/or the Town-designated engineer prior to installation. Pipe connections shall be completely sealed with hydraulic mortar for the full thickness of the structure wall.

I. The minimum inside diameter of pipe for storm sewer use shall be 12 inches. The minimum steel thickness for corrugated steel pipe shall be 16-gauge. Shallower or deeper installations than standard or in particularly corrosive soil or flow conditions shall require the use of a heavier gauge, subject to the approval of the Highway Superintendent.

J. All catch basin and junction structures over four feet in depth shall have substantial, noncorroding steps for safe access, and structures over eight feet in depth shall have an offset cone section. All structures less than eight feet in depth shall be equipped with a reinforced concrete flat top designed for a minimum H-20 highway load and set so the manhole opening is over the outlet pipe. Frames and grates shall be Campbell Foundry Pattern No. 2253. Solid covers where required on certain structures shall be Campbell Pattern

No. 1203. Inlet basin covers shall be set level and flush with finished gutter paving.

K. Underdrainage shall be installed when so directed by the Highway Superintendent and/or the Town-designated engineer. See §§ 243-18 through 243-20 of this article for requirements for underdrainage.

L. The developer or owner laying out the streets or highways for acceptance by the Town shall obtain all necessary easements and/or rights-of-way to take care of all surface and ground water caused by reason of the development of said street or highway and by reason of the installation of culverts or surface drains or underdrains. No street or highway will be accepted by the Town of Guilderland nor approved by the Town Superintendent of Highways and Superintendent of Water and Wastewater before such necessary easements or rights-of-way have been obtained and passed upon by the Attorney for the Town of Guilderland. The width of easement or right-of-way shall be 30 feet minimum for installation depths of six feet or less. At the discretion of the Town Superintendent of Highways and/or the Superintendent of Water and Wastewater, greater installation depths may require wider easements or rights-of-way depending upon particular circumstances.

§ 243-28. Specifications required before dedication.

Prior to being offered for dedication to the Town, all streets shall be completely graded, within the limits of the right-of-way, and all underground utilities shall have been installed in accordance with all provisions of this article, base course of gravel shall have been placed, graded and compacted, and paving and sidewalks, as required, shall have been installed in conformance with the applicable standards as shown on the attached drawings, Town of Guilderland - Highway Cross Sections. Editor's Note: The Town of Guilderland - Highway Cross Sections drawings are on file in the Town offices. The gravel subbase and surface paving shall consist of the following materials:

A. Gravel subbase shall consist of material described in and laid and rolled in conformance with the latest revision of the New York State Department of Transportation Standard Specifications - Construction and Materials Book and as approved by the Highway Superintendent. Thickness of granular gravel subbase shall be determined by AASHO Group Classification for subgrade soil as follows (NOTE: Gravel subbase shall be laid and compacted in four-inch lifts.):

(1) AASHO: A-1, A-2, A-3, twelve-inch compacted Item 4.

(2) AASHO: A-4 and A-5, eighteen-inch compacted Item 4.

(3) AASHO: A-6 and A-7, twenty-four-inch compacted Item 4.

B. Asphalt concrete base course shall not be placed until all utilities are installed and proof of proper installation is forwarded to the Superintendent of Highways by the gas company, telephone company, power company, sewer department and water department.

C. Asphalt concrete base course shall consist of material described in and place and compacted in conformance with the latest revision of the New York State Department of Transportation Standard Specifications - Construction and Materials Book as Item 403.13, Type 3 Binder Course, and as approved by the Highway Superintendent. Asphalt concrete base course shall be laid to a rolled thickness specified in cross sections. Minimum thickness shall be 3 1/2 inches.

D. Asphalt concrete wearing course shall consist of material described in and placed and compacted in conformance with the latest revision of the New York State Department of Transportation Standard Specification - Construction and Materials Book as Item 403.18, Type 7 Top Course, and as approved by the Highway Superintendent. Minimum thickness for this course shall be 1 1/2 inches. Asphalt concrete shall be placed and compacted only when air temperature is above 40° and rising.

E. If under Chapter 247, Subdivision of Land, as amended by the Planning Board on February 4, 1985, the owner/developer elects to place only three-and-one-half-inch base course and to defer the placing of the top or wearing course, said base course shall consist of New York State Department of Transportation Item 403.13, Type 3 binder (dense binder), as approved by the Town Highway Superintendent. Just prior to placing the top wearing course, the base course shall be thoroughly cleaned of all contaminants by brooming, vacuuming and flushing, if necessary, with a suitable tack coat applied, if so directed, all to the satisfaction of the Highway Superintendent and/or the Town Engineer.

F. At the time of the dedication, all proposed streets shall have the subbase grade continued to the full width of the right-of-way. These grades shall be as follows: In cuts, slopes are not to exceed one foot vertical to two feet horizontal; and on fills, slopes are not to exceed one foot vertical to three feet horizontal. Material brought in as fill to bring subbase elevations up to grade shall be placed in nine-inch lifts and thoroughly compacted between course, to produce maximum density at optimum moisture for fill soil type.

G. Manhole frames and valve boxes are to be brought to the proper grade before paving.

H. If curbs are to be used, they shall be either granite or precast concrete, six inches by 18 inches with a six-inch reveal, bedded in concrete in accordance with the attached drawing, Town of Guilderland - Curbing Detail. Editor's Note: The Town of Guilderland - Curbing Detail drawing is on file in the Town offices.

§ 243-29. Approval required by Superintendents prior to acceptance.

No street or highway shall be accepted by the Town unless it meets all of the above requirements and the approval of the Town Superintendent of Highways and Superintendent of Water and Wastewater. No utilities, public or private, shall be placed or installed in any proposed street or highway of the Town until such street or highway has been rough-graded and drained as provided in this article and approved by the Town Superintendent of Highways and the Superintendent of Water and Wastewater.

§ 243-30. Inspection by engineer.

To ensure compliance with approved plans, specifications and details, the Town-designated engineer, at the owner's/developer's expense, shall observe the materials used in and the construction of all improvements. When the owner/developer has completed the improvements, the Town-designated engineer shall report to the Planning Board or the Zoning Board of Appeals that he has observed the installation of improvements and they conform, or that they conform conditionally, to the approved plans, to this article, to the laws and regulations of the Department of Water and Wastewater and to acceptable construction practice.

§ 243-31. Street signs and posts; guide rails.

Street signs and posts shall be furnished and properly placed by the owner/developer. Street signs shall conform in type to the Town standard. Dead end signs shall be placed by the owner/developer at appropriate locations along streets terminating in turnarounds and as approved by the Highway Superintendent. Guide rails, where required for highway ditch or culvert protection or as a general safety measure, shall be placed and paid for by the owner/developer and as specified by the Town Superintendent of Highways.

§ 243-32. Written approval from state, county and Town required.

A. Approval, in writing, shall be obtained by the owners and/or developers from the New York State Department of Transportation where proposed streets or highways intersect state roads for its permission to connect said streets with such roads.

B. Approval, in writing, shall be obtained by the owners and/or developers from the Albany County Superintendent of Highways where proposed streets or highways intersect county roads for his permission to connect said streets with such roads.

C. Approval, in writing, shall be obtained by the owners and/or developers from the Town Superintendent of Highways where proposed streets or highways intersect Town roads for his permission to connect said streets with such roads.

§ 243-33. Utilities.

Telephone, gas, CATV and power cable conduits shall be installed as shown on the typical street cross-section detail and as approved by the Town Superintendent of Highways after consultation with the Superintendent of Water and Wastewater. The installation of these utilities shall be in accordance with specifications approved by the agencies governing these utilities and at no expense to the Town of Guilderland.

§ 243-34. Sanitary laterals and water mains.

Prior to acceptance of streets and utilities by the Town of Guilderland, as-built drawings including reproducibles shall be furnished to the Superintendent of Water and Wastewater and in a form approved by the Superintendent and the Town Engineer. These as-built drawings shall show by ties to easily visible permanent marks the location of all sanitary laterals at the sewer main and at the right-of-way line including elevation at the line, and the location of all water mains lateral taps and all valve locations. The as-built drawing shall show the lot lines and lot numbers being serviced by the laterals.

§ 243-35. Review of street plan for traffic safety.

The proposed street plan shall be reviewed by a qualified traffic safety engineer, at the expense of the subdivision owner/developer, for required traffic regulatory and warning sign location and type. Such signage shall be in conformance with the New York State Department of Transportation Manual of Uniform Traffic Control and shall be furnished and installed by the subdivision

owner/developer with prior approval of the Town Highway Superintendent. (See also § 243-23 of this article).

§ 243-36. Final acceptance by Town Board.

If, in the opinion of the Town Superintendent of Highways, the Town Superintendent of Water and Wastewater and the Town-designated engineer, the proposed streets or highways and drainage systems constructed by the owners and/or developers are completed in accordance with plans signed by the above Town representatives, the Town Superintendent of Highways, the Town Superintendent of Water and Wastewater and the Town-designated engineer will recommend to the Town Board that the streets be accepted within 30 days. The Town Board may refuse to accept a proposed street or highway, notwithstanding that it conforms to all of the provisions of this article. The Town Board may, at its discretion, accept a proposed street or highway notwithstanding that it does not conform to all of the provisions of this article if, in its judgment, the public interest will be best served by such acceptance, subject to such conditions as the Town Board may impose. Editor's Note: Former Art. IV, Snow on Sidewalks and Near Fire Hydrants, adopted 2-5-2002 by L.L. No. 2-2002, which immediately followed this section, was repealed 9-17-2002 by L.L. No. 8-2002. See now Ch. 227, Sidewalks.

CHAPTER 247. SUBDIVISION OF LAND

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CHAPTER 247. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Guilderland 8-8-1989 (Appendix B of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building permits — See Ch. 140.
Fire prevention and building construction — See Ch. 171.
Flood damage prevention — See Ch. 177.
Freshwater wetlands — See Ch. 181.
Sewers — See Ch. 225.
Sidewalks — See Ch. 227.
Streets and sidewalks — See Ch. 243.
Underground facilities — See Ch. 260.
Zoning — See Ch. 280.

ARTICLE I. Authority; Purpose; Applicability

§ 247-1. Authority.

By authority of the resolution adopted by the Town Board on the 18th day of March, 1963, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Guilderland is authorized and empowered within that part of the Town of Guilderland, outside the limits of the Incorporated Village of Altamont, to approve plats for land subdivision.

§ 247-2. Purpose.

The purpose of these subdivision regulations is to provide for the development of the Town by:

- A. Providing for harmonious development of residential, commercial, industrial, cultural, recreational, religious and educational uses, consistent with rational planning principles;
- B. Affording adequate facilities within the Town for orderly, efficient and economical development;
- C. Providing for the preservation of open space and the protection of the environment; and
- D. Facilitating expeditious review of all subdivision plans by providing uniform standards and procedures.

§ 247-3. Applicability.

Before any land is subdivided, the subdivider shall make application to the Planning Board for and secure approval of the proposed subdivision in accordance with the provisions of these subdivision regulations.

ARTICLE II. Definitions and Word Usage

§ 247-4. Word usage.

Words used in the present tense shall include the future tense. The singular number shall include the plural number and the plural number the singular number. The word "shall" is mandatory; the word "may" is permissive. The word "building" shall include the word "structure."

§ 247-5. Application.

For the purpose of this chapter, meanings of the following words and phrases shall be defined in this Article II.

§ 247-6. Definitions.

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

ANGLE OF REPOSE RESERVE

The area comprised of any land adjacent to a continuous or intermittent watercourse where there is a slope of 12° or greater. This area is established by a twelve-degree angle beginning at the intersection of the slope with the horizontal plane of the watercourse, running perpendicular to the slope, and terminating at grade elevation. Also see, "setback, angle of repose reserve" and § 247-31A.

BLOCK

The land adjoining one side of a street between two consecutive junctions of said street with roads, railway rights-of-way or waterways crossing or meeting said side of street.

BUILDING ENVELOPE

The buildable area of a lot, determined by the horizontal distance between the property lines and the required side, front and rear yard, watercourse, angle of repose reserve setback and protected slope reserve setbacks, as set forth in Chapter 280, Zoning, beyond which no building may take place.

BULK REGULATIONS

Zoning requirements related to such things as lot area, yard dimensions, percentage of lot covered and regulations other than land use. Such requirements are set forth in Chapter 280, Zoning.

CLUSTER DEVELOPMENT

The subdivision of an area into lots which are smaller than would customarily be permitted by Chapter 280, Zoning, the density of development is no greater than would be permitted in the district by conventional development, and the residual land produced by the smaller lot size is used for common recreation and open space. (See § 280-28 of Chapter 280, Zoning).

CONCEPT PLAN

A sketch and supporting documentation of a proposed subdivision, as detailed in §§ 247-8 and 247-13.

DRAINAGE

The gravitational movement of a liquid substance, normally water, from its place of origin via surface runoff within or outside developed channels or via baseflow (subsurface) or overland flow.

EASEMENT

Authorization by a property owner for the use by another, for a specified purpose, of any designated part of the owner's property.

EROSION

The process by which the surface of land is worn away by the action of water, wind and/or rain.

EROSION AND SEDIMENT CONTROL PLAN

A plan showing mitigation measures, such as vegetation and structures, in sufficient quantity and substance to prevent erosion and sedimentation; also includes a schedule for the implementation of such plan.

FINAL PLAT

The drawing and supporting documentation of a subdivision, prepared and signed by a professional, licensed by the State of New York to perform such duties, containing all information required by §§ 247-9 and 247-16 of this chapter.

FRONT LOT

A lot located between a keyhole lot and the road or street.

[Added 2-6-1996]

HIGHWAY DEVELOPMENT POLICY

The resolution, adopted by the Town Board, which regulates the design, construction and dedication of streets and highways and other subdivision infrastructure systems, in the Town of Guilderland.

KEYHOLE ACCESS

The narrow strip of land, generally uniform in width, that provides the keyhole lot with access to a public road or street. The width of the keyhole access shall not be less than 20 feet at any point. The area of the keyhole access shall not be counted for the purpose of determining the minimum lot area compliance.

[Added 2-6-1996]

KEYHOLE LOT

A lot located to the rear of another lot but is connected to a public right-of-way by a strip of land at least 20 feet wide.

[Amended 2-6-1996]

LOT

A parcel of land, with or without buildings or structures, delineated by property lines and recorded in the Office of the County Clerk of Albany County.

MASTER PLAN

The comprehensive plan for the development of the Town and including any part of such plan separately prepared and any amendment to such plan.

OPEN SPACE, ACTIVE

Land dedicated for communal use, which is relatively flat, well-drained and accessible, and can be used for a variety of physical recreational activities such as softball, soccer or football.

OPEN SPACE, AESTHETIC

Land dedicated for communal use that can be used for passive recreational activities, is aesthetically pleasing, topographically interesting or otherwise unique.

PLANNING ADMINISTRATOR

The employee of the Town of Guilderland in charge of the Planning Department.

PLANNING BOARD

The Planning Board of the Town of Guilderland.

PRELIMINARY PLAT

The drawing and supporting documentation of a proposed subdivision, prepared by a professional, licensed by the State of New York to perform such duties, containing all information and detail required by § 247-14 of this chapter.

PROTECTED SLOPE RESERVE

The area comprised of any land where there is a slope of 30° or greater, and the difference in elevation between the horizontal planes at the bottom and top of the slope is 20 feet or greater. This area is established as any slope 30° or greater. Also see, "setback, protected slope reserve" and § 247-31B.

RESUBDIVISION

The creation of new or different lots from a previously legally subdivided tract, parcel or parcels shown on a plat officially filed with the Albany County Clerk's office.

SEQR (STATE ENVIRONMENTAL QUALITY REVIEW)

A portion of the Environmental Conservation Law which incorporates the consideration of environmental factors in the planning, review and decisionmaking process at the earliest possible time.

SETBACK

The minimum allowable horizontal distance from a given point or line of reference, such as a street, right-of-way or future right-of-way if such has been determined, to the nearest vertical wall or other element of a building or structure.

SETBACK, ANGLE OF REPOSE RESERVE

A line located at grade level, running 30 feet away from and parallel to the boundary of the angle of repose reserve. Also see § 247-31A.

SETBACK, PROTECTED SLOPE RESERVE

A line located at grade level, running 30 feet away from and parallel to the boundary of the protected slope reserve. Also see § 247-31B.

SETBACK, WATERCOURSE

A horizontal distance of 100 feet away from and parallel to the high water level of a continuous or intermittent watercourse. Also see § 247-31C.

STREET

Thoroughfare, highway or roads.

STREET, ARTERIAL

A state or federal highway.

STREET CENTER LINE

A line midway between and parallel to the street right-of-way.

STREET, COLLECTOR

A street which carries traffic from subdivision streets to the arterial highways. Collectors may also serve as secondary arterials to carry traffic.

STREET, CUL-DE-SAC

A street with only one vehicular traffic outlet, culminating in a turnaround.

STREET, LOOP

A street with only one vehicular traffic outlet which loops around back onto itself.

STREET, MARGINAL ACCESS

A street adjacent and parallel to an arterial or collector street, the function of which is to limit access points between the arterial or collector street and the abutting properties.

STREET, PRIVATE

A private thoroughfare or right-of-way, dedicated or deeded for use as such, which provides access to abutting properties from a public street.

STREET, PUBLIC

An existing municipal highway or road, shown upon a subdivision plat approved by the Planning Board and dedicated and accepted by the Town Board, or on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the Planning Board and the grant to such Board of the power to approve subdivision plats.

STREET WIDTH

The distance between property lines on opposite sides of the road.

SUBDIVIDER

Any person, firm, corporation, partnership, association or their representative who proposes to apportion land.

SUBDIVISION

Any division of a parcel of land, including resubdivision.

SUBDIVISION, MAJOR

A subdivision containing five or more parcels along any existing or proposed street, highway, easement or right-of-way; or any subdivision requiring the creation of a new street or extension of municipal facilities; or any subdivision deemed to be a major subdivision under the provisions of § 247-8G(5) of this chapter. After the effective date of these regulations, a

tract of land shall constitute a major subdivision upon the proposed creation of the fifth lot or building lot irrespective of the length of time which may elapse prior to the time the fifth lot is proposed for creation. Upon that event, all provisions applying to major subdivisions shall apply to the subdivision of the fifth lot and all other proposed subdivisions of the original tract of land, at that time and subsequently.

SUBDIVISION, MINOR

A subdivision containing four or fewer lots along an existing street, highway, easement or right-of-way and not requiring the installation of a new street or municipal facilities.

TOWN

The Town of Guilderland.

TOWN ATTORNEY

The lawyer who represents the Town of Guilderland.

TOWN-DESIGNATED ENGINEER

An engineering firm, appointed by the Planning Board, to represent the Town in the subdivision review, construction and dedication process.

TRACT

Any body of land, including contiguous parcels of land under one ownership or under common control of any group of persons, even if such land is divided by a street.

WATERCOURSE, CONTINUOUS

A spring, stream, marsh or channel in which water historically flows continuously 12 months a year.

WATERCOURSE, INTERMITTENT

A spring, stream, marsh or channel in which water historically flows less than 12 months a year.

ARTICLE III. Minor Subdivision Requirements

§ 247-7. Preapplication meeting.

Before beginning work on a minor subdivision application, a subdivider shall make an appointment with the Planning Administrator to discuss the proposed subdivision, zoning requirements, expected timetables for approval, etc.

§ 247-8. Concept plan.

A. Submission requirements. The subdivider shall submit to the Planning Administrator:

(1) Twelve copies of a concept plan of the proposed subdivision, as detailed in Subsection B.

(2) A completed subdivision application.

(3) A concept application fee Editor's Note: See Ch. A285, Fees. as set by resolution of the Town Board from time to time, payable to the Town of Guilderland.

B. Contents of the concept plan. The concept plan shall be a scale drawing, and other supporting documentation which contains the following:

(1) A site map showing:

(a) The subdivision name or title, if any; the scale, which shall be no less than one inch equals 100 feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."

(b) The subdivision boundaries and the owners of all contiguous properties.

(c) The zoning classification and tax map number(s) of the property to be subdivided.

(d) The total acreage of the subdivision, the number and dimensions of lots, including lot width, depth, and acreage or square footage of every proposed lot.

(e) All streets, either mapped or built, adjacent to the tract.

(f) All existing restrictions on the use of land, including easements and covenants.

(g) All existing structures, wooded areas, watercourses, slopes of 12° or greater and other significant physical features within the part to be subdivided and within 200 feet of the proposed subdivision's boundaries.

(h) The building envelope, which is determined by showing all the yard and other applicable setbacks in which proposed structures may be built.

(i) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain.

(j) Contours with intervals of not more than 20 feet. A copy of the New York State Department of Transportation quadrangle map depicting the area of the proposed subdivision is adequate for the concept submission.

(2) A location map showing:

(a) The scale, which shall not be less than one inch equals 2,000 feet.

(b) All streets and lands within at least 5,000 feet of the proposed subdivision.

C. Waiver of submission requirements. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

D. Review by the Planning Administrator. The Planning Administrator will review the concept plan and assure that all submissions requirements have been met. After this review, the Planning Administrator will place the proposed concept plan on the next available Planning Board and Guilderland Conservation Advisory Council agendas.

E. Guilderland Conservation Advisory Council Review (GCAC). The subdivider shall attend a meeting of the GCAC to discuss the concept plan. The Planning Administrator shall inform the applicant, in writing, of the date and time of the meeting. The GCAC will review the concept plan for any environmental and related concerns and forward its recommendations to the Planning Board prior to final approval.

F. Review by the Town staff. The Town Planning Consultant and interested department representatives will review the concept plan for compliance with Town regulations, and adherence to sound planning, building and engineering practices. They shall forward their comments to the Planning Board prior to concept review.

G. Planning Board review and recommendation.

(1) The subdivider shall attend a Planning Board meeting to discuss the concept plan. The applicant will be notified, in writing, of the date and time of this meeting.

(2) The Planning Board shall determine whether the concept plan meets the purposes of these regulations and may, where it deems necessary, make specific recommendations, based on:

(a) The application of planning principles.

(b) Environmental considerations.

(c) The overall long-term plan for the development of the Town.

(d) Community concerns and considerations for incorporation in the next submission to the Planning Board.

(3) If the proposed subdivision does not meet the minimum standards and requirements of Chapter 280, Zoning, the subdivider must either revise the proposal to bring it into compliance with Chapter 280, Zoning, or make application to the Zoning Board of Appeals for a variance in accordance with the provisions of § 280-51 of Chapter 280, Zoning. The proposed subdivision must be in compliance with all requirements of Chapter 280, Zoning, before the concept can receive approval.

(4) The Planning Board may, because of unique environmental or topographic conditions, appoint a Town-designated engineer to review and inspect any minor subdivision, in accordance with § 247-15 of this chapter.

(5) The Planning Board may, after review of the concept plan, determine that a minor subdivision, due to particular environmental, topographic, engineering or other unique circumstances, should be reviewed by the criteria of a major subdivision. In that event, the proposed subdivision shall be subject to the requirements and standards of a major subdivision as detailed in Article IV of this chapter, but shall remain a minor subdivision for the determination of subdivision fees.

(6) The approval of a concept plan shall constitute approval of the proposed subdivision as to the general character and layout of development. The Planning Board, however, reserves the right to amend its determination if planning, environmental, engineering or other new data warrants the redesign of the project.

H. Waiver for lot line amendments.

[Added 3-3-1998 by L.L. No. 4-1998]

(1) An applicant may request that the subdivision process be waived when a proposed subdivision:

(a) Does not result in an additional lot being created;

(b) Is a minor modification to an existing lot line; or

(c) The conveyance of a portion of one parcel to an adjoining parcel; and

(d) The resultant lots are equal to or exceed the minimum zoning requirements.

(2) To request such waiver, the applicant shall complete the subdivision application, submit a concept plan in accordance with Subsection B, pay the required application fee and submit a narrative explaining the proposed subdivision.

(3) When such a waiver is requested, a review committee comprised of the Town Planner, Chief Building Inspector and Zoning Coordinator and Planning Board Chairman shall approve or deny the waiver request. Approval may be granted when it is unanimously determined that such lot amendment would not: adversely affect the site's development; adversely impact neighboring properties; alter the essential character of the neighborhood nor negatively impact the health, safety or welfare of Town residents.

(4) If the waiver is granted, the applicant shall file a surveyed map of the subdivision with the Albany County Clerk and the Town Planning Department in accordance with § 247-10.

(5) If the waiver is granted, the review committee shall send a report of its findings to the applicant and the Planning Board.

(6) If the review committee denies the request for waiver, the applicant may proceed with the submission requirements to the Planning Board as outlined in this Article III which initiates a full subdivision review.

I. Waiver of the final hearing.

[Added 3-3-1998 by L.L. No. 4-1998]

(1) After the concept review, the Planning Board may waive the final hearing requirements for a minor subdivision when:

(a) The resultant lots are equal to or exceed the minimum zoning requirements;

(b) There are no unique environmental characteristics on the proposed site such as slopes, wetlands, watercourses or floodplains;

(c) There is no extension of public improvements;

(d) The subdivision would not alter the essential character of the neighborhood or negatively impact the health, safety or welfare of Town residents; and

(e) The Board is satisfied that there is no additional information needed to render a determination.

(2) If the final plat hearing is waived, the applicant shall file a surveyed map of the subdivision with the Albany County Clerk and the Town Planning Department in accordance with § 247-10.

§ 247-9. Final plat.

A. Submission requirements. Within six months of the approval of the concept plan, the subdivider shall submit to the Planning Administrator:

(1) Twelve copies of the final plat of the proposed subdivision as detailed in Subsection B.

(2) A completed SEQOR short or long form, as directed by the Planning Administrator or Planning Board.

(3) Two true copies of all required deeds and easements, if applicable.

(4) A hearing fee Editor's Note: See Ch. A285, Fees. per lot as set by resolution of the Town Board from time to time, payable to the Town of Guilderland.

(5) Any other supporting information requested by the Planning Board.

B. Contents of the final plat. The final plat shall be prepared by a licensed engineer or licensed land surveyor and contain the following information:

(1) A site map showing:

(a) The subdivision name or title; the scale, which shall be no less than one inch equals 100 feet; North direction, which shall point toward the top of the plat; plan date; and the label "Final Plat."

(b) The name and address of the owner, subdivider and engineer or licensed land surveyor, including license number, seal and signature.

(c) Land survey showing dimensions, bearings and angles of all property lines and boundaries.

(d) The owners of all contiguous property and the names of adjoining developments, if applicable.

(e) The zoning classification and tax map number of the property to be subdivided.

(f) The proposed pattern of lots, including lot width, depth, and acreage or square footage of every proposed lot.

(g) The addresses of the proposed lots as assigned by the Assessor's office.

(h) All streets, either mapped or built, adjacent to the tract and the right(s)-of-way width thereof.

(i) The building envelope showing required setbacks in which proposed structures may be built.

(j) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain, surveyed and delineated by a licensed engineer or land surveyor. All federal wetlands delineations must be approved by the Army Corps of Engineers, and all New York State wetland delineations must be approved by the New York State Department of Environmental Conservation.

[Amended 2-6-1996]

(k) The location of all existing and proposed wells and septic systems, if known.

(l) All existing buildings, wooded areas, streams and other significant physical features within the part to be subdivided and within 200 feet.

(m) All existing restrictions on the use of land, including easements and covenants.

(n) Any other information as required by the Planning Board.

(2) A location map showing:

(a) The scale, which shall not be less than one inch equals 2,000 feet.

(b) All streets and lands within at least 5,000 feet of the proposed subdivision.

C. Waiver of submission requirements. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

D. Referrals.

(1) Review by Albany County Planning Board.

(a) In accordance with § 239-n of the General Municipal Law, if any subdivision is within 500 feet of a Town boundary; the boundary of any existing or proposed county or state park or other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, street or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated, the Planning Administrator shall refer such application to the Albany County Planning Board for review and report.

(b) Within 30 days of receipt of such notification, the Albany County Planning Board shall report to the Town on its approval or disapproval, or on its approval subject to stated conditions, of the proposed subdivision plat. If the county planning agency disapproves, or recommends modification of such a proposed subdivision plat, the Planning Board shall not in approving the final plat, act contrary to such disapproval or recommendation or modification except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

(2) Highway Superintendent. The subdivider is required to arrange an on-site meeting with the Town Highway Superintendent to discuss all street right-of-way improvements. No certificate of occupancy will be issued until all required improvements have been made.

(3) Access to county highways. The subdivider shall obtain written permission from the Director of the Albany County Department of Public Works when a curb cut onto a county highway is necessary.

(4) Access to state highways. The subdivider shall obtain written permission from the New York State Department of Transportation when a curb cut onto a state highway is necessary.

(5) Extension of a water or sewer district. If a proposed subdivision requires the extension of a water or sewer district, the subdivider shall initiate an application for the extension by submitting a map, plan and report to the Superintendent of Water and Wastewater Management and to the Town Attorney as directed by the Planning Administrator.

E. Hearing and notices.

(1) The Planning Administrator will review the final plat to determine if it meets the submission requirements as set forth in these regulations. Once all the submission requirements are met, the Planning Administrator shall schedule a public hearing on the final plat before the Planning Board.

(2) The Planning Board shall hold a public hearing on the final plat within 45 days from the date a complete application is received by the Planning Administrator. Notice of such hearing shall be published in the official newspaper of the Town of Guilderland at least 10 days prior to the date of the hearing.

(3) All plans and supporting documentation shall be on file with the Planning Administrator a minimum of 10 days prior to an advertised public hearing before the Planning Board.

(4) The publication and mailing of such notice of public hearing shall be the responsibility of the Planning Administrator.

F. Planning Board review and decision.

(1) The Planning Board shall review the submitted Environmental Assessment Form to determine whether the proposal may have a significant impact on the environment. If the project may have a significant impact, the Planning Board may require the preparation of an Environmental Impact Statement.

(2) The Planning Board shall review the final plat and all other submissions at a scheduled public hearing. Within 45 days from the date of the closing of that hearing, the Planning Board shall make a decision to approve, with or without modifications, or disapprove the application. Such forty-five-day period may be extended by mutual consent of the applicant and the

Planning Board. Any decision of the Planning Board shall include a brief written record of the conditions upon which such decision was made.

(3) Once the Planning Board has granted final approval and all conditions have been met, the subdivider shall file the plat with the Albany County Clerk in accordance with § 247-10.

§ 247-10. Recording of final plat.

[Amended 4-6-1993; 2-6-1996]

Within six months of Planning Board approval, the following steps shall be taken to file the final plat. If the subdivider should fail to submit final plans for signature within six months of Planning Board approval, the approval shall be considered null and void unless an extension of time is requested by the subdivider, in writing, and is granted by the Planning Board before the expiration date.

A. Every copy of the final plat submitted for signature shall carry the following endorsement:

"Approved by Resolution of the Planning Board of the Town of
Guilderland, New York, on the _____ day of _____,
19____, subject to all requirements and conditions of said
Resolution. Any change, erasure, modification or revision of
this plat, as approved, shall void this approval. Signed this
_____ day of _____, 19____ by
Chairman _____"

B. Every copy of the final plat submitted for signature shall have a signature line for the Superintendent of Highways.

C. The subdivider shall provide the Planning Administrator with two linen copies and four paper copies of the final plat.

D. The Chairman of the Planning Board, the Superintendent of Highways and the Superintendent of Water and Wastewater Management, if applicable, will sign the final plat, once all conditions have been met.

E. The subdivider shall have the Albany County Clerk stamp all signed copies of the final plat. The Albany County Clerk will file one linen and one paper copy.

F. The subdivider shall file the one remaining linen and three paper, stamped copies of the final plat with the Planning Administrator.

G. The subdivider shall bear all fees in connection with the filing of the plat.

H. In no case shall the final plat be recorded after 180 days from the date the Planning Board approved the final plat or 90 days from the date the final plat was signed by the Chairman of the Planning Board, whichever comes first. Should the subdivider fail to record the final plat within such period, the approval of the Board shall be null and void unless an extension of time is requested by the subdivider, in writing, and is granted by the Planning Board before the expiration date.

I. The final plat shall be filed with the Albany County Clerk before the sale of any lots within such subdivision.

J. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed, in writing, on the plat. In the event that the subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Planning Board shall institute proceedings to have such plat stricken from the records of the County Clerk.

§ 247-11. Amendments to final plat.

If at any time after the final plat has been signed by the Chairman of the Planning Board or filed with the Albany County Clerk the subdivider wants to amend the plat in any way, the subdivider shall make application to the Planning Board for a final plat amendment. The Planning Board shall determine whether such amendment warrants a public hearing. Any amendment to a filed plat must be refiled with the County Clerk in accordance with § 247-10.

ARTICLE IV. Major Subdivision Requirements

§ 247-12. Preapplication meeting.

Before commencing work on a major subdivision application, a subdivider shall make an appointment with the Planning Administrator to discuss the proposed subdivision, zoning requirements, expected timetables for approval, etc.

§ 247-13. Concept plan.

A. Submission requirements. The subdivider shall submit to the Planning Administrator:

(1) Twelve copies of a concept plan of the proposed subdivision, as detailed in Subsection B.

(2) A completed subdivision application.

(3) A concept application fee Editor's Note: See Ch. A285, Fees. as set by resolution of the Town Board from time to time, payable to the Town of Guilderland.

B. Contents of the concept plan. The concept plan shall be a scale drawing, and other supporting documentation which contains the following:

(1) A site map showing:

(a) The subdivision name or title, if any; the scale, which shall be no less than one inch equals 100 feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."

(b) The subdivision boundaries and the owners of all contiguous properties.

(c) The zoning classification and tax map number(s) of the property to be subdivided.

(d) The total acreage of the subdivision, the number and dimensions of lots, including lot width, depth and acreage or square footage of every proposed lot.

(e) All streets, either mapped or built, adjacent to the tract.

(f) All existing restrictions on the use of land, including easements and covenants.

(g) All existing structures, wooded areas, watercourses, slopes 12° or greater and other significant physical features within the part to be subdivided and within 200 feet of the proposed subdivision's boundaries.

(h) The building envelope, which is determined by showing all the yard and other applicable setbacks in which proposed structures may be built.

(i) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain. All federal wetlands delineations must be approved by the Army Corps of Engineers, and all New York State

wetland delineations must be approved by the New York State Department of Environmental Conservation.

[Amended 2-6-1996]

(j) Soil boring test information with the location of the water table.

(k) Contours with intervals of not more than 10 feet.

(2) A location map showing:

(a) The scale, which shall not be less than one inch equals 2,000 feet.

(b) All streets and lands within at least 5,000 feet of the proposed subdivision.

(3) An area map showing:

(a) A scale, which shall be one inch equals 400 feet.

(b) All streets, lots and USGS contours between the subdivider's property and the nearest collector or arterial street in every direction, or within 5,000 feet of the subdivider's property, whichever is less. This map must show how the proposed subdivision relates to existing and proposed streets in adjoining subdivisions and to the Town's network of collector streets.

C. Waiver of submission requirements. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

D. Review by the Planning Administrator. The Planning Administrator will review the concept plan and assure that all submissions requirements have been met. After this review, the Planning Administrator will place the proposed concept plan on the next available Planning Board and Guilderland Conservation Advisory Council agendas.

E. Guilderland Conservation Advisory Council Review (GCAC). The subdivider shall attend the meeting of the GCAC to discuss the concept plan. The Planning Administrator shall inform the applicant, in writing, of the date and time of the meeting. The GCAC will review the concept plan for any environmental and related concerns and forward its recommendations to the Planning Board prior to preliminary approval.

F. Review by Town staff. The Town Planning Consultant and other interested departments will review the concept plan for compliance with Town regulations, and adherence to sound planning and engineering practices. They shall forward their comments to the Planning Board prior to concept review.

G. Planning Board review and recommendation.

(1) The subdivider shall attend a Planning Board meeting to discuss the concept plan. The applicant will be notified, in writing, of the date and time of the meeting.

(2) The Planning Board shall determine whether the concept plan meets the purposes of these regulations and may, where it deems necessary, make specific recommendations, based on the following for incorporation in the next submission to the Planning Board:

(a) The application of planning principles.

(b) Environmental considerations.

(c) The overall long-term plan for the development of the Town.

(d) Community concerns and considerations.

(3) If the proposed subdivision does not meet the minimum standards and requirements of Chapter 280, Zoning, the subdivider must either revise the proposal to bring it into compliance with Chapter 280, Zoning, or make application to the Zoning Board of Appeals for a variance, in accordance with the provisions of § 280-51 of Chapter 280, Zoning. The proposed subdivision must be in compliance with all requirements of Chapter 280, Zoning, before the concept can receive approval.

(4) The Planning Board may appoint a Town-designated engineer to review and inspect future subdivision submissions in accordance with § 247-15.

(5) The Planning Board may require that the subdivider flag the boundaries of the proposed subdivision and the center lines of the proposed streets in order to facilitate adequate on-site reviews.

(6) The approval of a concept plan shall constitute approval of the proposed subdivision as to the general character and layout of development. The Planning Board, however, reserves the right to amend its determination if

planning, environmental, engineering or other new data warrants the redesign of the project.

§ 247-14. Preliminary plat.

A. Submission requirements.

(1) It shall be the responsibility of the subdivider to distribute to the Town-designated engineer, the Superintendent of Highways, the Superintendent of Water and Wastewater Management:

(a) One copy of the preliminary plat of the proposed subdivision as detailed in Subsection B.

(b) A completed SEQR short or long form, as directed by the Planning Administrator or Planning Board.

(c) A traffic study as detailed in Subsection B(5).

(d) Any other supporting development data relevant to the subdivision or requested by the Planning Board.

(2) The subdivider shall submit to the Planning Administrator:

(a) Twelve copies of the preliminary plat as detailed in Subsection B.

(b) A traffic study as detailed in Subsection B(5).

(c) A completed SEQR short or long form, as directed by the Planning Administrator or Planning Board.

(d) A hearing fee Editor's Note: See Ch. A285, Fees. per lot as set by resolution of the Town Board from time to time, payable to the Town of Guilderland.

(e) Any other supporting development data relevant to the subdivision or suggested by the Planning Board or Town staff.

(3) The subdivider shall establish an escrow account with the Town, in an amount estimated by the Town-designated engineer, to cover the costs of the designated engineer's review, in accordance with § 247-15.

B. Contents of the preliminary plat. The preliminary plat shall be a map or maps and other supporting information which contain the following:

(1) A site map showing:

(a) The subdivision name or title; the scale, which shall be no less than one inch equals 100 feet; North direction, which shall be oriented toward the top of the plat; date; and the label "Preliminary Plat."

(b) The name and address of the owner, subdivider and engineer or licensed land surveyor, including license number, seal and signature.

(c) The subdivision's boundaries and the current owners of all contiguous properties and the names of any adjoining developments.

(d) The total acreage of the subdivision, the number and dimensions of lots, including width, depth, and acreage or square footage of every proposed lot,

(e) All streets and street names, either mapped or built, adjacent to and within the tract and the right(s)-of-way width thereof.

(f) The building envelope showing the required setbacks in which proposed structures may be built and any areas to be left undisturbed as required in § 247-30.

(g) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain, surveyed and delineated by a licensed engineer or licensed land surveyor.

(h) All existing and proposed wells and septic systems.

(i) All existing structures, wooded areas, streams and other significant physical features within the part to be subdivided and within 200 feet.

(j) The zoning classification and tax map number(s) of the property to be subdivided.

(k) The zoning regulations affecting the proposed subdivision including setbacks, density, coverage and other regulations.

(l) All existing restrictions on the use of land, including easements and covenants.

(m) All green areas, open space and screen plantings, giving the size and type of plantings to be used, if applicable.

(n) The approximate location and dimensions of all property to be dedicated for public use or common use and the conditions of such dedications.

(o) The location and dimensions of land to be reserved for parks or recreational purposes, as required by § 247-32.

(p) The location of all existing and proposed sidewalks, bikeways or footpaths both on the property and adjacent to it.

(q) A location map, at a scale of not less than one inch equals 2,000 feet, showing all streets and lands within at least 5,000 feet of the proposed subdivision.

(2) An area map showing:

(a) A scale, which shall be one inch equals 400 feet.

(b) All streets, lots and USGS contours between the subdivider's property and the nearest collector or arterial street in every direction, or within 5,000 feet of the subdivider's property, whichever is less. This map must show how the proposed subdivision relates to existing and proposed streets in adjoining subdivisions, and to the Town's network of collector streets.

(3) A grading plan showing:

(a) The existing topography with contours at intervals of not more than two feet with all slopes 12° or greater delineated [the datum plane for all topographic information shall be based on the National Geodetic Vertical Datum (NGVD) 1929].

(b) The approximate finished grades of the entire tract with contours at intervals of not more than two feet and indicating all areas of trees and vegetation which will be left undisturbed by development construction.

(4) A street and utility map showing:

(a) The names, location, profiles, width and approximate grade of all proposed streets. Elevations shall be shown at the beginning and end of each street, at street intersections and at all points where there is a change in direction or a 5% or greater change in slope.

(b) The proposed provision of water supply, fire protection, disposal of sanitary wastes and stormwater drainage. If the proposed subdivision will not be served by a public water supply, the Planning Board may require that the developer demonstrate that there is a supply of water adequate to serve the completed development and that the proposed layout and density of sanitary waste disposal facilities will not adversely affect the quality of groundwater within or adjacent to the subdivision.

(c) The location of existing and proposed utilities, including sewers, water mains, fire hydrants, storm drainage and culverts, with pipe sizes and direction to flow, both on the property and adjacent to it, and the boundaries of any proposed water or sewer districts.

(5) A traffic study.

(a) A traffic study estimating the average daily (AADT) and peak hour a.m. and p.m. trips to be generated by the completed subdivision. This study shall estimate the distribution of trips between the entrance(s) to the subdivision and the Town's arterial streets. Any intersection(s) whose peak hour levels of service may be adversely impacted by traffic from the completed subdivision shall be identified and mitigation measures offered, taking into consideration traffic from other existing and proposed subdivisions in the area.

(b) The traffic study shall be based on the latest Institute of Transportation Engineers data, methodology and standards.

(6) An off-site improvement plan showing the off-site improvements, if required, to be undertaken by the subdivider in conjunction with development of the subdivision.

C. Waiver of submission requirements. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

D. Review by Town staff. Once the Planning Administrator has received a preliminary plat, the Administrator will coordinate a review with the Engineering, Building, Highways, Fire, Planning, Water and Wastewater Departments and the Town-designated engineer. Comments will be forwarded, in writing, to the subdivider. A subdivision application will not be advertised for a public hearing until the Town-designated engineer has submitted a report stating that all submission requirements have been met.

E. Referrals.

(1) Review by Albany County Planning Board.

(a) In accordance with § 239-n of the General Municipal Law, if any subdivision is within 500 feet of a Town boundary; the boundary of any existing or proposed county or state park or other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, street or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary or any county- or state-owned land on which a public building or institution is situated, the Planning Administrator shall refer such application to the Albany County Planning Board for review and report.

(b) Within 30 days of receipt of such notification, the Albany County Planning Board shall report to the Town on its approval or disapproval, or on its approval subject to stated conditions, of the proposed subdivision plat. If the county planning agency disapproves, or recommends modification of such a proposed subdivision plat, the Planning Board shall not in approving the final plat, act contrary to such disapproval or recommendation or modification except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

(2) Highway Superintendent. The subdivider is required to arrange an on-site meeting with the Town Highway Superintendent to discuss all street right-of-way improvements. No certificate of occupancy will be issued until all required improvements have been made.

(3) Extension of a water or sewer district. If a proposed subdivision requires the extension of a water or sewer district, the subdivider shall initiate an application for the extension by submitting a map, plan and report to the Superintendent of Water and Wastewater Management and to the Town Attorney as directed by the Planning Administrator.

F. Hearing and notices.

(1) The Town-designated engineer will review the plan to determine if it meets the submission requirements as set forth in these regulations, the requirements of the Highway Development Policy and any other agency regulation. Once all the submission requirements are met and a report from

the designated engineer received, the Planning Administrator shall schedule a public hearing of the preliminary plat with the Planning Board.

(2) The Planning Board shall hold a public hearing on the preliminary plat within 45 days from the date an application is confirmed as complete by the Town-designated engineer. Notice of such hearing shall be published in the official newspaper at least 10 days prior to the date thereof.

(3) All plans and supporting documentation must be on file with the Planning Administrator a minimum of 10 days prior to the public hearing.

(4) The preparation and cost of publication and mailing of required notice of public hearing shall be borne by the Town of Guilderland.

G. Planning Board review and decision.

(1) The Planning Board shall review the submitted Environmental Assessment Form to determine whether the proposal may have a significant impact on the environment. If the project may have a significant impact, the Planning Board may require the preparation of an Environmental Impact Statement.

(2) At a scheduled public hearing, the Planning Board shall review the preliminary plat and all other submissions. The Planning Board will carefully study the preliminary layout, taking into consideration the requirements of the community, its natural resources, the best use of the land subdivided, and conformity with the Town Master Plan. Particular attention will be given to the arrangement, location and width of streets, their relation to the types of soil, topography of the land, sewage disposal, drainage, preservation of vegetation and other environmental features, lot size and arrangement, the present and future development of adjoining lands and the requirements of Chapter 280, Zoning.

(3) The Planning Board may require the developer to undertake off-site improvements to the Town's highway, water, sanitary sewer or stormwater drainage systems, or to contribute an equitable per-lot fee for such improvements in conjunction with other developments in the immediate area, for the purpose of accommodating the impacts of the proposed development without degradation of services to existing landowners in the neighborhood of the development.

(4) The final plat may be submitted in phases, if approved by the Planning Board. Each phase must cover a portion of the entire subdivision shown on the approved preliminary plat.

(5) Within 45 days from the date of the closing of the public hearing, the Planning Board will make a decision to approve, with or without modifications, or disapprove the application. Such forty-five-day period may be extended by mutual consent of the applicant and the Planning Board. Any decision of the Planning Board shall include a brief written report outlining the conditions upon which such decision was made.

H. Approval of the preliminary plat.

(1) Approval of the preliminary plat shall constitute approval of the proposed subdivision as to the general character and intensity of development, the arrangement and approximate dimensions of streets, lots and other planned features. Approval of the preliminary plat does not constitute approval of the final plat and does not authorize the sale of building lots, the installation of streets or utilities, or other construction activities on such lots.

(2) The developer must submit to the Planning Administrator a proposed final plat within 180 days of obtaining preliminary plat approval. If the developer does not file the proposed final plat within the one-hundred-eight-day period, the approval of the preliminary plan shall become null and void unless a specific extension of time is requested by the subdivider, in writing, and approved by the Planning Board before the expiration date.

I. Combining the preliminary and final plat hearing. The Planning Board may elect to combine the preliminary and final plat hearing into one hearing when:

[Added 3-3-1998 by L.L. No. 4-1998]

(1) The proposed subdivision does not propose the creation or extension of a Town street or the extension of any municipal facilities.

(2) It is determined that there are no particular municipal concerns that would warrant having separate preliminary and final hearings.

(3) The Board is satisfied that there is no additional information needed to render a determination.

§ 247-15. Plat review by Town-designated engineer.

The Planning Board may designate a consulting engineer to inspect the subdivision plat and construction detail sheets, to confer with the subdivider and/or the subdivider's engineer and report to the Planning Board on the adequacy of the subdivision plat.

A. Responsibilities of the Town-designated engineer. It shall be the responsibility of the Town-designated engineer to:

- (1) Review all subdivision and engineering plans furnished by the subdivider.
- (2) Attend each Planning Board meeting when the subdivision is scheduled to be discussed.
- (3) Submit to the Planning Administrator, the Deputy Supervisor's office and the subdivider an estimate of charges for the review and inspection of the subdivision.
- (4) Advise the subdivider, Planning Board, Highway Superintendent, Water and Wastewater Superintendent, Town Engineer and Planning Administrator, in writing, of his/her approval, approval with reservations or disapproval of the plat and any amendments and other submissions thereof, based on compliance with Town standards and requirements.
- (5) Review any agency's requirements made on the development, including, but not limited to, the state, county and Town.
- (6) Confirm all easement and right-of-way descriptions, warranty and quitclaim deeds, and that Town utilities are appropriately located on these easements and rights-of-way.
- (7) Approve and deliver to the Town Attorney, with a copy to the Town Engineer, a complete packet of developer-signed easements and highway right-of-way deeds.
- (8) Notify the Chairman of the Planning Board of any unforeseen items of concern in the course or review or the construction of the subdivision that may affect the integrity of the final subdivision.
- (9) Resolve, through the Town staff, conflicts arising during the course of the project.
- (10) Submit all claims for payment for services rendered to the Deputy Supervisor.

B. Responsibilities of the subdivider. It shall be the responsibility of the subdivider:

(1) To provide the Town-designated engineer, the Town Engineer, the Superintendent of Highways, the Superintendent of Water and Wastewater Management and the Planning Administrator all subdivision plans and detail construction sheets for both the preliminary and final plat submissions.

(2) To submit to the Town a certified check in the amount equal to the Town-designated engineer's estimate. This sum will be placed in an escrow account by the Town and will be paid to the Town-designated engineer upon receipt for services connected with the review and inspection of the subdivision.

§ 247-16. Final plat.

A. Submission requirements.

(1) Within six months of the approval of the preliminary plat, the subdivider shall submit to the Planning Administrator:

(a) Twelve paper copies of the final plat, as detailed in Subsection B.

(b) One set of the detail construction drawings, as detailed in Subsection C.

(c) Two true copies of all offers of cession, covenants, deed restrictions, easements and other agreements.

(d) A revised SEQR form, if such revisions were necessary.

(e) All information as required by the conditions attached to preliminary approval.

(f) Any other information as requested by the Planning Board.

(2) The subdivider shall submit to the Town-designated engineer, Superintendent of Highways and Superintendent of Water and Wastewater:

(a) One paper copy each of the final plat.

(b) One set each of all detail construction drawings.

B. Contents of the final plat. The final plat shall be prepared by a licensed engineer or licensed land surveyor and contain the following information:

(1) A site map showing:

(a) The subdivision name or title; the scale which shall be no less than one inch equals 100 feet; North point; date; and the label "Final Plat."

(b) A land survey, prepared by a licensed land surveyor, showing dimensions, bearings and angles of all property lines.

(c) The name and address of subdivider.

(d) The name of engineer or surveyor.

(e) The zoning classification of property to be subdivided.

(f) The building envelope showing the required setbacks in which proposed structures may be built and the area to be left undisturbed as required in § 247-30.

(g) If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves and the one-hundred-year floodplain, surveyed and delineated by a licensed engineer or licensed land surveyor.

(h) All existing and proposed wells and septic systems.

(i) All existing structures, wooded areas, streams and other significant physical features within the part to be subdivided and within 200 feet.

(j) The zoning regulations affecting the proposed subdivision including setbacks, density, coverage and other regulations.

(k) All existing restrictions on the use of land, including easements and covenants.

(l) The street addresses of the lots, as assigned by the Assessor's office.

(m) The streets and street names, bikeways, footpaths, lots, reservations, easements and areas to be dedicated for public use.

(n) Sufficient data to readily determine the location, bearing the length of every street line, lot line and boundary line and to reproduce such lines upon the ground.

(o) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions shall be shown in feet and decimals of a foot and shall be given together with all angles of the lines of each lot and lot area in square feet.

(p) Boundary reference points which tie into the existing system.

(q) The boundaries and proposed uses of all property which is offered for dedication for public use.

(r) The boundaries and proposed uses of all property that is proposed to be reserved by deed or covenant for the common use of property owners in the subdivision.

(s) The location of all monuments as required in § 247-33.

(t) A location map at a scale of not less than one inch equals 2,000 feet showing all streets and lands within at least 5,000 feet of the proposed subdivision.

(2) A grading plan showing:

(a) The existing topography with contours at intervals of not more than two feet with all slopes 12° or greater delineated [the datum plane for all topographic information shall be based on the National Geodetic Vertical Datum (NGVD) 1929].

(b) The approximate finished grades of the entire tract with contours at intervals of not more than two feet and indicating all areas of trees and vegetation which will be left undisturbed by development construction.

(3) An erosion and sediment control plan.

(4) An off-site improvement plan showing off-site street improvements, if required, to be undertaken by the subdivider in conjunction with development of the subdivision.

C. Detail construction drawings. It shall be the responsibility of the subdivider to distribute one copy each of separate construction drawings, to the Town-

designated engineer, the Superintendent of Highways, the Superintendent of Water and Wastewater and the Planning Administrator, which include plans and profiles showing:

- (1) Elevations along center lines of all streets within the subdivision and, where a proposed street intersects an existing street, the plan shall show the elevation along the center line of the existing street to a distance of 100 feet from the intersection.
- (2) The locations of street pavements, including curbs, gutters and sidewalks, if applicable.
- (3) The location, size, invert elevations and design calculations of existing and proposed sanitary sewers.
- (4) The location, size and design calculations of existing and proposed waterlines and fire hydrants.
- (5) The existing and proposed storm drainage system, including design storm information, the drainage basin area, development extent, pipe flow information, manholes, culverts and catch basins.
- (6) The location and size of gas, electricity, streetlights and other utilities or structures.

D. Review by the Town staff.

- (1) Once the Planning Administrator has received a final plat, the Administrator will coordinate a review with the Engineering, Building, Highways, Fire, Planning, Water and Wastewater Departments and the Town-designated engineer.
- (2) The Town-designated engineer will review the final plat submissions to determine whether all submission requirements have been met and that the detail construction plans are correct and in compliance with Town standards. The Town-designated engineer and Town Attorney will review all covenants, deeds, easements, bonds and other agreements. All such agreements must be acceptable to the Town before final approval.

E. Referrals.

- (1) Access to county highways. The subdivider shall obtain written permission from the Director of the Albany County Department of Public

Works when a curb cut onto a county highway or intersection with a county highway is proposed.

(2) Access to state highways. The subdivider shall obtain written permission from the New York State Department of Transportation when a curb cut onto a state highway or intersection with a state highway is proposed.

F. Planning Board review and decision. The Planning Board will review the final plat submissions and assure that all requirements and conditions have been met. The Board may require a public hearing on the final plat. The Board shall take action on the final plat within 45 days from the date of the submission. The time of submission of the final plat shall be considered to be the date of the Planning Board meeting at which such plan is considered. The forty-five-day period may be extended by written mutual consent of the applicant and the Planning Board. Any decision of the Planning Board shall include a brief written report outlining the conditions upon which such decision is made.

G. Approval of the final plat.

(1) The Planning Board may, after due deliberation, grant final plat approval, with or without conditions. This approval, once all conditions have been met, will allow the subdivider to file the plat in accordance with § 247-17 and to apply for building permits in accordance with § 247-21D.

(2) Final plat approval does not permit the sale of building lots until the final plat is recorded in accordance with § 247-17.

(3) The approval of the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the Town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect.

§ 247-17. Recording of final plat.

[Amended 4-6-1993; 2-6-1996]

Within six months of Planning Board approval, the following steps shall be taken to file the final plat. If the subdivider should fail to submit final plans for signature within six months of Planning Board approval, the approval shall be considered null and void unless an extension of time is requested by the

subdivider, in writing, and is granted by the Planning Board before the expiration date.

A. Every copy of the final plat submitted for signature shall carry the following endorsement:

"Approved by Resolution of the Planning Board of the Town of
Guilderland, New York, on the _____ day of _____,
19____, subject to all requirements and conditions of said
Resolution. Any change, erasure, modification or revision of
this plat, as approved, shall void this approval. Signed this
_____ day of _____, 19____ by
Chairman _____"

B. Every copy of the final plat submitted for signature shall have a separate line for signatures by the Town-designated engineer, the Superintendent of Highways and the Superintendent of Water and Wastewater Management.

C. The subdivider shall be responsible for complying with the mandated review of the Albany County Health Department of the proposed subdivision and for obtaining the authorized signature of the Albany County Health Department on at least two linen and six paper copies of the final plat.

D. The Town-designated engineer shall inspect the construction of all land and utility improvements and assure that they are in conformance with Town standards and specifications.

E. The subdivider shall provide the Planning Administrator with two linen copies of the site plan, three paper copies of the site plan and three paper copies of the all final plat sheets, stamped by the Albany County Health Department.

F. The Chairman of the Planning Board, Town-designated engineer, Superintendent of Highways and Superintendent of Water and Wastewater Management, if applicable, will sign the final plat, once all conditions have been met.

G. The subdivider shall have the Albany County Clerk stamp all copies of the final plat. The Albany County Clerk will file one linen copy and one paper copy of the final plat submission.

H. The subdivider shall file the remaining one linen, three paper full set and two paper site plans, stamped copies of the final plat with the Planning Administrator.

I. In no case shall the final plat be recorded after 180 days from the date the Planning Board approved the final plat or 90 days from the date the final plat was signed by the Chairman of the Planning Board, whichever comes first. Should the subdivider fail to record the final plat within such period, the approval of the Board shall be null and void unless an extension of time is requested by the subdivider, in writing, and is granted by the Planning Board before the expiration date.

J. The subdivider shall bear all fees in connection with the filing of the plat.

K. The final plat must be filed with the Albany County Clerk before the sale of any lots within such subdivision.

L. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed, in writing, on the plat. In the event that the subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Planning Board shall institute proceedings to have such plat stricken from the records of the County Clerk.

M. The subdivider shall provide the post office having jurisdiction of the site one paper copy of the site plan. A receipt from the post office of such filing will be necessary to apply for building permits.

§ 247-18. Amendments to final plat.

[Amended 4-6-1993]

A. If at any time after the final plat has been signed by the Chairman of the Planning Board or filed with the Albany County Clerk the subdivider wants to amend the plat in any way, the subdivider shall make application to the Planning Board for a final plat amendment. The Planning Board shall determine whether such amendment warrants a public hearing. Any amendment to a filed plat shall state what changes have been made, and the revised plat must be refiled with the County Clerk in accordance with § 247-17. No building permits shall be issued until the requirements of this section have been met.

B. Subdivision or street name changes. If the subdivider wants to change the name of the subdivision or any street name within the subdivision after such subdivision has been filed with the Albany County Clerk, the subdivider shall, in addition to Subsection A, provide the listed information to the following agencies:

- (1) Police dispatchers: revised map and letter stating changes.
- (2) Building Department: letter stating changes.
- (3) Assessor's office: letter stating changes.
- (4) Highway Department: letter stating changes.
- (5) Water Department: letter stating changes.
- (6) Town Clerk: letter stating changes.
- (7) Fire Department (jurisdictional): revised map and letter stating changes.
- (8) Post office (jurisdictional): revised map and letter stating changes.

ARTICLE V. Public Acceptance of Required Improvements

§ 247-19. Town acceptance of public improvements.

A. The approval of a subdivision plat by the Planning Board shall not constitute or imply the acceptance by the Town of any street, park, playground, open space or off-site improvement shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect.

B. The Planning Board may require the filing of a written agreement between the applicant and the Town Board covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any park or recreation area.

C. No street, highway or other improvement shall be accepted by the Town unless it meets the requirements of § 247-20, the Highway Development Policy and the Design and Construction Guidelines, unless the Town deems that the public interest will best be served by such acceptance.

[Amended 2-6-1996]

§ 247-20. Dedication of public improvements.

Upon completion of the improvements and prior to the Town accepting any public improvements, the subdivider shall comply with the following:

A. Record construction drawings showing the location of all required improvements as-built shall be certified by a licensed engineer and filed with Town Engineer, Superintendent of Highways and Superintendent of Water and Wastewater Management. As-built drawings shall include the location of installed water, sanitary sewers, storm sewers, natural gas, electric, telephone and cable lines together with the service lines of each.

B. Upon completion of the required improvements, the subdivider shall present the Town-designated engineer with any deeds, abstracts and easements for streets and other public improvements.

C. Prior to any public acceptance of required improvements, the subdivider shall submit an affidavit to the Town Attorney stating that all mortgages have been released, taxes have been paid, title is free and clear and that all bills and accounts for material and labor used in the construction of the improvements have been paid for in full.

D. The subdivider shall make good, without cost to the Town, any defects to any improvements constructed, any damage due to faulty workmanship or due to imperfect materials or equipment for which defects or damage may appear within one year after the acceptance of such improvements by the Town.

§ 247-21. Issuance of building permits.

A. Except as provided in Subsections C and D, prior to the issuance of a building permit for any subdivision lot, the developer shall complete all street improvements. Those improvements which are to be dedicated to the Town shall be so dedicated and accepted in accordance with § 247-20.

B. Prior to the issuance of a building permit for subdivision lot, the subdivider shall provide the Town Building Department with three copies of as-built drawings, certified to the Town of Guilderland, which clearly depict the location of all utilities, streets and other street improvements.

C. The subdivider shall deposit a cash escrow with the office of the Supervisor to provide for the costs of completing the final street course; in such instance, all street improvements must be installed and at least 12

inches of state approved gravel and at least two inches of asphalt concrete must be in place and all improvements dedicated to and accepted by the Town before the subdivider may post said cash deposit in escrow. Nothing contained herein shall be interpreted as altering the specifications of highway construction as detailed by the Highway Development Policy nor shall it be interpreted as limiting the power or authority of the Superintendent of Highways.

D. Once the subdivision plat has been approved, signed and filed, the Town may permit the issuance of up to two building permits to provide for the construction of model homes only. Such model homes shall not be occupied nor conveyed nor certificates of occupancy issued until the provisions of these subdivision regulations are otherwise fully satisfied.

E. If a proposed subdivision will not be served by a public water supply, no building permit shall be issued until the applicant demonstrates the availability of a supply of water adequate to serve the completed building.

F. Prior to the issuance of a certificate of occupancy, the Superintendent of Water and Wastewater Management shall certify to the Town Building Department that all service laterals and other improvements have been completed in compliance with all applicable laws, rules and regulations.

§ 247-22. Continuing jurisdiction.

The jurisdiction of the Planning Board shall continue until all of the structures, streets, green areas and improvements shown on the final approved plat have been either fully completed or dedicated. The Planning Board shall have the authority to direct the Chief Building Inspector to issue a stop-work permit if at any time it is determined that said structures, streets, green areas and improvements are not in conformity with the final approved plat.

ARTICLE VI. Subdivision Design and Construction

§ 247-23. General requirements for subdivisions.

A. General standards. The following requirements and guiding principles for land division shall be observed by all subdividers.

(1) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to the public health, safety or welfare.

(2) Lot lines shall, where possible, follow municipal boundaries rather than cross them.

(3) Subdivision streets and other infrastructure design and construction shall comply with the regulations of the Town's Highway Development Policy. The Planning Board reserves the right to demand more exacting specifications.

(4) Subdivisions, streets and parks shall conform to and be in harmony with the current Master Plan and Chapter 280, Zoning.

B. Unique conditions. If the Planning Board finds that due to exceptional and unique conditions of topography, location, shape, size, drainage or physical features of the site, or because of the special nature and character of surrounding developments, the minimum standards specified herein would not reasonably protect or provide for the public health, safety or welfare, requirements may be waived or special requirements may or imposed by the Planning Board in addition to or in substitution for the minimum standards to protect the public.

§ 247-24. Residential cluster development design.

A. Planning Board permission. The Planning Board may permit or require a residential cluster development when:

(1) The natural and scenic quality, vital environmental features and resources of the land can be permanently preserved and maintained by clustering;

(2) The overall aesthetic aspects of residential development in the area will be enhanced;

(3) The overall population density of the subdivision will not be increased;

(4) The adequate and economical provision of streets and utilities will be facilitated; or

(5) The health and general welfare of the community will be promoted.

B. General conditions.

(1) Every residential cluster development shall include a provision for the preservation of open undeveloped area(s) within such subdivision as detailed in Subsection C.

(2) Where any lot is reduced in area below the minimum otherwise required by Chapter 280, Zoning, the minimum area requirement of open space shall be increased by the amount of such lot reduction.

(3) The number of building lots in the proposed subdivision shall not exceed that otherwise permitted by Chapter 280, Zoning.

(4) Minimum lot sizes and dimensions for single-family detached dwellings shall conform to the standards for residential cluster development as specified in § 280-28 of Chapter 280, Zoning.

C. Open space requirements.

(1) The open space provided shall be comprised of one or more undivided parcels of land, of which at least one shall have a minimum area of three acres, exclusive of street rights-of-way.

(2) The Planning Board may require that at least 2/3 of the open space be active open space.

(3) Open space established as part of a residential cluster development shall be conveyed to and held in corporate ownership in such manner as approved by the Planning Board and the Town Attorney.

(4) The use of open space shall be determined by the Planning Board and shall be limited to recreational and agricultural purposes. No structure shall be erected upon such open areas except such as shall be determined by the Planning Board to be incidental to such recreational or agricultural use.

(5) The Planning Board may require the subdivider, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the Planning Board shall determine to be reasonably necessary to protect and/or restrict the use of such open space in accordance with this section.

D. Determination of number of lots. To determine the number of lots allowed in a residential cluster development design:

(1) The subdivider shall submit to the Planning Board a concept plan which includes a noncluster subdivision design demonstrating the number of buildable lots on the entire parcel without use of a cluster technique; and

(2) The subdivider shall submit to the Planning Board at the same time a concept plan demonstrating how the land would be developed with a cluster development design.

(3) The Planning Board shall not permit a development to have more buildable lots in a residential cluster development than would be permitted in a noncluster development.

§ 247-25. Street layout.

[Amended 9-17-2002 by L.L. No. 8-2002]

A. General standards for street layout. The arrangement and location of all subdivision streets shall be designed:

(1) To create a safe vehicular and pedestrian traffic system, which affords satisfactory access for emergency vehicles and maintenance equipment.

(2) To mitigate the impact to adjacent properties and to minimize the impact on off-site properties from traffic generated by the development.

(3) To efficiently route traffic between the development and collector or arterial highways.

(4) To provide new collector highways to serve the development and possible future developments, if necessary.

(5) To complement adjacent street systems and possible street systems of future nearby developments.

(6) To limit the impact on collector streets, by avoiding access to collector streets except at highway intersections, located to maximize safety.

(7) To connect neighboring developments by bicycle/pedestrian paths or greenways, in order to promote and support the objectives of the Town's bicycle path master plan, and provide safe nonmotorized access between the development and neighboring developments and possible future developments and parks, recreational sites and school playgrounds.

(8) To minimize the number of cul-de-sac streets.

(9) To respect the topography and preserve environmental features of the site, such as streams, dunes, steep slopes, wetlands, large trees and attractive green areas.

(10) To conform to the design criteria of Subsections B through D of this section and of the Highway Development Policy.

B. Street design and specifications.

(1) The design and construction of all subdivision streets shall comply with the design standards and regulations of the Highway Development Policy.

(2) Maximum street grades shall be 8%, 3% within 120 feet of an intersection and 1 1/2% within 40 feet of an intersection.

(3) Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by an easement having a distance not less than 20 feet so as to allow access to the street edge or utilities for maintenance purposes.

(4) Streets with divided pavements, boulevards or center malls shall be discouraged.

(5) Where the subdivision abuts or contains an existing or proposed major street, the Planning Board may require marginal access streets.

(6) Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Planning Board may require that the streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.

(7) If the adjacent property is undeveloped and a temporary dead-end street must be installed, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround of a minimum of 80 feet in radius shall be provided on all temporary dead-end streets, with the notation on the plat that the land outside of the street right-of-way shall revert to abutting lots whenever the street is continued.

(8) The Planning Board may limit the length of temporary dead-end streets.

(9) Streets shall be designed for a vehicle speed of 30 miles per hour, and their designs shall adhere to the following minimum design standards unless otherwise directed by the Planning Board.

(10) All subdivision streets and culs-de-sac shall comply with the following standards, unless such standards are waived by the Planning Board.

Standard	Street	Cul-de-sac
Minimum right-of-way (R-O-W) width	60 feet	60 feet
Minimum pavement width	30 feet	30 feet
Maximum grade	8%	8%
Minimum grade	0.8%	0.8%
Minimum radius of R-O-W at intersection	25 feet	25 feet
Minimum radius of curves, at 250 feet	250 feet	
Minimum outside radius of cul-de-sac R-O-W	--	80 feet
Angle at intersection of street center lines	90°	90°

(11) The design and construction of all sidewalks shall comply with the requirements in Chapter 227 of the Guilderland Town Code.

C. Intersections.

(1) A distance of at least 200 feet shall be maintained between offset intersections, measured from center line to center line.

(2) Within 100 feet of any intersection, streets shall be at right angles (90°).

(3) All street intersection corners shall be rounded by curves of at least 25 feet in radius at the property line.

(4) Within triangular areas formed by the intersection of two street lines and a third line joining them at points at a distance of 35 feet away from their intersection, the visibility for traffic safety shall be maintained by keeping the triangular area free of fences, signs, walls, hedges or other landscaping.

(5) Cross (four-cornered) street intersections shall be avoided insofar as possible, except at major traffic intersections.

D. Culs-de-sac.

(1) General standards.

- (a) A circular turnaround shall be provided at the end of a permanent cul-de-sac street, with a radius of 80 feet.
- (b) A circular turnaround shall be provided at the end of a temporary, cul-de-sac street. Deed requirements for the temporary turnaround shall be in a form acceptable to the Town Attorney.
- (c) Streets shall contain no divided pavements, boulevards or center malls, except that landscaping may be permitted in the centers of turnarounds of cul-de-sac streets. Such landscaping shall be maintained by the adjacent landowners; if the landscaping falls into disrepair because of the failure of adjacent property owners to maintain it, the Town Highway Department may, at its own discretion, replace the landscaping with blacktop.

(2) Cul-de-sac design.

- (a) The length of a cul-de-sac not serviced by public water shall be limited to 600 feet.
- (b) The number of lots allowed on a cul-de-sac serviced by public water will generally be limited to 13 including any lots with property lines adjacent to the cul-de-sac, whether these lots access the cul-de-sac or not.
- (c) The number of lots allowed on a loop street will generally be limited to 21 including any lots with property lines adjacent to the loop, whether these lots access the loop or not.
- (d) Approval of more than 13 lots for a cul-de-sac serviced by public water or 21 lots on a loop street will be determined based on unique circumstances of the property and/or of the subdivision. It is the burden of the subdivider to provide any evidence of uniqueness or special circumstances.
- (e) The Planning Board may approve a subdivision with only one access with the number of lots greater than normally allowed if a future second access can be provided. The Planning Board may limit the number of

building permits that may be issued until the second access is installed and dedicated.

E. Street names and addresses.

(1) All streets and shared accessways shall be named, and such names shall be subject to the approval of the Town Assessor and the Planning Board.

[Amended 2-6-1996]

(2) Names shall be sufficiently different in sound and in spelling from other street names so as not to cause confusion.

(3) A street which is a continuation of an existing street shall bear the same name.

(4) Street addresses shall be determined by the Town Assessor and must be included on the final plat.

§ 247-26. Blocks and lots.

A. Block design.

(1) The length, width and shape of blocks shall be determined with due regard to:

(a) The provision of adequate building sites suitable to the special needs of the use contemplated.

(b) Chapter 280, Zoning, requirements as to lot size and dimensions.

(c) The need for convenient access, circulation and safety of street traffic.

(d) The limitations and opportunities of topography.

(2) Block lengths should not exceed 1,200 feet.

B. Lot design.

(1) Lots shall be arranged so there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with Chapter 280, Zoning.

(2) Side lot lines should be either at right angles to the street on which the lot faces or radial lines in the case of curvilinear streets.

(3) Each lot shall have satisfactory access to an existing public street or to a proposed street within the subdivision. For the purposes of this section, each lot proposed must directly abut on a street and have sufficient frontage to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles. A frontage of 20 feet shall generally be considered sufficient for that purpose.

[Amended 2-6-1996]

(4) Where driveway accesses for several adjoining lots to a major street are necessary, the Planning Board may require that such lots be served by a marginal access street in order to limit possible traffic hazards on such street.

(5) The Planning Board may require that lots which are at least double the minimum required area for the zoning district be arranged so as to facilitate satisfactory future subdivision and may require a conceptual street layout where necessary to serve such a potential future subdivision.

(6) Where a watercourse separates the buildable area of a lot from the adjoining street, provision shall be made for installation of a culvert or other structure, as approved by the Superintendent of Highways.

C. Keyhole lots.

[Amended 2-6-1996]

(1) General standards. Any subdivision that proposes keyhole lots must conform to the following:

(a) A keyhole lot shall conform to the requirements of § 280-36 of Chapter 280, Zoning.

(b) The access for each keyhole lot shall be part of the lot, in fee simple ownership. This requirement may be waived by the Planning Board if there is an existing common right-of-way.

(c) Any subdivision containing more than one lot sharing a common access must have the Town Assessor review the plans, before final approval, to name the access way for 911 purposes.

(d) If a subdivider proposes a layout with one or more keyholes lots where the width at the building line is not parallel to a public street, the subdivider shall first submit a plan showing the maximum number of buildable lots that would be permitted with the width at the building line parallel to a public street. In no case may the density of development be greater than would be permitted in the district by strict application of the width of building line being parallel to the street.

(e) The keyhole access should meet the existing road at 90°, be generally level within 40 feet of the intersection and have a grade no greater than 10%.

(f) When two or more keyhole lot accesses abut each other, the Planning Board may require that the lots share a common curb cut.

(g) The Planning Board may not allow the number of lots, keyhole or otherwise, on a cul-de-sac or loop street to exceed the number determined according to § 247-25D.

(h) For any major subdivision in which keyhole lots are requested, the subdivider shall provide a concept plan which shows the maximum number of buildable lots that would be permitted without the keyhole lots. The Planning Board shall not permit a major subdivision to have more buildable lots designed with keyhole lots than would be permitted in a design without keyhole lots.

(2) Planning Board Review. Keyhole lots shall only be permitted where the Planning Board determines:

(a) That for reasons of topography, land form, existing lot pattern of unusual size or shape of a parcel, there is no reasonable or practical alternative to creating a keyhole lot;

(b) That the basis for the formation of a keyhole lot must not be to circumvent the need for the construction of a road;

(c) That the creation of the keyhole lot must not be to increase density;

(d) That the location of the keyhole lot will not in itself create any problems with road access or traffic conflicts;

(e) That the keyhole lot when developed will not pose any hindrance to fire-fighting personnel; and

(f) That the keyhole lot be in conformity with the surrounding neighborhood and will not preclude the development of adjacent properties.

(3) Standard notes. The following notes must be included on the final plat of any subdivision containing a keyhole lot.

(a) Standard note for keyhole lot subdivisions. Final location and orientation of each house is subject to the approval of the Chief Building Inspector at the time the building permit is issued. Foundation location surveys (plot plans) are to be provided and approved prior to proceeding with framing in order to ensure compliance with the original approval.

(b) Standard note for 500 feet (or longer) driveways. A driveway over 500 feet in length must be accessible and able to carry a fifty-thousand-pound, thirty-foot-long vehicle, as determined by the Fire Chief of the fire district in which the keyhole lot is located.

(c) Standard note for address identification. The street number of a dwelling situated on a keyhole lot shall be permanently and conspicuously displayed on a sign, with lettering no less than three inches in height, and placed no more than 25 feet from the road pavement. The sign shall be displayed for both directions of travel and be visible at night.

§ 247-27. Storm drainage systems.

A. General standards.

(1) Storm drainage systems shall be designed in accordance with the Highway Development Policy.

(2) Storm drainage systems shall be designed based on anticipated runoff from a ten-year storm, and detention basins shall be designed based on anticipated runoff from a fifty-year storm.

(3) The subdivider's engineer shall study and report the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision. This study will be reviewed by the Town-designated engineer and the Planning Board.

B. Review and approval. Storm sewer design is subject to review by the Town-designated engineer prior to final plat approval. The Planning Board will

seek the opinion of the Town-designated engineer as part of its subdivision processing responsibilities.

§ 247-28. Sanitary sewer systems.

A. General standards

(1) All sanitary sewer systems shall be designed in accordance with the Highway Development Policy and appropriate Albany County Health Department regulations.

(2) Sanitary sewers shall be designed for the estimated ultimate tributary population. Stormwaters, roof drainage, groundwaters and foundation footing drains shall be prohibited from the sanitary sewers and house service connections.

(3) All pipes shall be sized in accordance with proven engineering practices capable of handling expected flows, both present and future.

B. Review and approval. Sanitary sewer design is subject to review by the Albany County Health Department, Superintendent of Water and Wastewater Management and the Town-designated engineer prior to final plat approval. The Planning Board shall seek the opinion of these departments as part of its subdivision processing responsibilities.

§ 247-29. Water supply systems.

A. General standards.

(1) All water supply systems shall be designed in accordance with Town standards and appropriate Albany County Health Department regulations.

(2) Water mains shall be designed to provide anticipated usage demands and consistent water pressure for household use and fire service for the proposed subdivision and all expected future demands.

B. Review and approval. The Superintendent of Water and Wastewater Management and Town-designated engineer will review the size and design of the facility based on the capacities of existing pipes that will be used to connect proposed systems into the current municipal system.

§ 247-30. Preservation of natural landscape.

A. Existing features which would add value to residential developments, such as trees, watercourses and falls, historic locations and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision.

B. In preparing a lot for construction of a structure, the owner or developer shall remove only those trees necessary to make the construction feasible; all other vegetation shall be left in place and shown on site plans. No lot shall be cleared completely of existing trees except on the approval of the Planning Board.

C. No portion in excess of 25% of any approved plat shall be stripped of its cover at any time. This prohibition shall include land to be used for streets. The Planning Board, either directly or through a designated agent, shall inspect the site and may require interim seeding or other controls to prevent erosion.

D. Trees shall be located at least five feet outside rights-of-way to provide for utility easements.

E. On-site topsoil shall be conserved, and no topsoil shall be removed off site. Topsoil shall be respread onto each building lot before a certificate of occupancy is issued.

[Amended 2-6-1996]

§ 247-31. Angle of repose; protected slopes; watercourses.

A. Angle of repose.

(1) No structure shall be built or encroach upon any area lying between a continuous watercourse and the angle of repose reserve.

(2) No structure shall be built or encroach upon any area lying between an intermittent watercourse and the angle of repose reserve unless approved by the Planning Board. Such approval shall be based on the Planning Board's site inspection of the intermittent watercourse and evidence submitted by the subdivider concerning the protection of the slope and watercourse.

(3) No habitable structure shall be placed within the angle of repose reserve setback.

(4) Any variance from these requirements shall be made by applying for a variance to the Zoning Board of Appeals in accordance with the provisions of § 280-51 of Chapter 280, Zoning.

B. Protected slopes.

(1) No structure shall be built or encroach upon any area lying within the protected slope reserve.

(2) No habitable structure shall be placed within the protected slope reserve setback.

(3) The subdivider shall provide slope stability data, grading plans and erosion control plans for all slopes 12° or greater. The Planning Board reserves the right to limit construction activity on any such slopes deemed undesirable for development based on engineering and environmental considerations.

C. Watercourses.

(1) No structure may be built within the watercourse setback of a continuous watercourse except man-made ponds not fed or drained by a running stream.

(2) No structure may be built within the watercourse setback of an intermittent watercourse unless approved by the Planning Board. Such approval shall be based on the Planning Board's site inspection of the intermittent watercourse and evidence submitted by the subdivider concerning the protection of the watercourse.

(3) No portion (tile field, seepage pit or equivalent) of a subsurface sewage disposal system shall be constructed or placed within 250 feet of a watercourse feeding into the Watervliet Reservoir or within 500 feet of said reservoir.

§ 247-32. Parks for playgrounds or recreation areas.

A. Land to be reserved.

(1) Except as provided in Subsection B, lands comprising of at least 5% but not to exceed 10% of the total area to be subdivided shall be reserved for park purposes in a location with suitable public access.

(2) Land may be reserved for parks, playgrounds or recreational purposes in accordance with the Master Plan or other local plans. The required reservation of such lands for recreational purposes must be specifically located and designated on the final subdivision plat.

B. Waiver. In cases where the Planning Board and/or Town Board determines that a park of adequate size cannot be properly located in the subdivision or is otherwise not practical due to the size, topography or location, the Planning Board may waive the requirement that the subdivision plat show land for such purposes.

C. Fee in lieu of parkland reservation. When the Planning Board and/or Town Board determines that the reservation of land for a park is not desirable, the subdivider or developer shall pay a fee into a park and recreation fund. The amount of this fee Editor's Note: See Ch. A285, Fees. will be as set by resolution of the Town Board from time to time. This money, paid when application is made for a building permit, shall be placed in a Trust and Agency Fund to assist in the purchase and/or capital improvements of existing and/or proposed parks.

[Amended 6-21-1994]

§ 247-33. Monuments.

A. The outside boundaries of the subdivision shall be located on the ground, and the corners of the original parcel subdivided shall be marked by capped iron rods or concrete monuments.

B. Sufficient monuments shall be placed to properly reproduce each and every street laid out within the subdivision. Street monuments shall be placed in the immediate vicinity of all intersections and at intervals not exceeding 500 feet along the street rights-of-way with lengths of over 1,000 feet. A monument shall be placed at the center of all culs-de-sac and/or turnarounds. The proposed location of monuments shall be shown on the subdivision plat and are subject to approval by the Town-designated engineer.

C. Capped iron rods shall be a minimum thickness of 5/8 inches and a minimum length of 30 inches. The cap (plastic or metal) shall have as a minimum the name of the surveyor or surveying company indicated on the top. Monuments shall be concrete, with reinforcing rods, four inches square and four feet in length. A galvanized or stainless steel pin shall be anchored on center in the top of the monument. The top of the monument shall be set flush with the finished grade.

D. All monumentation shall be set under the direction of a licensed New York State land surveyor. A certificate signed by said land surveyor certifying the setting of all required monumentation must be provided to the Town of Guilderland prior to release of the last escrow account to the developer.

E. Prior to certificates of occupancy being issued, the front corners of each lot must be marked by a capped iron rod or a concrete monument.

CHAPTER 251. TAXATION

ARTICLE I. Mailing of Tax Bills

§ 251-1. Enclosures in mailings.

ARTICLE II. Business Investment Exemption

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CHAPTER 251. TAXATION

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

ARTICLE I. Mailing of Tax Bills

[Adopted 11-10-1977 by L.L. No. 2-1977 (Subpart 12, Div. 2, of the 1974 Code)]

§ 251-1. Enclosures in mailings.

The Receiver of Taxes may with the approval and consent of the Supervisor enclose and mail with tax bills any notice, circular, pamphlet, card, handbill or other printed material of an informational or explanatory nature relating to such tax.

ARTICLE II. Business Investment Exemption

Editor's Note: Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on 12-4-1979.

[Adopted 10-9-1979 by L.L. No. 5-1979 (Subpart 12, Div. 1 1/2, Art. II, of the 1974 Code)]

§ 251-2. Repeal of exemption.

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from taxation, special ad valorem levies and service charges provided by such § 485-b is hereby repealed insofar as such exemption would have been applicable to eligible real property assessed for town purposes.

ARTICLE III. Exemption for Improvements for Physically Disabled

[Adopted 2-14-1984 by L.L. No. 2-1984 (Subpart 12, Div. 1 1/2, Art. III, of the 1974 Code)]

§ 251-3. Purpose.

An improvement to real property used solely for residential purposes as a one- , two- or three-family residence may be exempted from taxation to the extent of any increase in value attributable to such improvement if such improvement is

used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled, or a member of the resident owner's household who is physically disabled, if such member resides in the real property.

§ 251-4. Qualifying status; required submissions.

[Amended 6-1-1999 by L.L. No. 5-1999]

For the purpose of this article, a person shall qualify as physically disabled upon submission to the Assessor of a certified statement from a physician licensed to practice in the state on a form prescribed and made available by the State Board of Real Property Services which states that the individual has a permanent physical impairment which substantially limits one or more of such individual's major life activities, except that an individual who has obtained a certificate from the State Commission for the Blind and Visually Handicapped stating that such individual is legally blind may submit such certificates in lieu of a physician's certified statement.

§ 251-5. Application for exemption.

[Amended 6-1-1999 by L.L. No. 5-1999]

Application for real property tax exemption under this article shall be granted only upon application to the Assessor by the owner or all of the owners of the real property on a form prescribed and made available by the State Board of Real Property Services. The applicant shall furnish such information as the State Board of Real Property Services shall require. The application shall be filed, together with the appropriate certified statement of physical disability or a certificate of blindness, on or before April 30 of the year in which such exemption is to take effect.

§ 251-6. Granting of exemption; duration.

The Assessor shall approve the application if satisfied that the improvement is necessary to facilitate and accommodate the use and accessibility by a resident who is physically disabled and that the applicant is entitled to an exemption pursuant to this article. Upon approval of the application, the Assessor shall enter on the assessment roll the taxable assessed value of the parcel for which an exemption has been granted, pursuant to the provisions of Subdivision 4 of § 459 of the Real Property Tax Law of the State of New York. Once granted, the exemption shall continue on the real property until the improvement ceases

to be necessary to facilitate and accommodate the use and accessibility of the property by the resident who is physically disabled.

ARTICLE IV. (Reserved)

Editor's Note: Former Art. IV, Veterans Exemption, adopted 11-13-1984 by L.L. No. 9-1984 (Subpart 12, Div. 1 1/2, Art. IV, of the 1974 Code), was superseded by subsequent legislation. See now Art. IX, Gold Star Parents, and Art. X, Veterans Tax Exemption.

§ 251-7. (Reserved)

ARTICLE V. (Reserved)

Editor's Note: Former Art. V, Senior Citizens Renewal of Exemption, adopted 11-13-1984 by L.L. No. 10-1984 (Subpart 12, Div. 1 1/2, Art. VIII, of the 1974 Code), as amended, was superseded by the provisions of L.L. No. 4-2001, adopted 1-16-2001. See now § 251-9F.

§ 251-8. (Reserved)

ARTICLE VI. Senior Citizens Exemption

[Adopted 1-2-1990 by L.L. No. 1-1990 (Subpart 12, Div. 1 1/2, Arts. V and VI, of the 1974 Code); amended in its entirety 2-3-2004 by L.L. No. 1-2004

Editor's Note: This local law stated that it would apply to assessment rolls prepared on the basis of taxable status dates on and after 1-1-2004.]

§ 251-9. Fifty-percent exemption granted; conditions.

Effective as hereinafter provided, there shall be an exemption from taxation for Town purposes to the extent of 50% of the assessed valuation of real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, or by siblings, one of whom is 65 years of age or over, upon the following terms and conditions:

A. No exemption shall be granted pursuant to this section:

(1) 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 \$24,000. "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 wife, their combined

income 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, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, monies earned through the federal foster grandparent program or any medical or prescription drug expenses actually paid which were not reimbursed or paid by insurance. The provisions of this subsection notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

(2) Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor, and such ownership shall be deemed continuous for the purpose of computing such period of 12 consecutive months; provided, further, that in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse, and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months, and provided further that, where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which the application is made for exemption, and such periods of ownership shall be deemed to be consecutive for the purposes of this section. Where a residence is sold and replaced with another within one year and is in the same assessing unit or municipality, the period of ownership of the replacement residence is deemed consecutive for exemption from taxation by each such assessing unit, or failure of such person to receive the same shall not prevent the levy,

collection and enforcement of the payment of taxes on property owned by such person.

B. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the State Board to be furnished by the appropriate local assessing unit, and shall furnish the information and be executed in the manner required or prescribed on such forms, and shall be filed in such Assessor's office on or before the appropriate taxable status date. Notwithstanding any other provision of law, any person otherwise qualifying under this section shall not be denied the exemption under this section if he becomes 65 years after the appropriate taxable status date and on or before December 31 of the same year.

C. At least 60 days prior to the appropriate taxable status date, the appropriate local assessing unit shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. The appropriate local assessing unit shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, that the appropriate local assessing unit shall, upon receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subsection, such notice shall be on a form prescribed by the State Board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

D. Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

E. The real property tax exemption on real property owned by a husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded by the Town of Guilderland solely because of the death of the older spouse so long as the surviving spouse is at least 62 years of age.

F. The appropriate local assessing units shall accept applications for the renewal of exemptions pursuant to this section after the taxable status date. In the event that the owner or all of the owners of property which has received an exemption pursuant to this section on the preceding assessment roll fail to file the application required pursuant to this section on or before taxable status date, such owner or owners may file the application, executed as if such application had been filed on or before the taxable status date, with the Assessor on or before the date for the hearing of complaints.

§ 251-10. Partial exemption (less than 50%); conditions.

A. Effective as hereinafter provided, there shall be an exemption from taxation for general county purposes on real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife or by siblings, one of whom is 65 years of age or over, to the extent of the percentage of assessed valuation provided in the following schedule, determined by the maximum income eligibility level also provided in the following schedule:

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$24,000 or less	50%
More than \$24,000 but less than \$25,000	45%
\$25,000 or more but less than \$26,000	40%
\$26,000 or more but less than \$27,000	35%
\$27,000 or more but less than \$27,900	30%
\$27,900 or more but less than \$28,800	25%
\$28,800 or more but less than \$29,700	20%
\$29,700 or more but less than \$30,600	15%

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$30,600 or more but less than \$31,500	10%
\$31,500 or more but less than \$32,400	5%

B. No exemption shall be granted pursuant to this section:

(1) 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 \$32,400. "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 wife, their combined income 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, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, monies earned through the federal foster grandparent program or any medical or prescription drug expenses actually paid which were not reimbursed or paid by insurance. The provisions of this subsection notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, or wear and tear of real or personal property held for the production of income.

(2) Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property be the deceased husband or wife shall be deemed also a time of ownership by the survivor, and such ownership shall be deemed continuous for the purpose of computing such period of 12 consecutive months; provided, further, that

in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse, and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months, and provided further that, where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which the application is made for exemption, and such periods of ownership shall be deemed to be consecutive for the purposes of this section. Where a residence is sold and replaced with another within one year and is in the same assessing unit or municipality, the period of ownership of the former property shall be combined with the period of ownership of the replacement residence and deemed consecutive for exemption from taxation by each such assessing unit or municipality. Notwithstanding any other provision of law, where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for the exemption from taxation by a municipality within the state granting such exemption.

(3) Unless the property is used exclusively for residential purposes.

(4) Unless the real property is the legal residence and is occupied, in whole or in part, by the owner or by all of the owners of the property.

C. Application for such exemption must be mailed by the owner, or all of the owners of the property, on forms prescribed by the State Board to be furnished by the appropriate local assessing unit, and shall furnish the information and be executed in the manner required or prescribed on such forms, and shall be filed in such Assessor's office on or before the appropriate taxable status date. Notwithstanding any other provision of law, any person otherwise qualifying under this section shall not be denied the exemption under this section if he becomes 65 years after the appropriate taxable status date and on or before December 31 of the same year.

D. At least 60 days prior to the appropriate taxable status date, the appropriate local assessing unit shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. The appropriate local assessing unit shall, within three days of the completion

and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, that the appropriate local assessing unit shall, upon receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subsection, such notice shall be on a form prescribed by the State Board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

E. Penalty for false statement; erroneous exemption; payment of fines.

(1) Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

(2) Notwithstanding any inconsistent provisions of the New York State Real Property Tax Law, the collection of any amount of tax erroneously exempted due to an incorrect statement in an application for exemption shall be enforceable in the same manner provided for the collection of delinquent taxes pursuant to the provisions of Article 11 of the New York State Real Property Tax Law.

(3) Any fine levied pursuant to Subsection D(1) of this section shall be paid to the appropriate assessing authority.

F. The real property tax exemption on real property owned by a husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded by the Town of Guilderland solely because of the death of the older spouse so long as the surviving spouse is at least 62 years of age.

G. The appropriate local assessing units shall accept applications for the renewal of exemptions pursuant to this section after the taxable status date. In the event that the owner or all of the owners of property which has received an exemption pursuant to this section on the preceding assessment roll fail to file the application required pursuant to this section on or before taxable status date, such owner or owners may file the application, executed as if

such application had been filed on or before the taxable status date, with the Assessor on or before the date for the hearing of complaints.

§ 251-11. (Reserved)

ARTICLE VII. Exemption For Improvements Within Economic Development Zone

[Adopted 8-19-1997 by L.L. No. 11-1997]

§ 251-12. Statutory authority.

Pursuant to § 485-e of the Real Property Tax Law, the Guilderland Town Board, as the governing body of the Guilderland Town Tax District, hereby enacts this article providing for exemptions from town and special ad valorem taxes for real property constructed, altered, installed or improved in the area designated as the "Albany Economic Development Zone," pursuant to Article 18-B of the General Municipal Law.

§ 251-13. Definitions.

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

BASE AMOUNT

The extent of the increase in assessed value attributable to such construction, alteration, installation or improvement as determined in the initial year for which application for exemption is made.

CONSTRUCTION, ALTERATION, INSTALLATION AND IMPROVEMENT

Shall not include ordinary maintenance and repairs.

§ 251-14. Exemption amounts.

The amount of the exemption that shall be granted under this article shall be as follows:

A. For each of the first seven years from the date on which the Economic Development Zone was designated, the amount of such exemption shall be 100% of the base amount, determined as above.

B. For exemptions commencing in the eighth year from the date on which the Economic Development Zone was designated, the amount of the exemption shall be 75% of the base amount.

C. For exemptions commencing in the ninth year from the date on which the Economic Development Zone was designated, the amount of the exemption shall be 50% of the base amount.

D. For exemptions commencing in the 10th year from the date on which the Economic Development Zone was designated, the amount of the exemption shall be 25% of the base amount.

§ 251-15. Adjustments in calculation of base amount.

A. If there is a subsequent construction, alteration, installation or improvement to the exempt property during the term of the exemption, the base amount shall be revised to include the increase in assessed value attributable to such construction, alteration, installation or improvement.

B. If a change in the level of assessment of 15% or more is certified for an assessment roll pursuant to the rules of the State Board of Real Property Services, the base amount shall be adjusted by such change in the level of assessment. The exemption on that assessment roll shall thereupon be recomputed, notwithstanding the fact that the Assessor receives the certification after the completion, verification and filing of the final assessment roll. In the event that the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption certified by the Assessor on the roll.

§ 251-16. Application for exemption.

Application for an exemption pursuant to this article shall be made by the owner of such real property on a form prescribed by the State Board of Real Property Services. The original application shall be filed with the Assessor of the assessing unit on or before the taxable status date of such construction, alteration, installation or improvement.

§ 251-17. Granting of exemption.

If the Assessor receives the notice described in § 251-18A(1) of this article and an application by the owner of the real property, he shall approve the application and such real property shall thereafter be exempt from taxation as herein provided commencing with the assessment roll prepared after the taxable status date referred to in § 251-16 of this article. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption entered in a separate column.

§ 251-18. Limitations.

Exemptions granted pursuant to this article shall be subject to the following limitations:

A. No such exemption shall be granted unless pursuant to Article 18-B of the General Municipal Law.

(1) Notice of the designation of the Economic Development Zone has been filed with the Clerk of the assessing unit by the Commissioner on or before the applicable taxable status date;

(2) The construction, alteration, installation or improvement commenced on or after the date the Economic Development Zone was designated; and

(3) The designation of the Economic Development Zone has not ended and has not been terminated by the Commissioner on or before the applicable taxable status date.

B. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the ten-year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

§ 251-19. When effective; applicability.

This article shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on and after January 1, 1998.

ARTICLE VIII. Exemption for Real Property Owned by Persons With Disabilities and Limited Income

[Adopted 2-10-1998 by L.L. No. 3-1998; amended in its entirety 2-3-2004 by L.L. No. 2-2004]

§ 251-20. Exemption granted.

Effective as hereinafter provided, there shall be an exemption from taxation for Town purposes to the extent of the percentage of assessed valuation provided in the following schedule, determined by the maximum income exemption eligibility level also provided in the following schedule up to a maximum of 50% of the assessed valuation of real property owned by one or more persons with disabilities, or real property owned by a husband or 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:

Annual Income	Percentage of Assessed Valuation Exempt From Taxation
\$24,000 or less	50%
More than \$24,000 but less than \$25,000	45%
\$25,000 or more but less than \$26,000	40%
\$26,000 or more but less than \$27,000	35%
\$27,000 or more but less than \$27,900	30%
\$27,900 or more but less than \$28,800	25%
\$28,800 or more but less than \$29,700	20%
\$29,700 or more but less than \$30,600	15%
\$30,600 or more but less than \$31,500	10%
\$31,500 or more but less than \$32,400	5%

§ 251-21. Definitions.

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

PERSON WITH A DISABILITY

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:

A. Is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the Federal Social Security Act; or

B. Is certified to receive railroad retirement disability benefits under the Federal Railroad Retirement Act; or

C. Had received a certification from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind.

SIBLING

A brother or a sister, whether related through half blood, or whole blood or adoption.

§ 251-22. Proof of disability required.

An award letter from the Social Security Administration or the Railroad Retirement Board or a certification from the State Commission for the Blind and Visually Handicapped shall be submitted as proof of disability.

§ 251-23. 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 for the same tax purpose pursuant to both this article and § 467 of the Real Property Tax Law.

§ 251-24. Real property held in trust.

Notwithstanding any other provisions of 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 this article.

§ 251-25. Cooperative apartment ownership.

A. Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares of stock in such corporation as determined by the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

B. That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section, and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

§ 251-26. Restrictions.

No exemption shall be granted:

A. 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 sums authorized by the provisions of § 459-c of the Real Property Tax Law. "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 wife, their combined income may not exceed such sum except that, 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. Where title is vested in siblings, their combined income 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 monies earned through employment in the foster grandparent program, and such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid by insurance. In computing net rental income and net income from self-employment, no depreciation

deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

B. Unless the property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this article.

C. Unless the real property is the legal residence and is occupied, in whole or in part, by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to 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.

§ 251-27. Application for exemption.

A. Application for such exemption must be made annually by the owner, or all of the owners, of the property, on forms prescribed by the State Board to be furnished by the appropriate local assessing unit, and shall furnish the information and be executed in the manner required or prescribed on such forms, and shall be filed in such Assessor's office on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year an exemption pursuant to this article is first sought or the disability is first determined to be permanent.

B. At least 60 days prior to the appropriate taxable status date, the appropriate local assessing unit shall mail to each person who was granted an exemption pursuant to this article on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

§ 251-28. When effective; applicability.

This article shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on and after January 1, 2004.

ARTICLE IX. Exemption for Gold Star Parents

[Adopted 1-16-2001 by L.L. No. 1-2001]

§ 251-29. Legislative intent and purpose.

A. This Legislature finds and determines that the sacrifices made by Gold Star Parents should be acknowledged by entitling them the same alternative veterans real property tax exemptions accorded to veterans, spouses of veterans and unremarried surviving spouses of veterans, up to a maximum of 25%. By Chapter 326 of the Laws of New York for 2000, the New York State Legislature amended § 458-a of the Real Property Tax Law by adding a new Subdivision 7 authorizing the adoption of a local law to grant alternative veterans real property tax exemptions to Gold Star Parents.

B. The purpose of this article is to amend the Local Laws of the Town of Guilderland to entitle Gold Star Parents to the alternative veterans real property tax exemptions as authorized by Chapter 326 of the Laws of 2000.

§ 251-30. Gold Star Parent definition and eligibility.

For purposes of extending alternative veterans real property tax exemptions to Gold Star Parents as authorized by Chapter 326 of the Laws of New York for 2000, in § 458-a of the Real Property Tax Law, a "Gold Star Parent" shall be defined as "the parent of a child who died in the line of duty while serving in the United States armed forces during a period of war." A Gold Star Parent shall be deemed eligible for the exemption for "qualifying residential real property" under the local laws of the Town of Guilderland.

§ 251-31. Effective date; applicability.

This article shall take effect January 1, 2001, and shall apply to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

ARTICLE X. Veterans Tax Exemption

[Adopted 4-4-2006 by L.L. No. 1-2006 Editor's Note: This local law also indicated that Chapter 256 of the Laws of New York for 2005 amended § 458-a of the Real Property Tax Law authorizing the adoption of a local law to increase the maximum tax exemption for veterans.]

§ 251-32. Qualifying property exempt from taxation; limits.

Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$36,000 or the product of \$36,000 multiplied by the latest state equalization rate for the assessing unit or, in the case of a special assessing unit, the latest class ratio, whichever is less.

§ 251-33. Additional exemption for veterans in combat theatres or zones.

In addition to the exemption provided by § 251-32 of this article, where the veteran served in a combat theater or combat zone of operation, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed \$24,000 or the product of \$24,000 multiplied by the latest state equalization rate for the assessing unit or, in the case of a special assessing unit, the class ratio, whichever is less.

§ 251-34. Additional exemption for veterans due to disability or death.

In addition to the exemptions provided by §§ 251-32 and 251-33 of this article, where the veteran received a compensation rating from the United States Veteran's Administration or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veteran's disability rating; provided, however, that such exemption shall not exceed \$120,000 or the product of \$120,000 multiplied by the latest state equalization rate for the assessing unit or, in the case of a special assessing unit, the latest class ratio, whichever is less. For the purposes of this article, where a person who served in the active military, naval or air service during a period of war died in service of a service-connected disability, such person shall be deemed to have been assigned a compensation rating of 100%.

§ 251-35. Effective date; applicability.

This article shall take effect January 2, 2006, and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

ARTICLE XI. Exemption for Cold War Veterans

[Adopted 1-20-2009 by L.L. No. 1-2009]

§ 251-36. Legislative intent and purpose.

A. The Town Board finds and determines that the sacrifices and services provided by veterans in protecting this country should be acknowledged by providing certain tax exemptions.

B. By Chapter 655 of the Laws of New York for 2007, as amended by Chapter 6 of the Laws of New York for 2008, the New York State Legislature amended § 458-b of the Real Property Tax Law authorizing the adoption of a local law to provide tax exemptions for Cold War veterans.

C. The purpose of this article is to adopt tax exemptions for Cold War veterans as authorized by Chapter 655 of the Laws of New York for 2007, as amended by Chapter 6 of the Laws of New York for 2008.

§ 251-37. Definitions.

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

ACTIVE DUTY

Full-time duty in the United States Armed Forces, other than active duty for training.

ARMED FORCES

The United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

COLD WAR VETERAN

A person, male or female, who served on active duty in the United States Armed Forces, during the time period from September 2, 1945, to December 26, 1991, and who was discharged or released therefrom under honorable conditions.

LATEST CLASS RATIO

The latest final class ratio established by the New York State Board of Real Property Tax Services pursuant to Title 1 of Article 12 of the New York State Real Property Tax Law for use in a special assessing unit as defined in § 1801 of the New York State Real Property Tax Law.

LATEST STATE EQUALIZATION RATE

The latest final equalization rate established by the New York State Board of Real Property Tax Services pursuant to Article 12 of the New York State Real Property Tax Law.

QUALIFIED OWNER

A Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the

unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY

Property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this article. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran, unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization.

SERVICE-CONNECTED

With respect to disability or death, such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval or air service.

§ 251-38. Amount of exemption; limitations.

A. Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

B. In addition to the exemption provided by Subsection A of this section, where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

C. If a Cold War veteran receives either a veterans' exemption authorized by § 458 of the Real Property Tax Law, or an alternative veterans' exemption authorized by § 458-a of the Real Property Tax Law, the Cold War veteran shall not be eligible to receive an exemption under this article.

§ 251-39. Duration of exemption.

The exemption provided by this article shall be granted for a period of 10 years. The commencement of such ten-year period shall be governed pursuant to this section. Where a qualified owner owns qualifying residential real property on the effective date of this article, or such other date as may be set forth in § 458-b(2)(c) of the New York State Real Property Tax Law, such ten-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this article, or such other date as may be set forth in § 458-b(2)(c) of the New York State Real Property Tax Law. Where a qualified owner does not own qualifying residential real property on the effective date of this article, or such other date as may be set forth in § 458-b(2)(c) of the New York State Real Property Tax Law, such ten-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least 60 days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within 60 days after the date of purchase of residential real property, such ten-year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such ten-year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this section for the unexpired portion of the ten-year exemption period.

§ 251-40. Application for exemption.

Application for the exemption set forth in this article shall be made by the qualified owner, or all of the qualified owners, of the property on a form prescribed by the New York State Board of Real Property Tax Services. The owner or owners shall file the completed form in their local assessor's office on or before the first appropriate taxable status date. The exemption shall continue in full force and effect for all appropriate subsequent tax years, and the owner or owners of the property shall not be required to refile each year. Applicants shall be required to refile on or before the taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increase or decrease amount of exemption. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

§ 251-41. When effective.

This article shall take effect immediately and shall apply to assessment rolls based on taxable status dates occurring on or after such date.

ARTICLE XII. Exemption for Capital Improvements to Residential Buildings

[Adopted 5-5-2009 by L.L. No. 2-2009]

§ 251-42. Legislative intent and purpose.

A. By Chapter 50-A of the Laws of New York for 1993, as amended, the New York State Legislature enacted § 421-f of the Real Property Tax Law authorizing the adoption of a local law to provide tax exemptions for capital improvements to residential buildings.

B. The purpose of this article is to provide tax exemptions for capital improvements to residential buildings as authorized by § 421-f of the Real Property Tax Law of the State of New York.

§ 251-43. Exemption granted.

A. Residential buildings reconstructed, altered or improved subsequent to the effective date of this article pursuant to this article shall be exempt from taxation and special ad valorem levies to the extent provided hereinafter. A copy of this article shall be filed with the State Board and the Assessor of the Town who prepares the assessment roll on which the taxes of the Town are levied.

§ 251-44. Term of exemption.

Such buildings shall be exempt for a period of one year to the extent of 100% of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement and for an additional period of seven years, subject to the following:

A. The extent of such exemption shall be decreased by 12 1/2% of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in Subsection B of this section.

B. In any year in which a change in level of assessment of 15% or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the

immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the Real Property Tax Law of the State of New York for the correction of clerical errors.

C. Such exemption shall be limited to \$80,000 in increased market value, or such other sum less than \$80,000, but not less than \$5,000, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this article. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class I ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds 95%, in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§ 251-45. Conditions.

No such exemption shall be granted for reconstruction, alterations or improvements unless:

A. Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this article; and

B. The value of such reconstruction, alteration or improvement exceeds \$3,000; and

C. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

§ 251-46. Exemptions.

For purposes of this article, the terms "reconstruction, alteration and improvement" shall not include ordinary maintenance and repairs or the construction of or improvements to swimming pools.

§ 251-47. Application for exemption.

A. Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the State Board. The application shall be filed with the Assessor of the Town having the power to assess property for taxation on or before the appropriate taxable status date of the Town.

B. If satisfied that the applicant is entitled to an exemption pursuant to this article, the Assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection A of this section. The assessed value of any exemption granted pursuant to this article shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 251-48. Applicability.

A. For the purposes of this article, a "residential building" shall mean any building or structure designed and occupied exclusively for residential purposes by not more than two families.

B. In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this article shall cease.

§ 251-49. Change in exemption.

This article shall not reduce or repeal an exemption granted pursuant to this article until the expiration of the period for which such exemption was granted.

§ 251-50. When effective.

This article shall take effect immediately and shall apply to assessment rolls based on taxable status dates occurring on or after such date.

ARTICLE XIII. Exemption for Historic Barn Reconstruction or Rehabilitation

[Adopted 5-19-2009 by L.L. No. 3-2009]

§ 251-51. Legislative intent and purpose.

A. By Chapter 50-A of the Laws of New York for 1996, as amended, the New York State Legislature enacted § 483-b of the Real Property Tax Law authorizing the adoption of a local law to provide tax exemptions for historic barns that are reconstructed or rehabilitated.

B. The purpose of this article is to provide tax exemptions for historic barns that are reconstructed or rehabilitated as authorized by § 483-b of the Real Property Tax Law of the State of New York.

§ 251-52. Exemption granted.

Historic barns which are reconstructed or rehabilitated shall be exempt from taxation to the extent provided hereinafter. A copy of this article shall be filed with the State Board and the Assessor of the Town who prepares the assessment roll on which the taxes of the Town are levied.

§ 251-53. Term of exemption.

Such barns shall be exempt for a period of one year to the extent of 100% of the increase in assessed value thereof attributable to such reconstruction or rehabilitation and for an additional period of nine years, subject to the following:

A. The extent of such exemption shall be decreased by 10% of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in Subsection B of this section.

B. In any year in which a change in level of assessment of 15% or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall

be the total assessed value of the parcel on the immediately preceding the final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the Real Property Tax Law of the State of New York for the correction of clerical errors.

§ 251-54. Limitations on exemption.

A. No such exemption shall be granted for reconstruction or rehabilitation unless such reconstruction or rehabilitation was commenced subsequent to the effective date of this article or was commenced no more than two years prior to the effective date of this article and is still under such reconstruction or rehabilitation as of the effective date of this article.

B. No such exemption shall be granted to an historic barn which is receiving an exemption pursuant to § 483 of the Real Property Tax Law of the State of New York or which has received an exemption pursuant to that section within 10 years of the date of the application for exemption filed pursuant to this article.

C. No such exemption shall be granted to an historic barn which is used for residential purposes.

D. No such exemption shall be granted for reconstruction and rehabilitation expenses that materially alter the historic appearance of the barn.

§ 251-55. Application for exemption.

A. Such exemption shall be granted only upon application by the owner of such barn on a form prescribed by the State Board. The application shall be filed with the Assessor of the Town having the power to assess property for taxation on or before the appropriate taxable status date of the Town.

B. If satisfied that the barn is entitled to an exemption pursuant to this article, the Assessor shall approve the application and such barn shall thereafter be exempt from taxation as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection A of this section. The assessed value of any exemption granted pursuant to this article shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 251-56. Definition.

For the purposes of this article, an historic barn shall mean a structure that was at least partially constructed before 1936 and that was originally designed and used for storing farm equipment or agricultural products, or for housing livestock.

§ 251-57. When effective.

This article shall take effect immediately and shall apply to assessment rolls based on taxable status dates occurring on or after such date.

CHAPTER 260. UNDERGROUND FACILITIES, CENTRAL REGISTRY OF § 260-1. Central registry established.

CHAPTER 260. UNDERGROUND FACILITIES, CENTRAL REGISTRY OF

[HISTORY: Adopted by the Town Board of the Town of Guilderland 5-13-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Records — See Ch. 89.

§ 260-1. Central registry established.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Pursuant to Article 36 of the General Business Law and Rule 53 of the State Industrial Code, there is hereby established a central registry of underground facilities which shall be maintained at the Town Hall in the town offices.

CHAPTER 264. VEHICLES, ABANDONED

- § 264-1. Authority to impound vehicles.
- § 264-2. Redemption.
- § 264-3. Notice of removal.
- § 264-4. Penalties for offenses.

CHAPTER 264. VEHICLES, ABANDONED

[HISTORY: Adopted by the Town Board of the Town of Guilderland 3-13-1979 by L.L. No. 4-1979 (Subpart 2, Div. 2 1/2, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Motorcycles — See Ch. 200.
Snowmobiles — See Ch. 232.
Streets and sidewalks — See Ch. 243.
Vehicles and traffic — See Ch. 267.

§ 264-1. Authority to impound vehicles.

The Town Highway Superintendent is hereby authorized to provide for the removal and storage of any vehicle parked or left unattended within the right-of-way of any street or highway or in any public place within the Town of Guilderland outside of the Village of Altamont where such vehicle constitutes an obstruction to snow removal operations or to municipal vehicles engaged otherwise in the performance of public duties.

§ 264-2. Redemption.

The owner of such vehicle may redeem it upon payment of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.

§ 264-3. Notice of removal.

The Town Highway Superintendent shall, upon the removal of any vehicle pursuant to this chapter, promptly report the removal and disposition of such vehicle to the Town Police. It shall then be the duty of such police to ascertain the owner of such vehicle and notify the owner of such removal and disposition.

§ 264-4. Penalties for offenses.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person or persons who shall violate any provisions of this chapter shall

be guilty of an offense punishable by a penalty as set forth in Chapter 1, General Provisions, Article III.

CHAPTER 267. VEHICLES AND TRAFFIC

ARTICLE I. Speed Limits

§ 267-1. Short title.

§ 267-2. Town Board approval.

§ 267-3. Statutory authority.

§ 267-4. Definitions.

§ 267-5. Speed regulations.

§ 267-6. Schedule of penalties for traffic offenses.

§ 267-7. Application.

ARTICLE II. Surcharge on Convictions

§ 267-8. Imposition; when effective; conditions.

§ 267-9. Statutory authority.

§ 267-10. Interpretation of provisions.

ARTICLE III. Parking Restrictions

§ 267-11. Winter parking prohibition.

§ 267-12. Penalties for offenses.

CHAPTER 267. VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Town Board of the Town of Guilderland as indicated in article histories. Editor's Note: Consult municipal records for vehicles and traffic legislation not included in this chapter. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles — See Ch. 131.

Motorcycles — See Ch. 200.

Snowmobiles — See Ch. 232.

Abandoned vehicles — See Ch. 264.

ARTICLE I. Speed Limits

[Adopted 10-5-2004 by L.L. No. 5-2004]

§ 267-1. Short title.

This article shall be known and may be cited as the "Town of Guilderland Traffic Ordinance."

§ 267-2. Town Board approval.

The Town Board of the Town of Guilderland (the "Town"), being established as a Suburban Town effective January 1, 1967, governed pursuant to Article 3-A of the New York State Town Law by resolution of the Town Board dated June 20, 1966, hereby enacts the following traffic ordinance to establish maximum speed limits within the Town.

§ 267-3. Statutory authority.

This article is enacted pursuant to the authority granted by § 1662-a of the New York State Vehicle and Traffic Law.

§ 267-4. Definitions.

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

STREET

Any highway, road, street, avenue, alley, drive, public place or public right-of-way, as shown on the Official Map of the Town; all private roads and parking lots open to public motor vehicle traffic; and all drives, rights-of-way and access roadways located on property owned by the Town.

§ 267-5. Speed regulations.

A. The Town speed limit shall be 30 miles per hour and shall be applicable upon all streets except where the Town Board, upon recommendation of the Town Traffic Safety Committee, the Town Police or the Superintendent of Highways, determines that other speed limits shall be applicable, and except on New York State highways maintained by New York State that are within the Town, and except all streets within the Village of Altamont that are maintained by the Village of Altamont.

B. Speed limit signs shall be posted on all major streets entering the Town and also on all streets where the rate of speed changes.

C. The Superintendent of Highways is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from speeds otherwise applicable on Town streets and shall erect appropriate signs giving notice thereof.

D. The Town Board, upon recommendation of the Town Traffic Safety Committee, the Town Police or the Superintendent of Highways, may set school zone speed limits on streets adjacent to a school, as authorized by the

New York State Vehicle and Traffic Law. The Superintendent of Highways shall post necessary signs and other traffic-control devices setting the school zone speed limit, and no person shall drive in excess of said posted speed during the school noon hour, school recess, or while children are going to or leaving school during opening or closing hours.

§ 267-6. Schedule of penalties for traffic offenses.

A. Violations deemed traffic infraction. It is a traffic infraction for any person to violate any of the provisions of this article.

B. General penalty. Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this article shall be punished by a fine of not more than \$200 for each violation.

C. Fines credited to general fund. All fines, penalties and forfeitures collected upon conviction or upon forfeiture of bail by any person charged with a violation of this article shall be paid to the Town and credited to its general fund.

§ 267-7. Application.

A. The provisions of this traffic ordinance relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets other than New York State highways maintained by New York State that are within the Town but outside of the Village of Altamont, except where a different place is specifically referred to in a given section.

B. This article shall not have a retroactive effect and shall not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of the traffic ordinance of the Town occurring prior to the effective date of this article.

C. If any provisions of this article are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions shall remain in effect.

D. All ordinances, local laws and parts thereof inconsistent with this article are hereby repealed.

E. This article shall take effect immediately upon filing in the office of the New York State Secretary of State.

ARTICLE II. Surcharge on Convictions

[Adopted 10-5-2004 by L.L. No. 6-2004]

§ 267-8. Imposition; when effective; conditions.

A. The Town Board of the Town of Guilderland (the "Town"), hereby imposes a surcharge of \$10 on convictions rendered in the Town Justice Court for violations committed between the effective date of this article and September 1, 2005, that are subject to the mandatory surcharge imposed pursuant to § 1809 of the Vehicle and Traffic Law of the State of New York.

B. Such surcharge shall be in addition to any sentence required or permitted by law.

§ 267-9. Statutory authority.

This article enacted pursuant to the authority granted by § 1809-d of the New York State Vehicle and Traffic Law.

§ 267-10. Interpretation of provisions.

This article shall not have a retroactive effect and shall not apply to any conviction occurring prior to the effective date of this article.

ARTICLE III. Parking Restrictions

[Adopted by L.L. No. 1-1966]

§ 267-11. Winter parking prohibition.

[Amended by L.L. No. 1-1972]

The parking of motor vehicles upon the Town streets, roads, and highways of the Town of Guilderland between the hours of 2:00 a.m. and 7:00 a.m. during the months of November, December, January, February and March of each year is prohibited.

§ 267-12. Penalties for offenses.

Any violation of the provisions of this article shall subject such violator to a civil penalty, not to exceed \$25 for the first violation and not to exceed \$50 for each subsequent violation.

CHAPTER 272. WATER

ARTICLE I. Water Service

§ 272-1. Purpose.
§ 272-2. Application for service.
§ 272-3. Deposits.
§ 272-4. Installation of services.
§ 272-5. Installation of meters; specifications; fees.
§ 272-6. Payment for water service; reading of meters.
§ 272-7. Rules and regulations for water service, fire hydrants and service lines; restrictions on water use; violations.
§ 272-8. Establishment of rents, penalties and minimum charges; private fire-protection service.
§ 272-9. New water systems or extensions of water mains.
§ 272-10. Penalties for offenses.
ARTICLE II. Cross-Connections
§ 272-11. Purpose.
§ 272-12. Definitions.
§ 272-13. Determination of degree of hazard; type of protection; auxiliary water supply.
§ 272-14. Responsibility of consumer.
§ 272-15. Inspection; records; costs.
§ 272-16. Noncompliance; discontinuation of service; notice and service.
§ 272-17. Current devices.

CHAPTER 272. WATER

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

GENERAL REFERENCES

Sewers — See Ch. 225.
Sprinkler systems — See Ch. 239.
Streets and sidewalks — See Ch. 243.
Zoning — See Ch. 280.

ARTICLE I. Water Service

[Adopted 6-11-1974 as Subpart 4, Div. 2, 1974 Code]

§ 272-1. Purpose.

The purpose of this article is to establish rules and regulations for water districts within the Town of Guilderland and to establish rents, rates, penalties and

minimum charges and to grant to the Town Board of the Town of Guilderland the power to establish rents, rates, penalties and minimum charges.

§ 272-2. Application for service.

A. All applications for the use of water in the Town of Guilderland (hereafter referred to as the "Town"), must be made, in writing, on a form provided by the Department of Water and Sanitation (hereafter referred to as the "Department"). On acceptance by the Department, the application shall constitute a contract between the Town and the applicant obligating the applicant to pay the Town its established rates and to comply with the rules and regulations.

B. Applications of contractors, builders and others for temporary service will be accepted, written permits will be issued and temporary water service will be supplied providing it does not interfere with use of water for general purposes, and that the use of water from any hydrant shall be strictly in accordance with § 272-7B of this chapter. Customers requiring temporary service shall reimburse the Department for its expense in connection with providing the necessary temporary service connection, and a deposit specified by the Department may be required.

C. No agreement will be entered into by the Department with any applicant for water service until all charges due from the applicant for water or services at any premises now or heretofore owned or occupied by him which are in arrears shall have been paid.

D. Acceptance and/or approval of the water service application of any new applicant or the providing of increased service to any existing water user: requiring water for other than normal domestic purposes; requiring daily quantities of water which, in the opinion of the Department, are excessive as to total daily quantity or rate of use during any portion of the day; whose requirements for water, in the opinion of the Department, will in any way limit the ability of the particular water supply and distribution system to provide satisfactory water service to all then-existing water users, shall be subject to the review and approval of the Department. Where necessary, in the opinion of the Department, the applicant shall provide at his own expense such water conservation, storage or flow-limiting facilities or such other devices necessary to obtain the approval of the Department. The Department reserves the right to refuse or limit service to any new applicant or existing water user if the foregoing requirements are not met to the Department's satisfaction.

[Amended 5-2-1995 by L.L. No. 6-1995]

§ 272-3. Deposits.

A. As security for payment of bills, the Department may require of any applicant or any customer to whom it may be supplying water a deposit approximately equal to 1 1/2 times the estimated average bill for the billing period. In case the billing period is changed and/or the estimate of the amount of the bill is found substantially incorrect, an adjustment shall be made in the deposit to suit the condition. Deposits of applicants will be payable at the time of application and of customers upon demand.

B. When service is discontinued and final bills are paid or when the customer has established satisfactory credit in the judgment of the Department, the deposit will be refunded to the depositor.

§ 272-4. Installation of services.

A. Who can make installations and requirements.

(1) No person shall make any attachment with the mains of the Town nor may make any repairs, additional to or alterations with the service waterlines unless he be authorized by the Department.

(2) A separate service line shall be required for each dwelling or commercial building as specified under Subsection E. In cases of multiple occupancy, the size and number of separate service lines required shall be at the sole discretion of the Department.

(3) Any existing consumer in violation of these requirements may be notified on 30 days' written notice from the Department to conform to this regulation.

B. Openings in public ways.

(1) Whenever a property owner, contractor or subdivision developer has to open a trench on any Town road, he must obtain from the Town Highway Superintendent a road-cutting permit.

[Amended 4-10-1984 by L.L. No. 6-1984]

(2) Public safety. Whenever any street or public grounds shall be opened for the purpose of making a connection with the mains or for laying any waterlines or fixtures, the public safety and convenience shall be duly

regarded and the street or public place shall be restored to its original condition as soon as possible; and whenever a trench is opened, bridges for the safety and convenience of the public shall be provided and, if left open at night, such excavations and bridges shall be guarded with barricades, and lights shall be displayed to warn and protect the public. The application must contain from the Highway Department the required permit and display the same in the Town of Guilderland.

C. Ownership.

(1) At his/her own expense, the applicant shall install from the curb box to the meter on the premises a service line and service connections, all to be approved by the Department. Every service line must have a stopcock of an approved type at the property or easement line and be provided with an iron curb box and cover. This stopcock may not be used by the customer for turning on or shutting off the water supply but is for the exclusive use of the Department.

(2) The service line and service connections from the curb box to the meter shall at all times remain the sole property of the applicant, in whom title thereto shall vest. All service lines installed shall have no sweat joint between the curb box and the meter.

D. Maintenance and replacement.

(1) The customer, at his/her own expense, will maintain and protect from freezing and when necessary replace such service line and service connections, specifications for which are contained in Subsection E.

(2) Should a leak occur in a service line, the owner shall forthwith cause the same to be repaired at his/her own expense. Should the owner fail to effect such repair after two days' written notice from the Department, the district will cause the water service to be discontinued until such repair has been made.

E. Service line specifications.

[Amended 4-10-1984 by L.L. No. 6-1984]

(1) All service lines shall have a minimum cover of 60 inches below the surface of the ground, and in no case will any waterline be allowed to be laid in any sewer or drain trench, nor will any drainage into a waterline trench be permitted.

(2) All service lines shall not be less in size than three-quarter-inch inside diameter and shall be United States Government Specification Type K soft-tempered copper tubing with only mechanical joints underground; over 100 feet: one inch minimum in size is required. For service three inches in diameter, or larger, ductile iron double cement lined class 52 pipe of quality equal to American Water Works Association or federal specifications, and of weight suitable for service under a pressure equivalent to at least 350 pounds per square inch are required. The Department reserves the right in all cases to stipulate the size and type of service lines to be used.

F. Service connection specifications and rules.

(1) All tapping shall be performed under the supervision of the Department. No tapping will be done after November 1 and before April 1 unless weather permits at the discretion of the Department.

(2) The curb stop and box will be placed at the easement or property line.

(3) No outlet through which water can be taken between the meter and the district's main in the street will be permitted.

(4) No red or white lead will be permitted to be used on joints between the meter and the main.

(5) No one shall leave the stopcock open nor allow the water to run on the premises after making any new connection with the street main or after making any new extension or attachment in unoccupied premises, but in cases where the work is a simple extension or additional attachments on consumer's side of the meter, in places where the water is then in use, the installer may leave the water on.

(6) Except on the pipes on the consumer's side of the meter, no additions or alterations whatever in or about public or private water pipes shall be made by any person until application therefor has been made to the Department and a written permit given therefor.

(7) When the supply of water to any premises has been turned off by the direction of the Department, service shall only be returned by and with the authority of the Department.

(8) If any building is razed, moved or abandoned, it will be the responsibility of the owner or authority which requires such razing, moving, abandonment or other modification by virtue of public improvement to notify the Water

Department to remove the meter. The owner shall discontinue the water service line by physically removing the service line connection at the corporation valve and replacing it with a brass plug or other approved method, under the supervision of the Water Department and/or agent.

[Amended 5-2-1995 by L.L. No. 6-1995]

G. Underground sprinkler systems. Underground sprinkler systems will be allowed under the following conditions:

[Amended 4-10-1984 by L.L. No. 6-1984]

(1) Application for permission for installation must be filed with the Water Department.

(2) The applicant must file a set of plans for approval before installation begins.

(3) A New York State Health Department approved (backflow preventer) must be installed as contained in Article II, Cross-Connections.

[Amended 5-2-1995 by L.L. No. 6-1995]

(4) An electrical timer device must be installed to control usage of sprinkling systems. This must conform with the rules and regulations as set forth in § 272-7H.

[Amended 5-2-1995 by L.L. No. 6-1995]

(5) The underground sprinkler system will be inspected by this Department before the system is put into operation. An inspection fee as set by resolution of the Town Board from time to time for residential and commercial will be charged.

[Amended 5-2-1995 by L.L. No. 6-1995]

(6) A thermal expansion tank shall be properly sized and installed on the cold waterline as part of each installation unless otherwise approved by the New York State registered professional engineer.

[Added 5-2-1995 by L.L. No. 6-1995]

(7) The use of an automatic rain shutoff gauge shall be installed.

[Added 5-2-1995 by L.L. No. 6-1995]

H. Car washes. Commercially operated car washes attached to the municipal water supply are prohibited. Water may be supplied for drinking and sanitary facilities.

I. Swimming pools.

(1) Regulations for the use of municipal water in swimming pools shall be as established by the Department as the restriction needs dictate.

(2) Any swimming pool utilizing over 1,000 gallons of water, whether located above or below ground, in any of the public water districts of the Town shall have an adequate filtration and recirculation system.

(3) Before a pool of 1,000 gallons or more capacity located within any or all public water districts of the Town of Guilderland shall be filled with water from the public supply, a permit for this purpose shall be requested from the Department which shall stipulate on what date and between what hours such filling shall take place. Such date and times are to be determined by the Department, and such determination shall be made on the basis of when such use of the water will constitute the least strain on the water supply system. When, in the opinion of the Department, such restriction is unnecessary, the filling permit may be waived.

[Amended 5-2-1995 by L.L. No. 6-1995]

J. Air-conditioning, refrigeration and heating units.

(1) All air-conditioning, refrigeration and heating units connected to the public water supply must be of an enclosed fully recirculating pressure type.

(2) Existing units or installations heretofore installed (this chapter was adopted July 14, 1970) and not of an enclosed fully recirculating type shall be converted to conform to this chapter within five years from the effective date of this chapter.

§ 272-5. Installation of meters; specifications; fees.

A. An individual meter shall be required for each separate service line to a premises. The users of water shall at no time tamper with the meter. Any tampering with the water meter shall constitute a violation of this chapter.

[Amended 4-10-1984 by L.L. No. 6-1984; 5-2-1995 by L.L. No. 6-1995]

B. All water meters will be purchased from the Department of Water and Wastewater Management, except as set forth hereafter. All meters will be purchased at the owner's cost. The water district will be responsible for installation, removal, maintenance and testing of said water meters, and all water meters will become water district property. Subdivision developers (those developing three or more lots) shall purchase water meters directly from a supplier, which water meters shall conform to the Water Department specifications for said water meters.

[Amended 5-2-1995 by L.L. No. 6-1995; 6-1-1999 by L.L. No. 5-1999]

C. Submetering will not be permitted.

D. Meters larger than two inches shall be compound meters and furnished by the Water Department at the owner's expense and shall be set at or near the property line or in a place designated by the Department, and all expense in connection with its proper housing, including a bypass for testing, shall be borne by the customer. Such meters shall be maintained and repaired at the expense of the customers. A diagram of the pit and proper piping shall be approved by the Department.

E. The Department reserves the right to remove, test and repair any meter at any time.

F. Vacation of premises; fee.

(1) If any premises is vacated, the consumer may, on written notification to the Department, request that the water meter be removed and stored.

(2) During the period the meter is out of service, no charge for water service will be made.

(3) When service is again requested, the district will reestablish service for a fee as set by resolution of the Town Board from time to time.

G. Meters will at all times be protected from freezing. In the event that the meter is damaged by freezing or other external cause, the Department will replace the meter and a bill will be rendered to the consumer for the cost of repairs.

H. The district will maintain, repair and test, when necessary, all meters. The Department reserves the right to remove and test the meters as required. In case of a disputed account involving the accuracy of a meter, the Department

will test the meter upon the request of the customer. A fee as set by resolution of the Town Board from time to time is required. In the event that the meter is found to over-register in excess of 2% at any flow rate within normal test flow limits, the fee will not be charged to the customer; otherwise it will be retained by the District as a charge and included on the next water bill.

[Amended 4-10-1984 by L.L. No. 6-1984; 5-2-1995 by L.L. No. 6-1995]

§ 272-6. Payment for water service; reading of meters.

A. All bills are payable in accordance with the terms of the applicable service classification. For new services installed at any time during the billing period, the minimum charge and the amount of water allowed thereunder will be prorated according to the number of days remaining to complete the billing period after the service has been made available.

B. Meters will be read and billed semiannually.

C. The quantity recorded by the meter shall be considered the amount of water passing through the meter, which amount shall be conclusive on both the customer and the Department, except when the meter has been found to be registering inaccurately, or has ceased to register. In such cases, the quantity may be determined by the average registration of new meter, or adjusted based on the tested percent of over registration, whichever method is representative, in the Department's opinion, of the conditions existing during the period in question.

[Amended 5-2-1995 by L.L. No. 6-1995]

D. Any consumer finding an overcharge or undercharge in his statement is requested to report the error before paying the bill so that it may be corrected.

E. All bills are due and payable without penalty 30 days after date thereof. All water charges by the Department shall be in lien upon which or in connection with which such water is used. If such charges are not paid within 30 days from date due, the water supply may be cut off until such charges are paid. A penalty of 5% of the amount of their bill shall be added to the bill for late payment.

[Amended 5-2-1995 by L.L. No. 6-1995]

F. There shall be filed annually with the Town Board a statement showing the unpaid water charges and penalties payable to the Department, with a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each, for the purpose of having such sums levied as a tax against the property liable.

§ 272-7. Rules and regulations for water service, fire hydrants and service lines; restrictions on water use; violations.

A. Water service may be discontinued by the Department for any one of the following reasons:

- (1) For use of water other than as represented in customers' applications or through branch connections on the street side of the meter or place reserved therefor.
- (2) For willful waste by use of water through improper and imperfect pipes, or by any other means.
- (3) For molesting any service line, seal or meter.
- (4) For nonpayment of bills for water or services rendered by the Department in accordance with these rules and regulations.
- (5) For cross-connecting pipes carrying water supplied by the Department with any other source of supply or with any apparatus which may endanger the quality of the Department's water supply.
- (6) For refusal of reasonable access to the property for the purpose of reading, repairing, testing or removing meters or inspecting water piping and other fixtures.
- (7) For violation of the rules of the Department as set forth in its rules and regulations.
- (8) For failure to repair leaky service lines after two days' notice.

B. No person shall open or interfere with the fire hydrants or draw water therefrom without permission from the Department or, in case of fire, by the chiefs of the fire departments or their assistants.

C. In the interest of public health, the Department will not permit its mains or service lines to be connected in any way to any piping, tank, vat or other

apparatus which contains liquids, chemicals or any matter which may flow back into the Department's service lines or mains and consequently endanger the water supply.

D. Upon receipt of an application for a new service or for the reinstatement of an existing service, the Department will assume that the piping and fixtures which the service will supply are in proper order to receive the same, and the Department will not be liable in any event for any accident, breaks or leakage arising in any connection with the supply of water or failure to supply the same.

E. Any person who damages any street hydrant shall be liable for the actual damages sustained to the hydrant as well as the loss of water wasted before the hydrant can be shut off.

F. The Department undertakes to use reasonable care and diligence to provide a constant supply of water at a reasonable pressure to customers, but reserves the right, at any time without notice, to shut off the water in its mains for the purposes of making repairs or extensions or for other purposes, and it is expressly agreed that the Department shall not be liable for a deficiency or failure in the supply of water or the pressure thereof for any cause whatsoever, nor for any damage thereby or by the bursting or breaking of any main or service line or any attachment to the Department's property. All applicants having boilers upon their premises depending upon the pressure in the Department's pipes to keep them supplied are cautioned against danger of collapse, and all such damage shall be borne exclusively by the applicant.

G. In those cases where a customer-owned service line is frozen, the thawing shall be done at the expense of the customer. To avoid a recurrence of freezing, the Department may order an examination of the customer's service line and, if the same is not at a depth of 60 inches as required, the Department reserves the right to require it to be so relocated before service is resumed.

H. In order to maintain sufficient water supply and pressure at all times for fire protection and household use, from May 1 through September 15, lawn sprinkling, garden sprinkling and other use of public water shall be restricted to the following days and times:

[Amended 5-3-1988 by L.L. No. 1-1988; 12-6-1988 by L.L. No. 5-1988; 7-14-1992 by L.L. No. 2-1992; 5-2-1995 by L.L. No. 6-1995; 5-5-1998 by L.L. No. 7-1998; 4-1-2003 by L.L. No. 2-2003]

(1) Automatic lawn sprinkler systems.

(a) All dwellings, buildings, structures, lots, pieces or parcels of land connected to the public water supply, with even-numbered addresses and with automatic lawn sprinkler systems serviced by the municipal supply, may use the public water supply for outside lawn and garden sprinkling on even-numbered calendar days 1:00 a.m. to 4:00 a.m., regardless of the nature of use of the premises.

(b) All dwellings, buildings, structures, lots, pieces or parcels of land connected to the public water supply, with odd-numbered addresses and with automatic sprinkling systems serviced by the municipal water supply, may use the public water supply for outside lawn and garden sprinkling on odd-numbered calendar days 1:00 a.m. to 4:00 a.m., regardless of the nature of use of the premises.

(c) All dwellings, buildings, structures, lots, pieces or parcels of land connected to the public water supply, with automatic lawn and garden sprinkling systems serviced by the municipal supply, shall not be permitted to use manually placed and/or handheld lawn sprinklers outside of the times specified in Subsection H(1)(a) and (b).

(2) Manually placed lawn sprinklers or handheld watering.

(a) All dwellings, buildings, structures, lots, pieces or parcels of land connected to the public water supply, with even-numbered street addresses and without automatic lawn sprinkling systems serviced by the municipal supply, may use the public water supply for outside lawn and garden sprinkling on even-numbered calendar days 6:30 a.m. to 8:00 a.m. and 6:30 p.m. to 8:00 p.m., regardless of the nature of use of the premises.

(b) All dwellings, buildings, structures, lots, pieces or parcels of land connected to the public water supply, with odd-numbered street addresses and without automatic lawn sprinkler systems serviced by the municipal supply, may use the public water supply for outside lawn and garden sprinkling on odd-numbered calendar days 6:30 a.m. to 8:00 a.m. and 6:30 p.m. to 8:00 p.m., regardless of the nature of use of the premises.

(3) The restrictions contained in Subsections A and B above shall not apply to hand-sprinkling of outdoor gardens used for the growing of noncommercial foodstuffs and flower gardens.

(4) In the event of a fire or other water emergency, the Supervisor, upon the recommendations of the Superintendent of the Department of Water and Wastewater Management, may modify or suspend any or all of the regulations relating to sprinkling for the duration of the emergency. The Department of Water and Wastewater Management shall notify the public by publication or other appropriate manner of any modification or suspension of sprinkling as a result of such emergency.

(5) Upon application of any person, the Supervisor, or his/her designee, may vary or modify the restrictions contained herein upon such terms and conditions as he/she deems appropriate. There shall be no appeal from the decision of the Supervisor on an application made under this subsection.

(6) Nothing contained herein shall restrict the use of private wells for outside watering purposes, provided that a sign stating "PRIVATE WELL" must be displayed on the dwelling, readable from the right-of-way. All private wells' water faucets must be permanently labeled. No interconnection of the private well with the public water system shall be permitted.

(7) No person shall fill a swimming pool from the public water supply at any time without the approval of the Superintendent of the Department of Water and Wastewater Management. The Superintendent shall specify the quantity, time and method for filling of swimming pools.

(8) Any person who violates this subsection shall be guilty of a violation and shall be punishable by a fine of not less than \$50 for the first offense, and not less than \$100 for any second or subsequent offense committed within the same calendar year.

§ 272-8. Establishment of rents, penalties and minimum charges; private fire-protection service.

A. Payment. Bills for water used or services performed by the Department shall be paid to the Receiver of Taxes.

B. Establishment of rents. Water rents, rates, penalties and charges are as may be established by Town Board resolution.

C. Minimum charge. No bill will be rendered or payment accepted for less than the minimum charge for each billing period.

D. Private fire-protection service.

(1) Sprinkler head fire protection.

(a) Any and all sprinkler systems installed in residences, multiple dwellings and commercial buildings (i.e., any and all building) shall meet the requirements of the following:

[Amended 5-2-1995 by L.L. No. 6-1995]

[1] New York State Department of Health State Sanitary Code, revised as of January 6, 1993, and as it may subsequently be amended.

[Amended 6-1-1999 by L.L. No. 5-1999]

[2] National Fire Protection Association Standards for Installation of Sprinkler System, latest revisions.

[3] According to Article II, Cross-Connections, of this chapter.

(b) The Department reserves the right to require the furnishing of detailed drawings showing the proposed installation and to approve or disapprove the type of valving to be installed on such a system and to inspect by its own forces or duly authorized representatives any such installation, past, present or future, and to require that the standards outlined in Subsection D(1)(a) be met.

(2) Private water distribution system, hydrant protection.

(a) Any and all private water supply distribution systems installed within the Town, equipped with hydrants for fire protection, shall conform to the requirements of the following:

[1] New York State Water Resources Commission Rules and Regulations Governing Water Supply Applications, dated 1966.

[2] New York Fire Insurance Rating Organization.

(b) Detailed plans and drawings of any and all such installations shall be furnished for the approval of the Department before any permit to make such installation or build shall be issued and to inspect the same during construction to guarantee compliance.

(c) The Department reserves the right to require any sprinkler system installation or any hydrant system installation installed prior to the date of this chapter to be brought up to the standards referred to at any time.

E. Water for construction. Water for contractors, builders and other temporary purposes (§ 272-2B) will be billed from \$30 upward for such privilege, according to the estimated amount of water to be used or metered at the discretion of the Department. The willful waste of water under temporary permits shall constitute a violation of this chapter, and the Department may cancel such permit.

[Amended 5-2-1995 by L.L. No. 6-1995]

§ 272-9. New water systems or extensions of water mains.

The procedures to be followed by owners of developments in the Town of Guilderland, exclusive of Altamont, who propose to install new water mains shall be in accordance with the rules and regulations of the Department and as enumerated in the following sections:

A. The owner or his engineer shall furnish the Department with two prints of the proposed overall development plan on which are indicated the required water mains and appurtenances. The Department shall also furnish to the owner the Department's requirements regarding materials of construction and specifications for pipe, fittings, valves, hydrants and appurtenances. After this plan has been approved by the Department, one copy will be filed with said Department. Maps shall be 24 inches by 36 inches in size, drawn to the scale of one inch equals 50 feet.

[Amended 5-2-1995 by L.L. No. 6-1995]

B. Before the owner is ready to file his map with the Department of Health, he shall furnish the Department, for its approval, with a copy of the proposed map, on which will be indicated the size of the water mains and appurtenances along with construction specifications, in writing, which should be consistent with the requirements of the Department furnished under Subsection A above.

[Amended 5-2-1995 by L.L. No. 6-1995]

C. The water mains will be installed under the supervision of the Town-designated engineer and the Department, and upon completion, one Mylar of as-built plans of the completed installation shall be furnished the Department by the owner.

[Amended 4-10-1984 by L.L. No. 6-1984; 5-2-1995 by L.L. No. 6-1995]

D. Upon completion of construction, the entire water system must be turned over to the Town. However, before the Town will undertake to take over such water system so installed in private developments, the developer must transfer its right, title, interest and ownership to the Town for the normal consideration of \$1 before it will undertake to keep it in operation and repair. The Town must be furnished satisfactory proof that either the streets in which the water mains are laid have been dedicated and accepted by proper public authority or instruments granting easements to the Town in a form to be recorded in Albany County Clerk's office with a satisfactory title company certificate showing the same to be executed by all owners and mortgagees or other lienors, and that all valve boxes have been located and placed at the right levels.

E. Upon satisfactory completion of the above sections, the Department will then advise the New York Fire Insurance Rating Organization accordingly.

§ 272-10. Penalties for offenses.

[Amended 6-1-1999 by L.L. No. 5-1999]

Unless otherwise provided herein, the violation of any provision of this chapter shall be an offense of the chapter, which will be punished by a penalty as set forth in Chapter 1, General Provisions, Article III.

ARTICLE II. Cross-Connections

[Adopted 5-2-1995 by L.L. No. 6-1995]

§ 272-11. Purpose.

A. The purpose of this article is to protect the Town of Guilderland public water supply from possible contamination by isolating within the customer's internal distribution system such contamination which could backflow into the public water system; and

B. To comply with the requirements of the New York State Sanitary Code 5-1.31.

§ 272-12. Definitions.

For the purpose of this article, unless the context or subject is plainly evident, the following terms used are hereby defined as follows:

ACCEPTABLE BACKFLOW PREVENTION DEVICE

An acceptable air gap, reduced pressure zone device (RPZ) or double check valve assembly (DCV) as used to contain a potential contamination within a facility.

ACCEPTABLE DEVICES

Those devices or assemblies found to be acceptable for containment control in New York State in accordance with the Department of Health's requirement as outlined in this article.

AESTHETICALLY OBJECTIONABLE FACILITY

One in which substances are present, which if introduced into the public water system could be a nuisance to other water customers, but would not adversely affect human health. Typical samples of such substances are: food grade dyes, hotwater, stagnant water from fire lines, lawn sprinkler systems in which no chemical additives are used.

AIR GAP SEPARATION

An unobstructed vertical atmospheric break from the lowest opening of a water supply pipe or faucet and the flood level rim of a receiving vessel. The differential distance shall be at least double the diameter (2D) of the supply line. In no case shall the air gap be less than one inch.

APPROVED CHECK VALVE

A check valve that seats readily and completely. It must be carefully machined to have freemoving parts and assured watertightness. The face of the closure element and valve seat must be bronze, composition, or other noncorrodible material which will seat tightly under all prevailing conditions of field use. Pins and bushings, shall be of bronze or other noncorrodible, nonsticking material, machined for easy, dependable operation. The closure element, e.g., clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

APPROVED DOUBLE CHECK VALVE ASSEMBLY (DCV)

An assembly with two, single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve. This device must be approved as a complete assembly. The device shall be readily accessible for maintenance and testing.

APPROVED REDUCED PRESSURE ZONE DEVICE (RPZ)

A device incorporating a minimum of two independently acting check valves and an automatically operated pressure differential relief valve located between the two checks. During normal flow and at the cessation of normal flow, pressure between these two checks shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device

shall be fitted with properly located test cocks. This device must be approved as a complete unit. The device shall be readily accessible for maintenance and testing and installed in a location where no part of the device will be submerged.

APPROVED WATER SUPPLY

Any water supply approved by the New York State Department of Health.

AUXILIARY WATER SUPPLY

Any water supply on or available to the premises other than the Town water supply.

BACKFLOW

A flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipes of the Town water supply from any source other than its intended source.

BACKPRESSURE

The resulting backflow of contaminated, polluted or otherwise unacceptable quality water from a plumbing fixture or other customer source(s) into the Town's water supply system due to a greater pressure within the customer's water system.

BACKSIPHONAGE

The backflow of contaminated, polluted, or water of unacceptable quality from a plumbing fixture or other customer source(s), into the Town's water system due to a temporary negative or subatmospheric pressure within the public water system.

CERTIFIED BACKFLOW PREVENTION DEVICE TESTER

A person who is examined annually by the New York State Department of Health and found competent by it for testing of backflow prevention devices.

CUSTOMER

A water user served by the Town's water system.

CUSTOMER'S WATER SYSTEM

The piping used to convey water supplied by the Town's system throughout a customer facility.

CONTAMINATION

The presence in water of a substance (organic, inorganic, radiological, or biological) that degrades its quality.

COUNTY HEALTH OFFICER

The Albany County Health Officer, his assistants, or authorized deputies acting as, or any person appointed as, Health Officer of the County of Albany.

CROSS-CONNECTION

Any unprotected connection between any part of the Town water supply system and any source or system containing water or substances that are or cannot be approved as safe and potable for human consumption.

HOSE BIBB VACUUM BREAKERS

A protective device that will provide back-siphonage protection for portable hoses connected to exterior hose thread faucets.

MANAGER

The Manager of Water of the Town of Guilderland, or his authorized representatives.

NONTOXIC SUBSTANCE

Any substance of a nonpoisonous nature that may create a moderate or minor hazard to the water system consumer.

PROTECTIVE DEVICE

Any of the following devices:

- A. Air gap separation.
- B. Approved reduced pressure zone device (RPZ).
- C. Approved double check valve assembly (DVC).
- D. Hose bibs vacuum breaker.

SERVICE CONNECTION

The terminal end of a service from the Town water supply at its point of delivery to the consumer. If a meter is installed "service connections" means the downstream end of the meter. No unprotected tare-offs from the service line ahead of any meter or backflow protective device shall be permitted.

TOWN

The Town of Guilderland.

TOWN WATER SUPPLY

An approved water supply sold and delivered to consumers through the water works system of the Town of Guilderland.

TOXIC SUBSTANCE

Any substance (liquid, solid, or gaseous), that when introduced into the water system, creates or may create a danger of the health of the consumer.

§ 272-13. Determination of degree of hazard; type of protection; auxiliary water supply.

Each service connection from the Town water supply shall be protected against backflow of water from the premises into the Town water supply.

A. If the auxiliary water supply handled in a separate piping and cross-connections are known to exist between the Town supply and auxiliary which cannot be presently eliminated, the Town water supply shall be protected by an approved reduced pressure zone device. When the Town water supply may be contaminated, the Manager may order the Town supply protected by an air gap separation installed at the service connection.

B. Toxic or hazardous substances.

(1) Toxic or hazardous substance under pressure. At the service connection to any premises on which a toxic substance or material dangerous to health, is or may be handled under pressure, the Town water supply shall be protected by air gap separation. The air gap separation shall be located as close as practicable to the property line, and receiving tanks shall be entirely visible. If the conditions cannot be reasonably met, the Town water supply shall be protected by an approved reduced pressure zone device, providing this alternative is acceptable to the Manager and County Health Officer.

(2) Toxic or hazardous substance not under pressure. At the service connection to any premises on which a toxic substance material dangerous to health is or may be handled, but not under pressure, the Town water supply shall be protected by an air gap separation or an approved (RPZ) reduced pressure zone device. The RPZ or air gap shall be located as close as practicable to the property line and all piping between the property line and receiving tanks shall be entirely visible.

C. Nonhazardous substance. At the service connection to any premises a substance that would be objectionable is handled so as to constitute a cross-connection, the Town water supply shall be protected by an approved double check valve assembly.

D. Sewage treatment plant and pumping stations. At the service connection to any sewage treatment plant or sewage pumping station, the air gap shall be located as close as practicable to the property line and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the Town water supply shall be protected by an approved reduced pressure zone device.

E. Fire systems. At the service connection to any premises in which a fire protection system is installed, the Town water supply shall be protected with an approved backflow prevention device in accordance with the following classifications:

(1) Class 1: direct connection from public water mains only; no pumps, tanks or reservoirs; no physical connections from auxiliary water supplies; no anti-freeze or other additives of any kind; all sprinkle drains discharging to the atmosphere, dry wells, or other safe outlets: protection (min) double check valve assembly.

(2) Class 2: same as Class 1, except booster pumps may be installed in the connections from the street mains. Booster pumps shall avoid drafting so much water the water main is reduced below 20 p.s.i.: protection (min) double check valve assembly.

(3) Class 3: direct connection from public water supply main plus one of the following: elevated storage tanks; fire pumps taking suction from above ground covered reservoirs or tanks; and pressure tanks: protect (min) double check valve assembly.

(4) Class 4: directly supplied from public mains, similar to Classes 1 and 2, and with an auxiliary water supply on or available to the premises; within 500 feet of the pumper connection: protection air gap or reduced pressure zone device.

(5) Class 5: directly supplied from public mains, and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water system; or where anti-freeze or other additives are used: protection air gap or reduced pressure zone device.

(6) Class 6: combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pumps: protection determined by the manager after repair review of engineering drawings of the system.

F. Miscellaneous apparatus.

(1) Lawn sprinkling systems. At the service connection to any permanently installed lawn sprinkling system, the Town water supply shall be protected by an approved double check valve assembly. The use of lawn sprinkling systems handling liquid fertilizers or other chemicals is prohibited.

(2) Swimming pools solar collection units, boilers, etc. that may directly or indirectly connect to the Town's water supply shall be isolated with an appropriate backflow device as determined in this article.

(3) Exterior hose bibbs. All exterior hose bibbs (faucets) that are connected to the Town's water supply shall be protected from backflow by the means of a hose bibb vacuum breaker.

§ 272-14. Responsibility of consumer.

It shall be the responsibility of each consumer at his/her expense to furnish, install, test and maintain in safe and working order any and all protective devices required in this chapter. The Town shall not be responsible for any loss or damage directly or indirectly resulting from or caused by the improper or negligent installation, operation, use, repair or maintenance of, or interfering with any protective device by any consumer or any other person. It shall be the consumer's responsibility to install and maintain as part of each backflow device installation properly sized water expansion tanks to protect his/her individual plumbing system from damage due to thermal expansion.

§ 272-15. Inspection; records; costs.

The consumer on whose premises any protective device is installed shall have each device inspected annually. Each device shall be repaired, overhauled, or replaced at the expense of consumer whenever it is found to be defective. Records of such tests, repairs, and overhauls shall be kept and a copy of such records shall be forwarded to the Department on an annual basis. If successive inspections reveal repeated failures in the operation of any device, the Manager may require more frequent inspections. All test, repairs, and overhauls shall be performed by a New York State certified backflow device tester. If at any time the consumer fails to have any of the required inspections made as required herein or make the above-described records available, the Department shall have the right to inspect the device and the consumer shall pay the cost thereof. The cost of any inspection made by the Department shall be included as a part of the next ensuing municipal water bill.

§ 272-16. Noncompliance; discontinuation of service; notice and service.

A. No water service shall be installed on the premises of any consumer unless the Town supply is protected as required by this article.

B. Town water service to the premises of any consumer may be discontinued by the Department if any protective device required by this chapter has not been installed, inspected, tested and maintained, or is defective and/or has been bypassed.

C. Town water service shall be discontinued immediately and without notice to the consumer if the Department and/or the County Health Officer determines that:

- (1) The Town water supply is being contaminated or is in immediate danger of contamination.
- (2) A protective device required by this chapter has not been installed, or is defective, or has been bypassed.
- (3) The consumer cannot immediately be located. Town water service shall not be restored until any protective device required by this chapter and approved by the Department has been properly installed or until conditions at the consumer's premises causing the contamination or possible danger of contamination has been abated to the satisfaction of the Department or County Health Officer.

D. Notice; service.

(1) Except as provided in Subsection C, the Town supply shall not be discontinued until written notice thereof has been given to the consumer. The notice shall state:

- (a) The conditions or defects which are to be corrected.
- (b) The manner in which the stated conditions or defects are to be corrected.
- (c) The date on or after which the Town supply or water will be discontinued. This date shall not be less than 15 nor more than 90 days following the date of delivery or mailing of notice. The Department may grant the consumer an extension of time not to exceed 90 days, if, in his/her determination, the consumer has exercised due diligence, but has been unable within the time originally allowed.

(2) The notice shall be given by delivering the same to the consumer or agent thereof. If the consumer cannot be found, then service of the notice shall be mailed, postage fully prepaid, addressed to the consumer at the place of business or residence set forth in the application of the consumer for water service in the records of the Town. Once discontinued, delivery of water shall not be resumed until the protective device required by this article and approved by the Manager has been properly installed and tested, or until conditions at the consumer's premises creating the need for

a protective device have been abated or corrected to the satisfaction of the Manager and the County Health Officer.

§ 272-17. Current devices.

All presently installed devices which do not meet the requirements of this article but were approved devices for the purposes described herein at the time of installation shall not be exempt from these regulations, unless the Department is assured that the device will satisfactorily protect the Town's water supply. Whenever an existing device is moved from its present location or plumbing changes occur within the premises, a backflow prevention device meeting the requirements of this article shall be installed.

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- § 280-53. Site plan approval.
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- § 280-57. Retention of experts; payment.
- § 280-58. Completion of utilities and road improvements.
- § 280-59. Issuance of certificates; inspection; completion of construction.
- § 280-60. Penalties for offenses.

CHAPTER 280. ZONING

[HISTORY: Adopted by the Town Board of the Town of Guilderland 6-2-1987 by L.L. No. 3-1987 (Subpart 35, Div. 10, of the 1974 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building Department — See Ch. 17.
Building permits — See Ch. 140.
Fire prevention and building construction — See Ch. 171.
Flood damage prevention — See Ch. 177.
Freshwater wetlands — See Ch. 181.
Sewers — See Ch. 225.
Streets and sidewalks — See Ch. 243.
Subdivision of land — See Ch. 247.
Water — See Ch. 272.

ARTICLE I. General Provisions

§ 280-1. Short title.

This chapter shall be known, cited and referred to as the "Town of Guilderland Zoning Law of 1987."

§ 280-2. Authority.

Enactment of this chapter by the Town of Guilderland is pursuant to Article 16 of the Town Law of the State of New York.

§ 280-3. Purpose and objectives.

A. The purpose of this chapter is to encourage appropriate and orderly physical development; to promote in all possible ways public health, safety, convenience and general welfare; to classify, designate and regulate the

location and use of buildings, structures and land for agricultural, residential, commercial, industrial or other uses in appropriate places and for said purpose to divide the Town of Guilderland into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement. Objectives of this chapter are to: provide adequate open space for light and air; provide desired levels of population density; secure safety from fire, flood, panic and other dangers; provide assurance of opportunities for effective utilization of land; provide adequate community and public utility facilities; provide workable relationships of land uses to the transportation system; prevent congestion in the streets, preserve the natural beauty and ecology of streams, watercourses, bodies of water, wetlands and other natural areas of value to the community; and conserve and stabilize the value of property.

B. The regulations contained in this chapter have been made in accordance with a well-considered Comprehensive Plan for the Town of Guilderland and have been made with reasonable considerations, among other things, as to the character of each district and its peculiar suitability for particular uses.

ARTICLE II. Terminology

§ 280-4. Word usage.

As used in this chapter:

A. The masculine includes the feminine, the singular includes the plural and the present tense includes the future tense.

B. The word "person" includes an individual, firm, copartnership or corporation.

C. The word "shall" is always mandatory. The word "may" is permissive.

D. The word "lot" includes the word "plot" or "parcel."

E. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

F. Any reference to a residence or residential district shall be interpreted to mean any district with the word "residential" in its title.

G. A building or structure includes any part thereof.

§ 280-5. Definitions.

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

ABANDONMENT

The voluntary, absolute relinquishment and/or giving up of a known right to which one is entitled, with the intention of permanently terminating or parting with such right. Abandonment depends upon the concurrence of two elements or factors:

- A. The intention to relinquish and permanently give up a known right to continue a nonconforming use; and
- B. The cessation of such nonconforming use, and overt act or failure to act, implying that the owner intends to permanently cease from putting the premises to the nonconforming use, or such other nonconforming use as may be permitted by this chapter. Whenever a nonconforming use of a structure has been discontinued for a period of one year, such discontinuance shall constitute prima facie evidence that such use has been abandoned.

ACCESSORY BUILDING

A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ACTIVE ORCHARDS

A group of plants or trees under cultivation for either commercial purpose or private consumption.

ADDITION

Any structure which is built or placed so as to be attached to a building and have a common roof or wall with the building it is attached to.

ADVERTISING STRUCTURE

Any notion or advertisement, pictorial or otherwise, and any structure used as, or for the support of, any such notice or advertisement, for the purpose of making anything known about goods, services or activities not on the same lot as said advertising structure.

AGRICULTURE or FARMING

The use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, silvaculture, apiaries and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any

such accessory use shall be incidental to that of normal agricultural activities; and provided, further, that the above uses shall not include the operation of a feed lot or the manufacturing or processing of agricultural products as a principal use.

ALLEY

A public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

ALTER

To vary or modify without changing the basic or essential character of something. (Also see "structurally alter.")

AMUSEMENT ARCADE

A place where more than three electronic and/or mechanical devices are located for use, for a charge, by the public for amusement purposes.

ANIMAL HOSPITAL

A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

APARTMENT HOUSE

A building arranged, intended or designed to be occupied by three or more resident households living independently of each other. An apartment house is a structural definition and applies irrespective of how the individual dwelling units therein are offered for sale or rental. An apartment house and multiple or multifamily dwellings are the same type of structure.

APPURTENANT ACTIVITIES

For the purpose of excavations, all on-site operations involved in the treatment, processing or further fabrication of soil, sand, gravel or natural deposits, including washing, sedimentation ponds, grading sorting, grinding operations, concrete batching plants, asphalt mixing plants and aggregate dryers.

ATTIC

That space of a building which is immediately below or 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.

BASEMENT

See "cellar."

BED-AND-BREAKFAST

An owner-occupied dwelling unit within which is provided overnight accommodations for transient guests, and which may include the serving of breakfast but no other meals to such guests.

[Added 4-2-1996 by L.L. No. 2-1996]

BILLBOARD

See "advertising structure."

BOARDINGHOUSE

Any dwelling in which more than four persons either individually or as families are housed or lodged for hire on a nontransient basis with or without meals. A rooming house or a furnished rooming house shall be deemed a boardinghouse.

BUILDING

Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattels. See "accessory building."

BUILDING, DETACHED

A building surrounded by open space on the same lot.

BUILDING GROUP

A group of two or more principal buildings and buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

BUILDING HEIGHT

See "height of a building."

BUILDING LINE WIDTH

The baseline of a vertical plane, parallel to the street line or common driveway shared by two or more structures, and extending from one lot line to another, beyond which no portion of a building shall extend into the front yard. Side and rear lines shall be determined in the same manner.

[Amended 2-6-1996 by L.L. No. 1-1996]

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

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 relationship.

CAPITAL EXPENDITURE

The amount of money likely to be spent and/or debts likely to be incurred.

CELLAR

A story whose floor is more than 1/2 of its story height below the average level of the surrounding ground.

CLUB

A membership recreational building, but not including a club the chief activity of which is a service customarily carried on as a business.

COMMERCIAL VEHICLE

A vehicle having a registered carrying or hauling capacity of one ton or more. A vehicle especially constructed or equipped for the purpose of towing or removing wrecked or disabled vehicles and commonly called a "tow truck" or "wrecker" and all types of vehicular construction equipment used in the conduct of a trade or business.

COMMON AREA

Space reserved for use by any and all residents of a housing development, including but not limited to halls, stairways and landings in apartment houses.

CONTIGUOUS SINGLE-FAMILY DWELLINGS

A one-family dwelling contiguous to one or more one-family dwellings separated by a party or common wall.

CUSTOMARY HOME OCCUPATION

An occupation or a profession which:

- A. Is carried on wholly within the enclosed walls of the dwelling unit exclusive of accessory structures and does not use more than 25% of the floor area.
- B. Is carried on by a member of the family in the dwelling unit.
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- D. Does not employ more than one person outside the family.
- E. Shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in a front yard.
- F. Shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons outside the dwelling unit. In the case of electrical interference, there shall be no radio or television disruption outside the dwelling unit or fluctuations in line voltages off the premises.

DAMMING

The formation of a barrier preventing, impeding or slowing the flow of water and/or loose solid materials, thereby impounding water and/or loose solid materials behind the barrier.

DAY-CARE CENTERS

Any place, however designated, which has been issued a license to operate as a day-care center by the New York State Department of Social Services pursuant to Part 418 of the New York State Department of Social Services department regulations.

[Added 5-1-1990 by L.L. No. 5-1990]

DEPOSIT

To lay down, place, put or let fall.

DESIGNED LOCAL SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 150,000 square feet nor more than 400,000 square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED NEIGHBORHOOD SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of less than 150,000 square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED REGIONAL SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 400,000 square feet nor more than one million square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED SHOPPING CENTER

The use of a division of a single structure or the grouping of buildings which will constitute a convenient shopping center designed as a planned and harmonious unit.

[Amended 2-2-1999 by L.L. No. 1-1999]

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within any given area.

DIAMETER OF TREE

The width of the main stem of a tree or shrub measured at an elevation of five feet above ground level.

DILIGENTLY PROSECUTED

A valid building permit has been issued and construction of the principal building is underway.

DISTRICT, MORE RESTRICTED OR LESS RESTRICTED

In the following list each district shall be deemed to be more restricted than the districts which follow it: OS, EPO, A, R-20, R-15, R-10, R-7.5, MR, TH, PUD, MD, BN-RP, LB, GB, LI, I.

DRAINAGE

The gravitational movement of a liquid substance, normally water, from its place of origin via surface runoff within or outside of developed channels or via subsurface under flow.

DRAINAGE PATTERN

Any regular form or shape by which the process of drainage occurs.

DREDGE

To dig, gather, excavate, pull out or deepen with a dredging instrument or machine.

DRIVE-IN MOVIE THEATER

An open lot or part thereof with appurtenant facilities devoted to the showing of moving pictures on a paid admission basis to patrons seated in automobiles or on outdoor seats.

DUMP

A lot or land used primarily for the disposal, by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

DUMPING

The act of unloading, depositing or letting something fall in a heap of unshaped mass.

DWELLING

Any building or portion thereof designed or used as the residence or sleeping place of one or more persons.

DWELLING, MULTIPLE-FAMILY

A building or portion thereof designed to be used as a residence by three or more families and containing three or more dwelling units.

DWELLING, SINGLE-FAMILY

A building designed or used for residence purposes by not more than one family, containing one dwelling unit only.

DWELLING, TWO-FAMILY or DUPLEX

A building designed or used for residence purposes by not more than two families, and containing two dwelling units which may be attached side by side that individually meet the floor area requirements established for single-family dwellings.

DWELLING UNIT

One or more rooms constituting a separate, independent housekeeping unit for ownership or lease or rent designed for occupancy by one family and physically independent of any other group of rooms or dwelling units which may be in the same structure, containing independent cooking, sanitary and sleeping facilities.

EFFICIENCY APARTMENT

A dwelling unit without a separate distinct room for sleeping.

EROSION

The process by which land is worn away by the action of water and/or wind.

EXCAVATION

The removal of more than 2,000 cubic yards of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means.

FAMILY

One or more persons who live together in one dwelling unit and maintain a common household, provided that unless all members are related by blood, adoption or marriage, no such family shall contain over two nonrelated persons.

FAMILY DAY-CARE HOMES

Any place, however designated, which has been issued a permit to operate a family day-care home by the New York State Department of Social Services pursuant to Part 417 of the New York State Department of Social Services department regulations.

[Added 5-1-1990 by L.L. No. 5-1990]

FARM

A unit of land having at least five acres and used for agricultural purposes.

FARM, HOG OR SWINE

A farm used for the raising of more than 10 hogs, or raising any number of hogs for the purpose of sale, barter or exchange.

FENCE, CLOSED

Any type of fence where the ratio of transparent area to opaque area is less than 3 to 1.

FENCE, DECORATIVE

Any fence made of decorative or ornamental material such as split rail, redwood, pine and the like; excluding, however, materials such as steel, wire, wire mesh, chicken wire, chain-link, concrete and the like.

FENCE, OPEN

Any type of fence where the ratio of transparent area to opaque area is 3 to 1 or greater.

FILLING

The depositing of natural or artificial material that raises the existing grade of land or modifies the surface of water bodies.

FINISHED GRADE

The 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, in computing height of buildings and other structures or for other purposes, shall be the average elevation of all finished grade elevation around the periphery of the building, except that this average shall not exceed 1/2 of the floor-to-ceiling height.

FLOOR AREA, GROSS

The sum of the horizontal areas of the floors of a building, excluding unenclosed or unheated porches, basement areas and garages, measured from the interior face of the exterior walls, except that basement space used for retailing shall be included for purposes of calculating requirements of accessory off-street parking space and accessory off-street loading berths.

FLOOR AREA RATIO

The ratio between the total floor space of the building or buildings and the total lot area.

FRONT LOT

A lot located between a keyhole lot and the road or street.

[Added 2-6-1996 by L.L. No. 1-1996]

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage other than a private garage, available for storage, repair, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles; excepting, however, the equipping or installation of

parts where such installation is incidental to the retail sale of such parts or equipment.

GASOLINE FILLING STATION

An area of land, including structures thereon, or any building or part thereof, that is used for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubrication substance, including any sale of motor vehicle accessories, and which may or may not include facilities for lubrication, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting.

GRADE LEVEL

The final grade level of the ground at the front line of the building.

GROSS LEASABLE FLOOR AREA

The total floor area designed for nonresidential tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces. It is the area which the tenant pays rent for and is exclusive of the common mall or gathering areas between stores.

GROUNDWATER RESERVOIR CAPACITY

The ability of land to hold water beneath the surface of the earth.

GROUP FAMILY DAY-CARE HOMES

Any place, however designated, which has been issued a permit to operate a group family day-care home by the New York State Department of Social Services pursuant to Part 416 of the New York State Department of Social Services department regulations.

[Added 5-1-1990 by L.L. No. 5-1990]

HABITABLE FLOOR

Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

HAULAGEWAY

Any road constructed or improved by the operator which enters or exits from an excavation or quarry site and which receives substantial use.

HEDGE

Any type of bush, plant or other natural growth which serves or can serve the same purpose as a fence.

HEIGHT OF A BUILDING

The vertical distance from the finished grade level to a point midway between the highest and lowest points of the roof, provided that chimneys,

spires, towers, elevators, penthouses, tanks and similar permitted projections shall not be included in determining the height.

HIGH-RISE BUILDING

A building in excess of 35 feet. (See § 280-32A for height exceptions).

[Amended 12-15-1998 by L.L. No. 15-1998]

HOSPITAL

An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including, as an integral part of the institution, such related facilities as laboratories, outpatient facilities, training facilities, central service facilities and staff offices.

HOTEL

A building or any part thereof which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

HYDROSTATIC WATER PRESSURE

The pressure exerted by water on an immersed object.

IMPERVIOUS SURFACE

Anything situated on the surface of the earth which cannot be penetrated by water.

INN

A building or group of buildings, whether attached or detached, containing for rent individual sleeping accommodations used as an accessory use in support of a sit-down restaurant that provides meals for organized celebrations such as weddings, reunions and similar events. To the extent that, from time to time, the lodging at the inn is not required in support of an organized event at the sit-down restaurant, it may be used for the same purpose as either a hotel or motel.

[Added 6-5-2001 by L.L. No. 7-2001]

INTERIOR PROJECT ROAD

A road wholly within a project or development, whether dedicated or not, which is designed solely to provide access to the residences, lots or developments therein.

JUNKYARD

A lot, land or structure, or part thereof, used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material; or the collecting, dismantling, storage, processing or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof, all when operated as a business on site where an employee is in attendance for the entire working day to receive deliveries and to be responsible for

ensuring that materials brought to the site are stored in a manner that will not result in any sort of nuisance to property or persons off the site.

KENNEL

The keeping of more than three dogs that are more than six months old.

[Amended 5-3-1988 by L.L. No. 2-1988]

KEYHOLE ACCESS

The narrow strip of land, generally uniform in width, that provides the keyhole lot with access to a public road or street. The width of the keyhole access shall not be less than 20 feet at any point. The area of the keyhole access shall not be counted for the purpose of determining the minimum lot area compliance.

[Added 2-6-1996 by L.L. No. 1-1996]

KEYHOLE LOT

A lot that is located to the rear of another lot but is connected to a public right-of-way by a strip of land at least 20 feet wide.

[Added 2-6-1996 by L.L. No. 1-1996]

LAND USE ACTIVITY

The employment of the solid part of the surface of the earth, anything beneath the earth's surface or anything natural or man-made attached to the earth's surface in such a way as to alter it in any way.

LINE, STREET

The dividing line between the street or highway and the abutting real properties.

LOT

A parcel of land under separate ownership or parcel of land as designated on a plot plan recorded in the Albany County Clerk's office.

LOT AREA

The computed area contained within the lot lines; said area to be exclusive of street or alley rights-of-way or future rights-of-way if such have been determined.

LOT, CORNER

A lot or portion of lot at the junction of and abutting on two intersecting streets.

LOT COVERAGE

That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

LOT DEPTH

The average distance between the front and rear lot line.

LOT FRONTAGE

The distance between side lot lines, measured at the street line.

LOT, THROUGH

A lot other than a corner lot which fronts on two streets, or upon a street and a right-of-way of more than 25 feet in width.

LOT WIDTH

The distance between side lot lines, measured at the building front line.

MOBILE DWELLING COURT

A parcel of land planned and improved for the placement of mobile dwellings for nontransient use.

MOBILE DWELLING OR HOME

A factory-built transportable dwelling unit used for living and sleeping and constructed on an I-beam chassis which remains an integral part of the unit.

MOTEL

A building or group of buildings, whether attached or detached, containing for hire individual living and sleeping accommodations, each of which is considered a unit, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins," "roadside hotel."

MULTIPLE DWELLING

See "dwelling, multiple-family."

MUNICIPALITY

Any city, Town or village and the County of Albany.

NEW CONSTRUCTION

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

NONCONFORMING USE

A use of land or of a building or structure, which use lawfully existed at the time of the adoption of this chapter, or of any amendment thereto, but which use does not conform with the use regulations imposed by this chapter or such amendments thereto.

NONRESIDENTIAL DISTRICT

The following districts shall be considered nonresidential districts: BN-RP, LB, GB, LI, I.

Editor's Note: The definition of "nursery school," which definition immediately followed this one, was repealed 5-1-1990 by L.L. No. 5-1990.

NURSING CARE HOMES

Any place or institution for the aged, infirm, senile, chronic or convalescent established to render, for compensation, domiciliary care, custody, treatment and/or lodging of three or more persons who require or receive special diet, assistance in feeding, dressing, walking, administering medicines, carrying out the treatment of a doctor licensed by the State of New York in any other ordinary daily activities of life; or are confined to bed or a chair. This category does not include institutions for the treatment of the mentally ill, hospitals, sanitariums, boardinghouses and the like.

OBSTRUCTION, WATERCOURSE

Any natural or man-made object or material which clogs or blocks the flow of water so as to hinder or prevent its passage.

OFFICE BUILDING

A structure, the principal use of which shall be the accommodation of an office for administrative, governmental, public utility, professional or sales activity.

OPEN SPACE

Area unoccupied by any building, structure or parking area, whether paved or unpaved, and shall be exclusive of any required yard areas.

OUTSIDE STORAGE OF MATERIALS

The unenclosed placement or deposition of natural or man-made objects or materials for future use.

PARKING FACILITY

A main or accessory building, other than a private garage, used for parking or temporary storage of motor vehicles, boats and trailers.

[Added 6-1-1999 by L.L. No. 4-1999]

PARKING FACILITY, MULTI-LEVEL

A parking facility which has more than one floor.

[Added 6-1-1999 by L.L. No. 4-1999]

PARKING SPACE

A permanently surfaced and marked area for the parking of a motor vehicle.

PERMITTED USE (or its equivalent)

Not to be deemed to include any nonconforming use or use requiring a special use permit.

PLANNING BOARD

The Planning Board of the Town of Guilderland, New York.

POLLUTE

To contaminate the environment, make it unclean and/or impair natural processes and functions.

PREMISES

A lot, together with all the buildings and uses thereon.

PRODUCTIVE AGRICULTURAL OPERATIONS

The activities of cultivating the soil, producing crops, raising livestock and the growing of trees, plants and shrubs as part of a commercial operation. This definition does not include the construction or placement of farm-related structures.

PROFESSIONAL OFFICE

The office of any activity or service licensed by a state or governmental agency.

PUBLIC BUILDINGS AND GROUNDS

Any one or more of the following uses, including grounds necessary for their use and accessory buildings:

- A. Public libraries and museums.
- B. Town (municipal) buildings and storage and repair facilities.
- C. Public schools.
- D. Town parks and recreational facilities.

RECLAMATION

The conditioning of areas affected by mining or excavation to make them suitable for any use or purposes consistent with the Comprehensive Plan for the Town of Guilderland.

RECLAMATION PLAN

The operator's written proposal for reclamation and, where relevant, grading specifications and manner and type of revegetation.

RESERVATION FOR HIGHWAY PURPOSES

A strip of land between the existing right-of-way line and the future right-of-way line of a highway as determined by the agency having jurisdictional responsibility over the maintenance and construction of the highway.

RESIDENCE, RESIDENTIAL

A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. "Residence," therefore, includes all one-family, multifamily, boarding-, fraternity and sorority houses. However, "residences" shall not include the following:

- A. Transient accommodations, such as hotels, motels, and hospitals; or
- B. That part of a building containing both residences and other uses which is used for any nonresidential use, except accessory uses for residences.

RESIDENTIAL DISTRICT

The following districts shall be considered residential districts: A, R-40, R-30, R-20, R-15, R-10, R-7.5, MR, TH, PUD, MD.

[Amended 12-4-1990 by L.L. No. 10-1990]

RESTAURANT, FAST-FOOD

A restaurant where patrons are not customarily served at tables or sit-down counters and where all or a portion of the food is prepared, and wrapped, boxed, bagged or prepackaged, or is prepared in a manner in anticipation of customers, and where the customer places an order at a common counter or drive-in facility by waiting in line or by being served through a sequential numbering system and either consumes the food at tables provided in or adjacent to the building, in vehicles on site or elsewhere.

RESTAURANT, SIT-DOWN

A permanent building used for the serving of meals where customers are seated principally at a table and are waited on when seated, where a full line of meals is offered, where the main proportions of the meals are not precooked or prepackaged, in anticipation of customers; and, further, where, under proper authority, alcoholic beverages may be served from a service bar only and where the meal is not customarily or occasionally eaten in vehicles.

RIDING ACADEMY

Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY OR HIGHWAY LINE

The line present or proposed which is the joint boundary line between a lot and the street or highway right-of-way.

RIPARIAN VEGETATION

Vegetation which is located on or along the bank of a watercourse.

ROAD STAND

A light structure with a roof, either attached to the ground or movable, intended for the sale of local produce or crafts to the general public.

SEDIMENTATION

The deposition of material by wind or water and settling of the material in a body of water.

SETBACK

The minimum allowable horizontal distance from a given point or line of reference, such as a street, right-of-way or future right-of-way, if such has been determined, to the nearest vertical wall or other element of a building or structure as defined herein.

SIGN

Any advertising medium, structure, planting or device which advertises, directs or calls attention to any business, article, substance or service. A sign may be painted, printed, pasted, posted, suspended from or affixed to any building, billboard, wall, fence, railing, vehicle, natural object or structure of any kind on real property or upon the ground itself.

SIGNABLE AREA, WALL

The continuous portion of a building face unbroken by doors or windows. It is the area in which structure-mounted signs are permitted.

SIGN, ADVERTISING

Any sign which directs attention to a business, principal commodity, service or entertainment, conducted, sold or offered, elsewhere than upon the premises where the sign is located or to which it is affixed.

SIGN AREA

The area of a sign shall be determined as the largest rectangle that is required to enclose the sign, including any frame or panel signs of individual letters, but excluding supports, braces or guys. No more than two such rectangles may be used to enclose and measure the area of a sign.

SIGN, BILLBOARD OF COMMERCIAL ADVERTISING

An advertising sign, structure or symbol, erected and maintained by an individual or corporation engaged in the sale or rental for profit of space thereon to a clientele of manufacturing, service, or commercial enterprises, upon which space there is displayed, by means of painting, posting or other method, advertising copy describing products or services which are not necessarily made, produced, assembled, stored or sold from the lot or premises upon which the advertisement is displayed.

SIGN, BUSINESS

Any sign which directs attention exclusively to a permitted business, profession or industry conducted upon the premises on which the sign is located, or to a primary product, commodity or service sold by such business or industry, and shall be deemed an integral part of such business or industry.

SIGN, CARICATURE OR BIZARRE

Any sign on which representation, especially pictorial, of the distinctive features or peculiarities of the subject are exaggerated or distorted to produce a comic, misleading or grotesque effect.

SIGN, FLASHING

An illuminated sign on or in which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

SIGN, FREESTANDING

Any sign supported by a pylon, pole, upright or brace, placed in the ground and which stands free of a building and/or other structure.

SIGN, ILLUMINATED

Any sign which has characters, letters, figures, designs or outline, illuminated by electric lights, neon or luminescent tubing.

SIGN, OFFICIAL

Any sign, symbol or device erected and maintained by any governmental unit.

SIGN, PAINTED WALL

Any sign painted directly on the surface of any wall or other structure.

SIGN, PICTORIAL

Any sign which is constructed so as to physically represent an object of which contains an abstract, graphic logo, geometric design or other pictorial matter.

SIGN, PROJECTING

Any sign which is attached to a building or structure, or beyond the surface of that portion of the building or structure to which the sign is attached, and not parallel to the face of the building.

SIGN, REPRESENTATIONAL

Any three-dimensional sign which is built so as to physically represent the object advertised.

SIGN, ROOF

Any sign erected, constructed and maintained wholly upon or above the roofline of any building with the principal support on the roof or eave structure.

SIGN, TEMPORARY

Any sign, banner or other advertising device constructed of temporary material, with or without a structural frame intended for a limited period of display, including decorative displays for holidays, public demonstrations or specific events.

SIGN, WALL

Any sign or poster on any surface or panel that may be affixed to the front, rear or side wall of any building or structure, with the exposed face of such sign in a plane approximately parallel to the plane of the wall, and projecting not more than 12 inches beyond the building line or face of a wall.

SILTATION

The deposition of loose sediment and small rock particles by wind or water.

SITE PLAN

A plan, prepared to scale, showing accurately and with complete dimensioning all of the uses proposed for a specific parcel of land.

SOIL MINING

The excavation or removal of soil products other than topographical alterations.

SOIL STABILITY

The capacity of the land to remain firm when acted upon by natural or man-made elements.

STABLE

An accessory building in which horses are kept for private use, public hire, remuneration or sale.

STORY

That portion of a building included between the surface of the floor and the ceiling next above it having a height of at least seven feet six inches.

STORY, HALF

That portion of a building situated above a full story and having at least two opposite, exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below.

STREET

A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare.

STREET LINE

See "right-of-way or highway line."

STREET WIDTH

The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRUCTURALLY ALTER

In addition to its other ordinary applications, any alteration whereby a building or other structure is adapted to another or a different use.

STRUCTURE

Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming and wading pools, covered patios, towers, smokestacks, poles, etc., excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

SUITABLE VEGETATION

Vegetation in sufficient quantity and of sufficient maturity so as to prevent erosion, maintain the general character of the area and provide effective screening when such purpose is warranted.

SUITABLY LANDSCAPED

Landscaped with vegetation of a type sufficient to effectively screen differing uses, enhance the quality of the environment and protect the general welfare.

SURFACE WATER RUNOFF VELOCITY

The linear speed water attains as it drains the land toward a watercourse.

SWIMMING POOL

Any outdoor water pool intended for bathing or swimming purposes, made of concrete, masonry, metal or other impervious material, maintained in a residential district, which will cause the retaining of water to a greater depth than 18 inches and having a plane surface area of water greater than 100 square feet.

TOPOGRAPHICAL ALTERATION

The incidental excavation or deposit of soil product where the intent is to develop a building lot or building lots pursuant to subdivision approval or for agricultural purposes; or where the time of the project is less than one year and the volume of material removed is less than 2,000 cubic yards.

TOWN BOARD

The Town Board of the Town of Guilderland, New York.

TOWNHOUSE

A dwelling unit which is one of a series of noncommunicating dwelling units, having a common party wall between each adjacent unit, each with private outside entrances.

USE

This term is employed in referring to:

A. The purpose for which any building, other structures or land may be arranged, designed, intended, maintained or occupied.

B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structure or on land.

USED AUTOMOBILE SALES

See "used car lot."

USED CAR LOT

Any place outside a building where two or more used motor vehicles in operating condition are offered for sale or are displayed.

UTILITY

All facilities and equipment related to provide water, electric, gas, sanitary, drainage, telephone or any other services to the public.

WATERCOURSE

A channel in which a flow of water occurs either continuously or intermittently.

WATERCOURSE FLOOD-CARRYING CAPACITY

The volume of flow which a watercourse is able to transmit within its channel during a flood.

WATER QUALITY

The aggregate of characteristics which determines the level of purity of water.

WATER RECHARGE AREA

An area where natural underground water supplies are replenished.

WATER RETENTION CAPABILITIES

The ability of a wetland to withhold water during wet periods and release water during dry periods.

YARD

Any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed by any structure except for the projections as permitted elsewhere in this chapter.

YARD, FRONT

An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter, but may include steps, terraces and unenclosed porches.

YARD, REAR

An open space extending the full width of the lot between a building and the rear lot line.

YARD, REQUIRED

That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth of width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE

An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Guilderland, New York.

ZONING LAW

The Zoning Law of the Town of Guilderland, New York.

ARTICLE III. District Regulations

§ 280-6. Application of district regulations.

No site or structure shall be erected and no existing structure shall be moved, altered or enlarged except in conformity with the regulations for the district in which the site, structure or use is located. Where this chapter imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this chapter shall control.

§ 280-7. Classification of districts.

[Amended 12-4-1990 by L.L. No. 10-1990]

The districts established by this chapter, and subject to future amendments, shall be as follows:

- OS Open Space District
- EPO Environmental Protection Overlay District
- A Agricultural Zone A

[Amended 1-17-1995 by L.L. No. 1-1995]

- R Single-Family Residential Districts R-40, R-30, R-20, R-15, R-10 and R-7.5
- MR Multiple Residence District
- TH Townhouse Dwelling District
- PUD Planned Unit Development District
- MD Mobile Dwelling District
- BN-RP Business Non-Retail Professional District
- LB Local Business District
- GB General Business District
- LI Light Industrial District
- I Industrial District
- Residential Overlay District

[Added 12-4-1990 by L.L. No. 10-1990]

- Rural - Rural 3 District
- 3

[Added 7-12-2005 by L.L. No. 2-2005]

- Rural - Rural 5 District
- 5

[Added 7-12-2005 by L.L. No. 3-2005]

CH Country Hamlet District [

[Added 7-12-2005 by L.L. No. 4-2005]

§ 280-8. District locations.

The boundaries for each district listed as part of this chapter are the boundaries indicated for the district by the map entitled the "Official Zoning Map of the Town of Guilderland," dated with the effective date of this chapter, which is hereby adopted by reference and declared to be part of this chapter, Editor's Note: The Zoning Map is on file in the Town offices. and hereinafter known as the "Zoning Map."

§ 280-9. Official Zoning Map.

There shall exist only one Official Zoning Map, which shall be kept in the office of the Town Clerk, and it shall bear the seal of the Town of Guilderland, a certification that it is the "Official Zoning Map of the Town of Guilderland" and its date of adoption. Said Zoning Map shall be on material suitable for reproduction by a dry copier or equivalent process. Copies of this map which may from time to time be published and distributed shall be accurate only as of the date of their printing and shall bear words to that effect. Changes made in district boundaries or other matters portrayed on the Zoning Map under the provisions of this chapter shall be permanently affixed to the Zoning Map promptly after the amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this chapter which involves matter portrayed on the Zoning Map shall become effective until such change and entry has been made on said map and has been attested by the Town Clerk. Should the Zoning Map become damaged, destroyed, lost or difficult to interpret because of the changes and additions, the Town Board may by resolution adopt a new Zoning Map to supersede the former map. The new Zoning Map shall bear a statement which explains that it supersedes the prior map and gives the date of adoption of both the prior map and the new Zoning Map. The prior map and the records of its adoption and amendments shall be preserved.

§ 280-10. Interpretation of district boundaries.

In making a determination where uncertainty exists as to boundaries of any of the aforesaid districts as shown on said Zoning Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the center line or right-of-way line of streets, alleys, highways, railroads or streams, such lines shall be constructed to be such district boundaries.

B. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.

C. Whenever a district boundary divides a lot into two or more districts, the zoning regulations applicable to each portion of the lot shall apply.

D. Whenever any street, alley or other public way is abandoned in the manner authorized by law, the zoning adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-of-way, and all of the area included in the abandonment shall then and hence forth be subject to all regulations of the extended districts. In the event that none of the above rules is applicable, the location of such boundary, unless the same is indicated by dimension on the map, shall be determined by the Town Board upon recommendation of the Planning Board.

§ 280-11. OS Open Space District.

A. Purpose. The purpose of this district is:

(1) To delineate those essentially open, natural and forested areas in the Town and to ensure that the conditional uses permitted therein are compatible with and do not destroy or detract from these important natural qualities.

(2) To delineate those areas where substantial development of the land in the form of buildings and structures, except fences, are prohibited due to:

(a) Special or unusual conditions of topography, drainage, floodplain or other natural conditions.

(b) The lack of proper community facilities or improvements resulting in the land not being ready for development.

(3) To preserve those areas conveyed to the Town or reserved by a landowner on a subdivision map or as part of the special use permit procedure for recreational, aesthetic or buffering purposes.

B. Permitted uses. There are no permitted uses.

C. Special uses. The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

- (1) Educational or institutional grounds without principal structure.
- (2) Farm.
- (3) Recreational.

§ 280-12. EPO Environmental Protection Overlay District.

This section is reserved for provisions related to the EPO Environmental Protection Overlay District. Editor's Note: The Town provided for the deletion of the Environmental Protection Overlay District regulations. See Ch. 177, Flood Damage Prevention, and Ch. 181, Freshwater Wetlands.

§ 280-13. Agricultural Zone A.

A. Purpose. The purpose of the agricultural zone is to assure a proper economic and physical environment for continued agricultural use of land to maintain an open, rural character to viable agricultural areas which have many sensitive natural features such as streams and wetlands to assure compatible types and densities of development, and to assure low densities of development in areas without sanitary sewer service or public water service.

[Amended 1-17-1995 by L.L. No. 1-1995; 4-4-1995 by L.L. No. 3-1995]

B. Permitted uses.

[Amended 5-1-1990 by L.L. No. 5-1990; 4-4-1995 by L.L. No. 3-1995]

(1) The following uses and their customary accessory uses are allowed:

- (a) General farming, including but not limited to the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, flowers, field crops, hay, grains and similar food and fiber crops, and their customary accessory uses such as barns, greenhouses, silos, etc.
- (b) Pastures and grazing.

(c) Animal husbandry, including the breeding, raising and sale of cattle, sheep, horses, goats, pigs, rabbits, poultry, farmed deer, farmed buffalo and fur-bearing animals.

(d) Single-family dwelling.

(e) Customary home occupation, including but not limited to woodworking, blacksmith shops and mail-order sales.

(f) Sale of agricultural products grown, raised or produced on the premises. Stands erected for such sales shall not exceed 400 square feet and shall be located a minimum of 20 feet from the highway right-of-way, and adequate off-street parking area shall be provided.

(g) Public schools, family day-care homes and group family day-care homes.

(h) Public buildings and grounds, including Town, school and fire districts.

(2) In addition to the above permitted uses, the following shall be permitted uses within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more:

[Amended 4-2-2002 by L.L. No. 5-2002]

(a) Open recreational uses, such as public and private parks, playgrounds, hiking trails, picnic areas, cross-country skiing and riding trails.

(b) Wildlife preserves and any preserves of historic, scenic or scientific areas.

(c) Veterinary clinics and animal hospitals, excluding boarding.

(d) The cultivation of aquaculture and aquaculture products, including fish, fish products, plants and shellfish.

(e) Bed-and-breakfasts consisting of four guest rooms or fewer.

C. Special uses.

[Amended 5-1-1990 by L.L. No. 5-1990; 10-4-1994 by L.L. No. 4-1994; 4-4-1995 by L.L. No. 3-1995]

(1) The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

- (a) Churches and similar religious institutions.
- (b) Rest, nursing and convalescent homes approved by the New York State Health Department or other health-related approving agencies
- (c) Day-care centers, provided that such center fronts on a state or county highway.
- (d) Nonprofit private schools, licensed by a governmental agency, but not including business, dancing, trade or any other commercially oriented school.
- (e) Open recreational uses, such as parks, playgrounds, golf courses, driving range, country clubs, conservation or game clubs, and hunting clubs, but not including such intensive commercial uses as a miniature golf course, race track or amusement park.
- (f) Wildlife preserves, a preserve or scenic, historic and scientific areas, historic or agricultural related museums.
- (g) Community centers or public facilities owned and operated by a governmental agency.
- (h) Riding instruction and academies, boarding stables.
- (i) Cemeteries and related uses, provided that no burial or memorial plots or buildings shall be located closer than 100 feet to any residential lot line. Crematories shall be located only in cemeteries.
- (j) Farm implement stores, farm machinery sales and service, grain silo outlets, fertilizer outlets, farm cooperative outlets and other agricultural related businesses.
- (k) Grower owned and operated commercial nurseries and plant retail and wholesale outlets, greenhouses and landscape contracting facilities (both retail and wholesale).
- (l) Excavation of sand, gravel, stone, loam, dirt and other earth products subject to the provision of § 280-35, Excavations and topsoil removal.

(m) Kennels, provided that a kennel may not be operated within 300 feet of a residence other than the residence of the owner or operator thereof, Dogs must be confined within a building between the hours of 10:00 p.m. and 7:00 a.m.

(n) Public and private utility substations and uses, excluding power plants or repair yards, maintenance or storage facilities or uses of a similar nature.

(o) Veterinary clinics and animal hospitals, excluding boarding.

(2) In addition to the above uses listed in Subsection C, the following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures, within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more.

(a) The production and sale of water subject to Albany County Health Department regulations.

(b) Agricultural research laboratories, both public and private.

(c) Grower owned and operated commercial farm markets, garden centers, lawn and garden supply centers and the sale of related products (such as specialty foods, crafts, antiques, bakery and deli products, etc.) in which 60% or more of gross sales are from products grown, raised, produced, processed or manufactured on the farm. Such buildings shall be located a minimum of 45 feet from the highway right-of-way, and adequate off-street parking with a blacktop or gravel area shall be provided.

D. Dimensional requirements. The following dimensional requirements shall be observed for the A District classification designated on the Zoning Map: Editor's Note: The Zoning Map is on file in the Town offices.

(1) Minimum required:

[Amended 5-16-1995 by L.L. No. 7-1995]

(a) Lot area: two acres (87,120 square feet).

(b) Lot width: 200 feet at the building line.

(c) Front setback: 50 feet.

(d) Side setback: 50 feet.

(e) Rear setback: 100 feet.

(f) Maximum lot coverage: 30%.

(2) Any building housing livestock or any noxious commodity shall be no nearer than 100 feet from any lot line; except when abutting any other district, then the distance shall be no nearer than 200 feet.

(3) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

E. Agricultural uses. All ordinary, customary and usual agricultural activities are permitted in agricultural zones, including the erection in connection with and reasonably necessary to the conduct of such activities, which activities shall include the processing, packaging, warehousing and storage of agricultural products; provided, however, that the erection and maintenance of slaughterhouses, rendering plants, fertilizer plants and canneries is expressly prohibited; and further provided that the keeping of swine and disposal of offal and garbage shall be in accordance with Chapter 120, Animals, Article I, Keeping Swine. The enclosed storage of manure or areas for storage of dead fowl, animal or other odor- or dust-producing substance or use shall not be permitted within 100 feet of a property line or 125 feet of a public street right-of-way. Stables and buildings for the housing of fowl or farm animals shall not be located in the required front yard nor within 100 feet of a property line.

F. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

G. Signs. Signs are permitted as listed in § 280-26.

H. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted, or alternatively, shall be required as listed in § 280-27.

I. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

J. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

K. Easements. Easements shall be granted as required in § 280-30.

§ 280-14. Single-Family Residential Districts: R-40, R-30, R-20, R-15, R-10, R-7.5.

A. Purpose. The purpose of the residential districts is to maintain and promote suitable living environments and to protect and stabilize the residential character of the district. The districts are to provide for single-family homes, and other compatible uses, at suburban standards.

B. Permitted uses. The following uses and their accessory uses are permitted in R-40, R-30, R-20, R-15, R-10 and R-7.5:

[Amended 5-1-1990 by L.L. No. 5-1990; 12-4-1990 by L.L. No. 10-1990]

(1) Single-family dwelling.

(2) Public schools.

(3) Public recreation and parks owned and maintained by the Town of Guilderland. Editor's Note: Original Subsection 2(d), which permitted golf courses, baseball fields and similar recreational uses, was deleted 2-6-1996 by L.L. No. 1-1996.

(4) Family day-care homes and group family day-care homes.

(5) A two-family dwelling may be constructed on any lot fronting on Carman Road, provided that:

[Added 7-9-1991 by L.L. No. 2-1991]

(a) The lot shall be 1 1/2 times the minimum lot size required in this district;

(b) The two-family dwelling unit is constructed only up to a depth of 250 feet from the right-of-way line;

(c) The owner thereof constructs a T- , U- or other driveway as approved by the Chief Building Inspector and Zoning Coordinator so as to ensure that motor vehicles do not have to back out onto Carman Road; and

(d) Sidewalks are constructed along the Carman Road right-of-way line.

C. Special uses. The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

(1) Churches and similar religious institutions.

(2) Rest, convalescent or nursing care homes approved by the New York State Health Department or other health-related approving agencies.

(3) Day-care centers (provided that such center fronts on a state or county highway) and nonprofit private schools, but not including business, dancing, trade or any other commercially oriented school.

[Amended 5-1-1990 by L.L. No. 5-1990]

(4) Golf courses.

[Amended 8-11-1992 by L.L. No. 3-1992; 2-6-1996 by L.L. No. 1-1996; 2-6-2001 by L.L. No. 6-2001]

(5) Public utilities substations and uses, excluding power plants or repair yards, or storage facilities or uses of a similar nature.

(6) Cemeteries and related uses, provided that no burial or memorial plots or buildings shall be located closer than 100 feet to any residential lot line. Crematories shall be located only in cemeteries.

(7) Wildlife preserves, a preservation of scenic, historic and scientific areas.

(8) Community centers and other public facilities owned and operated by a government agency.

(9) Customary home occupation.

(10) Community centers operated by a not-for-profit organization, provided that a public restaurant and/or bar is not an integral part of said facility.

[Amended 8-11-1992 by L.L. No. 3-1992; 9-20-1994 by L.L. No. 3-1994]

(11) One apartment, provided that:

[Added 10-4-1994 by L.L. No. 4-1994]

(a) It is attached to the main dwelling unit, is owner occupied and the apartment is occupied by a person or persons related to the owner by blood, adoption or marriage.

(b) The apartment has a floor area of not less than 550 square feet nor more than 750 square feet and has an entrance through or in common with the main dwelling unit.

(c) Two additional parking spaces are provided on the same lot for the exclusive use of the apartment dwellers.

(d) All deeds for property containing an apartment shall have a covenant indicating that the apartment is permitted only when the main dwelling is owner occupied and the apartment is occupied by a person or persons related to the owner by blood, adoption or marriage. Said deed shall be filed in the office of the Albany County Clerk, and proof of filing shall be submitted to the Building Department within 60 days after issuance of the special use permit.

(e) A special use permit issued pursuant to this provision is temporary and shall cease upon notice to the Town that the applicant no longer meets the conditions for such use. Once issued, the special use permit shall be renewed by the applicant through the Building Department on an annual basis until such time as the use shall cease. There shall be a fee Editor's Note: See Ch. A285, Fees. as set by resolution of the Town Board from time to time for each such renewal. Failure to renew the permit shall constitute a violation of this chapter and result in prosecution.

(f) Upon cessation of the special use permit, all kitchen-related improvements in the apartment, including but not limited to such items as sink, stoves, counters and refrigerators, shall be removed.

(12) Driving ranges on a minimum of 12 acres where no food or alcohol is served.

[Added 2-6-1996 by L.L. No. 1-1996]

(13) Bed-and-breakfast consisting of four guest rooms or fewer, provided that the property is listed on the National Register of Historic Places and has a land area of one acre or more.

[Added 4-2-1996 by L.L. No. 2-1996]

(14) Special occasion receptions or social functions for 130 or fewer invited guests, provided that the property is listed on the National Register of Historic Places, has an area of one acre or more and is located on a state or county highway.

[Added 3-18-1997 by L.L. No. 5-1997]

D. Dimensional requirements. The following dimensional requirements shall be observed for the district classification designated in the following chart and on the Zoning Map. Editor's Note: The Zoning Map is on file in the Town offices. The map designations R-40, R-30, R-20, R-15, R-10, R-7.5, R-88 and R-88c hereby create separate single-family residential zoning classifications as though separately listed as districts.

[Amended 12-4-1990 by L.L. No. 10-1990; 2-21-1995 by L.L. No. 2-1995]

(1) Minimum requirements. Minimum requirements shall be as follows:

[Amended 4-18-1995 by L.L. No. 5-1995]

District	Width At:					Maximum Lot Coverage (feet)
	Minimum Lot Area (square feet)	Building Line (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	
R-40	40,000	200	35	35	50	30%
R-30	30,000	150	35	30	50	30%
R-20	20,000	125	35	20	50	30%
R-15	15,000	100	35	15	35	30%
R-10	10,000	80	35	12.5	30	30%
R-7.5	7,500	60	35	10	30	30%
R-88	88,000	200	50	35	50	20%
R-88c	88,000	200	50	35	50	20%

(2) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

(3) Any district on the Zoning Map followed by the term "overlay district" shall be subject to the provisions of § 280-24 of this chapter entitled "Residential Overlay Districts."

(4) R-88 and R-88c Districts are limited in their use to lands east of the Conrail Railroad bed.

[Amended 4-18-1995 by L.L. No. 5-1995]

E. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

F. Signs. Signs are permitted as listed in § 280-26.

G. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

H. Special access and setback requirement. Access control and setback measurements shall be provided as listed in § 280-29.

I. Accessory structures. Accessory structures shall be permitted subject to the requirements listed in § 280-34.

J. Easements. Easements shall be granted as required in § 280-30.

§ 280-15. MR Multiple Residence District.

A. Purpose. The purpose of the Multiple Residence District is to maintain and permit, where appropriate, the construction and development of multiple-family residences in the Town. Areas zoned MR shall be served by sanitary sewers and public water.

B. Special uses. The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

(1) Apartment houses, multiple dwellings and dwelling groups and condominiums and cooperatives which are simply apartment units under certain specific rules of ownership.

(2) One- , two- , three- and four-family unit structures.

(3) Normal accessory uses designed as an integral part of the development and scaled for the exclusive use of the development.

(4) Customary home occupation.

(5) Public utilities substations and uses, excluding power plants or repair yards, or storage facilities or uses similar in nature.

(6) Family day-care homes, group family day-care homes, day-care centers (provided that such center fronts on a state or county highway) and nonprofit private schools, but not including business, dancing, trade or any other commercially oriented school.

[Amended 5-1-1990 by L.L. No. 5-1990]

(7) Churches and similar religious institutions.

(8) Rest, convalescent or nursing care homes approved by the New York State Health Department and other health-related approving agencies.

(9) Open recreation areas.

(10) Boarding homes.

C. Dimensional requirements. Minimum requirements shall be as follows:

(1) One- to four-family dwellings. Requirements shall be as follows:

(a) Lot area:

[1] One-family: 10,000 square feet.

[2] Two-family: 11,250 square feet.

[3] Three-family: 15,000 square feet.

[4] Four-family: 18,750 square feet.

(b) Building line width:

[1] One-family: 75 feet.

[2] Two-family: 75 feet.

[3] Three-family: 100 feet.

[4] Four-family: 125 feet.

(c) Front setback: 35 feet.

(d) Side setback: 15 feet.

(e) Rear setback: 30 feet.

(2) Multiple dwellings more than four units. No multiple dwellings of more than four units shall be constructed on less than 2 1/2 acres, and the density shall not exceed 12 units per acre.

[Amended 9-5-1989 by L.L. No. 2-1989; 12-15-1998 by L.L. No. 15-1998]

(3) In any development combining one or more multiple dwellings with other multiple dwellings and/or single-family or two-family dwellings, the density shall not exceed 12 families per acre. No multiple dwelling shall be erected or constructed in excess of 2 1/2 stories in height.

[Amended 9-5-1989 by L.L. No. 2-1989]

(4) In addition to all other parking regulations imposed by this chapter, there shall be planted in the parking lot one tree for each seven parking spaces.

(5) Where the rear or side lot line abuts any lot or land area in a single-family residential district, a minimum side or rear yard setback of 100 feet shall be observed of which at least a fifty-foot strip immediately adjoining such single-family residential district shall be maintained as a landscape buffer area.

(6) With respect to condominiums and cooperatives, there shall be no more than eight individual dwelling units attached by common or party walls.

(7) Floor area, minimum, shall be as follows:

(a) Studio apartment (no bedroom): 500 square feet.

(b) One-bedroom apartment: 600 square feet.

(c) Two-bedroom apartment: 800 square feet.

(d) Three-bedroom apartment: 950 square feet.

(8) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

[Added 12-15-1998 by L.L. No. 15-1998]

D. Off-street parking and loading areas shall be provided as listed in § 280-25.

E. Signs. Signs are permitted as listed in § 280-26.

F. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

G. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

H. Accessory structures. Accessory structures shall be permitted subject to a special use permit, pursuant to § 280-52.

I. Easements. Easements shall be granted as required in § 280-30.

§ 280-16. TH Townhouse Dwelling District.

A. Purpose. The purpose of this section to allow the construction and development of townhouse units which are single-family dwellings separated by a party wall. Areas zoned TH shall be served by sanitary sewers and municipal water.

B. Permitted uses. The following uses and their accessory uses will be permitted in the TH district:

(1) Townhouses as defined by law.

(2) Accessory uses such as private garages, group swimming pools, parks, playgrounds, and play areas to include structural facilities incidental to recreational areas, such as rest rooms, bathhouses and clubhouses, which facilities are limited to those that are publicly owned or operated not-for-

profit for the benefit of the townhouse owners of the district or a part thereof.

(3) Maintenance buildings.

(4) Family day-care homes and group family day-care homes.

[Added 5-1-1990 by L.L. No. 5-1990]

C. Special uses. The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

(1) Customary home occupations.

(2) Public utilities substations and uses, excluding power plants or repair yards, maintenance or storage facilities or uses of a similar nature.

(3) Day-care centers (provided that such center fronts on a state or county highway) and nonprofit private schools, but not including business, dancing, trade or any other commercially oriented school.

[Amended 5-1-1990 by L.L. No. 5-1990]

(4) Churches and similar religious institutions.

(5) Rest, convalescent or nursing care homes approved by the New York State Health Department and other health-related approving agencies.

(6) Open recreation areas.

D. Dimensional requirements. Dimensional requirements shall be as follows:

(1) Lot area/density lot coverage. The overall density shall not exceed six units per acre, provided that no more than four such dwellings shall be contiguously constructed, the main structures and all accessory buildings shall not occupy more than 30% of the gross acreage of the development.

(a) Lot width: 20 feet.

(b) Front setback: 35 feet; except where a building in this district fronts on a dedicated road, the opposite side of which is zoned for single-family residential uses, the setbacks shall be the same as the other residential district.

(c) Side setback: 30 feet for corner lots on a street, 20 feet between building groups.

(d) Rear setback: 30 feet.

(2) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

(3) Floor areas. No townhouse dwelling unit shall be constructed, altered or reconstructed unless it shall contain a minimum of 1,000 square feet of habitable area and not less than 20 feet in width.

(4) There shall be no more than four individual townhouse units attached by common or party walls. No such single contiguous dwelling shall occupy a lot of less than 2,000 square feet.

E. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

F. Signs. Signs are permitted as listed in § 280-26.

G. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

H. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

I. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

J. Site plan approval. Site plan approval shall be secured as required in § 280-53.

K. Development of open spaces. Open space shall be granted as required in §§ 280-11 and 280-28.

L. Easements. Easements shall be granted as required in § 280-30.

§ 280-17. PUD Planned Unit Development District.

A. Purpose. It is the purpose of this PUD District to provide flexible land use and design regulations through the use of performance criteria so that small-to-large-scale neighborhoods or portions thereof can be developed within the Town that incorporate a variety of residential types and nonresidential uses, and which may contain both individual building sites and common property which are planned and developed as a unit. Where PUD is deemed appropriate through the rezoning of land to a PUD District by the Town Board, the set of use and dimensional specifications elsewhere in this chapter are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls. The PUD District shall be applicable to the area of the Town designated for such use in the Town's Comprehensive Plan.

B. Permitted uses. The following uses are permitted in the PUD district:

(1) In a PUD, all residential types and their accessory uses shall be allowed. The use of a variety of housing types shall be deemed most in keeping with these districts.

(2) In a PUD, commercial, services and other nonresidential uses and their accessory uses shall be allowed when authorized in accordance with § 280-52, Special use permit review procedures. Only those commercial, service and other nonresidential uses allowed in the Business Non-Retail Professional District (BN-RP) and the Local Business District (LB) shall be permitted. These are to be scaled primarily to serve the residents of the PUD or the immediately surrounding residential area.

C. Dimensional requirements.

(1) Lot area. The minimum lot area in a PUD project shall be at least 15 acres.

[Amended 6-19-2001 by L.L. No. 8-2001]

(2) Lot width and depth. There shall be no lot width and depth requirements; however, generally the depth to width ratio, where such is determinable, should not be greater than 3 to 1.

(3) Setbacks.

(a) Front setback for any structure shall meet the minimum requirements listed in § 280-29, Special access and setback requirements.

(b) Side and rear setbacks. Side and rear setbacks shall only apply to dwellings nearest the exterior project boundaries, unless otherwise required by the Planning or Town Board, and such dwellings shall meet the requirements for each setback stated elsewhere in this chapter for the respective type of dwelling unit or structure.

(c) Building height. Principal buildings shall not exceed 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A. Accessory structures shall not exceed 15 feet.

[Amended 12-15-1998 by L.L. No. 15-1998]

(d) Open space. A minimum of 25% of the total land area shall be devoted to open space and active recreation uses for the primary use of residents of the PUD.

D. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

E. Signs. Signs are permitted as listed in § 280-26.

F. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

G. Accessory structures. Accessory structures shall be permitted subject to the requirements listed in § 280-34.

H. Special provisions applying to the PUD District:

(1) In order to carry out the purpose of this district, a PUD shall achieve the following objectives:

(a) A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.

(b) Usable open space and recreation areas.

(c) More convenience in location of accessory commercial and service areas.

(d) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.

(e) A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.

(f) An efficient use of land resulting in smaller networks of utilities and street and thereby lowering housing costs.

(g) A development pattern in harmony with the objectives of the Comprehensive Plan.

(h) A more desirable environment than would be possible through the strict application of other provisions of this chapter.

(2) The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

(3) Before the consideration of any rezoning of property to PUD can take place by the Town Board, the developer or his authorized agent shall apply for and secure preliminary site plan approval of such PUD in accordance with the site plan approval procedures established in § 280-53. Upon receipt of a favorable report from the Planning Board covering the preliminary site plan, or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct the public hearings necessary for the purpose of considering PUD rezoning for the applicant's plan in accordance with the procedures established in § 280-41, Notice of public hearing, and §§ 264 and 265 of the Town Law of the State of New York. PUD rezoning shall be conditional upon the applicant's securing of final site plan approval in accordance with procedures set forth in § 280-53 and compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the planned development district.

(4) The Town Board shall determine in each case the appropriate land use intensity and dwelling unit density for individual projects and shall consider any recommendation on the same from the Planning Board.

(5) When common property exists, the ownership of such property may either be public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of such common property and facilities,

including private streets, drives, service and parking areas and recreational and open space areas.

(6) Site plan approval under the provisions of § 280-53 shall suffice for Planning Board review of subdivisions under Chapter 247, Subdivision of Land, subject to the following conditions:

(a) The developer shall prepare sets of subdivision plats suitable for filing with the Albany County Clerk in addition to those drawings required above.

(b) The developer shall plat the entire development as a subdivision; however, PUD's being developed in stages may be platted and filed in the same stages.

(c) Final site plan approval under § 280-53 shall constitute final plat approval under Chapter 247, Subdivision of Land, and provisions of § 276 of the Town Law regarding the filing of a plat with the Albany County Clerk shall apply.

(7) For the purpose of regulating a development and use of property after initial construction and occupancy, any changes other than use changes or applications for additions exceeding 150 square feet to existing structures shall be processed as special permit requests to the Planning Board. Use changes shall also be in the form of requests for a special permit, except that the approval of the Town Board shall be required. Application for a one-time single addition, not exceeding 150 square feet, to an existing structure shall be in the form of a request for a building permit and shall be made to the Chief Building Inspector and Zoning Coordinator. It shall be noted, however, that property lying in PUD Districts is unique and shall be so considered by the Planning Board and the Town Board when evaluating these requests, and maintenance of the intent and function of the planned development shall be of primary importance.

(8) The development shall be served by public sanitary sewers and water.

I. Financial responsibility. No building permits shall be issued for construction within a PUD District until improvements are installed or a letter of credit posted in accordance with the same procedures as provided for in § 277 of the Town Law relating to subdivision and as elsewhere required in this chapter or other ordinances or subdivision regulations Editor's Note: See Ch. 247, Subdivision of Land. of the Town of Guilderland. Other such requirements may also be established from time to time by the Town Board.

§ 280-18. MD Mobile Dwelling District.

A. Purpose. There is hereby added to the zoning district classifications of the Town of Guilderland a classification to be known as "Mobile Dwelling" or "MD Zone." The sole permitted use within an MD Zone shall be the operation and maintenance of a mobile dwelling court or courts subject to the provisions of this section.

B. MD Zone locations and restrictions. No area within the Town of Guilderland shall be zoned MD unless:

(1) The area shall contain a minimum of 25 acres.

(2) The area is served by municipally operated and maintained water supply and sewerage facilities.

(3) The Town Board shall have made a finding that the classification of such area as an MD Zone will not substantially diminish or adversely affect the assessable value of properties in the surrounding community.

C. Prohibitions. No mobile dwelling shall be used, occupied or inhabited for any purpose within the Town of Guilderland except within a mobile dwelling court. No area within the Town of Guilderland shall be used as a mobile dwelling except within an MD Zone. Nothing contained in this subsection shall be construed as preventing the parking or storing of uninhabited mobile dwellings for the purpose of wholesale or retail sales or leasing by a vendor duly authorized to engage in such sale or leasing by special use permit in an area zoned for business or commercial use. Nothing contained in this chapter shall be construed as prohibiting the replacement of a mobile dwelling in a mobile dwelling court in existence on the effective date of the enactment of this section. Nothing contained in this chapter shall be construed as prohibiting the replacement of a mobile dwelling on a site outside of a mobile dwelling court where such site has been continuously occupied by a mobile dwelling since July 7, 1958, and where such mobile dwelling has been continuously inhabited since said date, such replacement being subject to the provisions of § 280-31 of this chapter.

D. Field office use.

(1) Notwithstanding the provisions of Subsection C, the Chief Building Inspector and Zoning Coordinator may issue a temporary permit valid for a period not exceeding one year for the use of a mobile dwelling as a field

office upon a construction site. The period of validity of such temporary permit shall be further limited:

(a) In the case of a public works construction project by the life of such project; and

(b) In the case of a nonpublic works construction project by the remaining life of any unexpired building permit which shall have been issued for construction of the site or by the completion date of the permitted construction on the site if it occurs sooner.

(2) Subject to the foregoing limitations, the Chief Building Inspector and Zoning Coordinator may for good cause shown extend such permit for field office use for an additional period not to extend six months. No such temporary permit shall be construed as giving permission for the use of any mobile dwelling or vehicle as a dwelling. The Chief Building Inspector and Zoning Coordinator may deny such temporary permit where in his judgment a reasonable necessity for such field office use does not exist. An application for such temporary permit or renewal thereof shall be accompanied by a fee Editor's Note: See Ch. A285, Fees. as set by resolution of the Town Board from time to time, but no such fee shall be required in the case of a public works project.

E. Site plan approval. It is hereby declared to be the policy of the Town of Guilderland that a mobile dwelling court shall be subjected to a site plan approval by the Town Planning Board as set forth in § 280-53. No land shall be used as a mobile dwelling court except upon approval of the Planning Board upon completion of a site plan approval.

F. Regulations.

(1) Water supply and sewerage. No mobile dwelling court shall be established except in an area serviced by a municipally owned water supply and distribution system and by a municipally owned sanitary sewer system to which each mobile dwelling unit shall be connected. Each mobile dwelling court shall grant to the Town of Guilderland such easements, for water and sewer use, as in the discretion of the Superintendent of Water and Wastewater Management may be necessary.

(2) Land areas. Mobile dwelling courts shall contain not less than 25 acres and shall be laid out in consecutively numbered unit lots of a minimum area of not less than 7,500 square feet, each of which shall not be less than 50 feet in width at the front installation point.

(3) Uses and accessory uses. The permitted use within a mobile dwelling court shall be residential. As accessory uses, the court may include garaging for vehicles, storage, laundry, sanitation and recreational facilities designed and intended for the sole use of the residents of the court. No mobile dwelling within a court shall be used for other than residential purposes exclusively, except that not more than one mobile dwelling within such court may be used for exhibition as a model dwelling and/or office use for court administration purposes.

(4) Streets.

(a) Entrance roads. Entrance roads leading into or out of a mobile dwelling court shall be not less than 50 feet in width and shall be constructed on compacted gravel. The width and depth of the gravel shall be determined by the Town Engineer based upon soil conditions existing at the site. The entrance road shall be surfaced to a width of not less than 30 feet in asphalt concrete material three inches in depth and shall be provided with a water drainage system designed to convey surface water into a natural watercourse.

(b) Interior streets. Interior streets shall be not less than 35 feet in width and shall be constructed on compacted gravel. The width and depth of the gravel shall be determined by the Town Engineer as provided in Subsection F(4)(a). Such streets shall be surfaced to a width of not less than 30 feet with an asphalt concrete material three inches in depth and shall be provided with a water drainage system to convey surface water into a natural watercourse.

(c) Underdrains. The Planning Board and Town Engineer are authorized to require underdrains whenever it finds such facilities to be reasonably necessary to the preservation and maintenance of roads and streets.

(5) Number of units. No court shall contain more mobile dwelling units than the number of unit lots laid out on the court plan and approved by the Planning Board. No more than one mobile dwelling shall occupy a single-unit lot, and no mobile dwelling shall occupy any land area within the court not designated as a unit lot.

(6) Size of units. No person shall occupy a mobile dwelling containing less than 850 square feet of floor area.

(7) Buffer zone. A mobile dwelling court shall be buffered from all surrounding properties and highways by a strip of land not less than 25 feet

in width which shall be maintained as an undeveloped area abutting all adjoining property lines. No part of any unit lot, mobile dwelling unit or other structure shall be placed within such buffer zone.

(8) Setbacks. No mobile dwelling unit or service building shall be closer to a public street or highway or public street or highway right-of-way than 50 feet, nor closer to a court property line than 30 feet. No mobile dwelling unit, or structural extension thereof, or accessory building shall be placed on a unit lot within 12 feet of a lot side line or 20 feet of a lot front or rear line.

(9) Off-street parking. Each unit lot shall be provided with a driveway surfaced with asphalt concrete material so designed and laid out as to provide for no less than two off-street parking spaces each having a minimum width of nine feet and minimum length of 20 feet.

(10) Open area. A mobile dwelling court shall provide and maintain open space area of not less than 10% of the total area. The use of such open areas shall be limited to recreational and agricultural purposes, and no structure shall be erected upon the lands of such open areas except such as shall be determined by the Planning Board to be incidental to such recreational or agricultural use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the Planning Board.

(11) Skirting. Except where the area between a mobile dwelling and the ground level is fully enclosed by a perimeter foundation, each mobile dwelling shall be provided with perimeter skirting so as to conceal its wheels, chassis and other appurtenances under the dwelling.

(12) Foundation. Each mobile dwelling shall be set upon and securely anchored to a masonry foundation not less than eight inches in width and extending 18 inches below ground level. Such foundation may be constructed in the form of a perimeter foundation, lateral runners, longitudinal runners or pillars. The mobile dwelling shall be attached to such foundation in not less than four adequately spaced locations by attaching devices capable of withstanding a tension force of not less than 2,800 pounds at the point of attachment.

(13) Fuel tanks. All fuel tanks shall be screened so as to be hidden from view.

(14) Signs. No commercial sign shall be displayed in an MD Zone, except that a mobile dwelling court may display at each public entrance to the

court a sign not exceeding six square feet in area on each side indicating the name of the mobile dwelling court.

(15) Streetlights. A mobile dwelling court shall provide and maintain streetlights within such court in order to adequately illuminate the streets of the court. The placement and number of these lights shall be included in any plan presented to the Planning Board and Zoning Board of Appeals for their review.

(16) Landscaping. The mobile dwelling court shall provide a landscaping plan for review by the Planning Board and Zoning Board of Appeals. The plan shall show plantings, placement of green space and buffer zones, the types of vegetation on these and shall include the placement of at least two trees on each lot with a diameter of at least two inches.

(17) Accessibility. Entrances and exits connecting with public streets or highways shall intersect with such streets or highways at ninety-degree angles. Roads and streets within a mobile dwelling court shall be laid out and designed so as to provide an unimpeded flow of vehicular traffic to all units within the court. A road or street terminating within the court shall be provided with a turnaround or a cul-de-sac having a radius of not less than 70 feet.

(18) Building code provisions. The provisions of the New York State Uniform Fire Prevention and Building Code to the extent applicable to mobile dwellings shall apply to the installation, construction, reconstruction, renovation, modification, remodeling, rehabilitation and occupancy of any mobile dwelling.

§ 280-19. BN-RP Business Non-Retail Professional District.

[Amended 5-1-1990 by L.L. No. 5-1990; 12-15-1998 by L.L. No. 15-1998; 3-19-2002 by L.L. No. 4-2002]

A. Purpose. The purpose of establishing this district is to provide suitable areas for various nonretail, service-oriented uses that are easily accessible to neighborhoods or the general public via pedestrian paths and/or bikeways. Such districts are also intended, where possible, to act as a compatible transition area between residential, commercial and industrial areas because of the generally low volume of traffic associated with such uses, and their hours of operation and noise characteristics, which make them compatible as transition uses.

B. Permitted uses. The following uses and their accessory uses are permitted:

(1) Single-family dwelling.

C. Special uses. The following uses and their customary accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures.

(1) Insurance offices of independent or general agents, including regional or district offices of individual companies.

(2) Medical or dental offices and clinics, excluding overnight occupancy.

(3) Veterinary offices excluding animal hospitals.

(4) Attorneys' offices.

(5) Offices for other licensed professionals, such as architects, designers, engineers, etc.; excluding, however, any warehouse or storage areas.

(6) Other types of executive or professional offices in accordance with the purposes of this district.

(7) Public buildings and grounds, excluding maintenance, storage or repair facilities.

(8) Mortuaries or funeral homes.

(9) Nonprofit institutions for charitable, religious, cultural or community social purposes.

(10) Barber- or beauty shops.

(11) Public utilities substations and uses, excluding power plants or repair yards, maintenance or storage facilities or uses of a similar nature.

(12) Family day-care homes, group family day-care homes, day-care centers (provided that such center fronts on a state or county highway) and nonprofit private schools, but not including business, dancing, trade or any other commercially oriented school.

(13) Mail-order sales.

(14) Mixed use containing a nonresidential use listed in this section and a one-dwelling unit, provided that both uses are contained within the same principle structure.

(15) Newspaper office, printing shop not to exceed 7,500 square feet of gross floor area.

[Added 4-15-2003 by L.L. No. 3-2003]

D. Dimensional requirements.

(1) Lot area. The minimum lot area shall be 7,500 square feet.

(2) Lot coverage. Structures and parking areas shall not occupy more than 75% of the total lot area. The remainder of the lot shall be open space or landscape area.

(3) Setback requirements. The width of the lot at the building line shall be at least 50 feet. Front setback shall be 45 feet from the highway right-of-way. Where uses in this district abut one another, the side yard setback shall not be less than 10 feet and the rear yard setback shall not be less than 35 feet exclusive of any parking or loading area requirements. When uses in this district abut any residential district, then the side setback and/or rear setback shall be a minimum of 40 feet.

(4) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

E. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

F. Signs. Signs are permitted as listed in § 280-26.

G. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

H. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

I. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

J. Easements. Easements shall be permitted as listed in § 280-30.

§ 280-20. LB Local Business District.

A. Purpose. The purpose of this district is to provide areas or centers for convenient shopping to serve residential neighborhoods. These districts shall be located so as to be generally distributed throughout the Town in proportion to the population and shall be limited both in size and in proximity to one another. Additionally, such districts are intended to be designed to attract pedestrian customers from the surrounding residential development.

B. Special uses. The following uses and their accessory uses are permitted upon issuance of a special use permit pursuant to § 280-52:

[Amended 10-4-1988 by L.L. No. 3-1988]

- (1) Laundromat or dry-cleaning pickup establishments.
- (2) Bakery store or specialty food shops.
- (3) Hardware store, garden supply stores, nursery, and paint and wallpaper stores.
- (4) Barber- and beauty shops.
- (5) Convenient food stores, new shops and drug stores.
- (6) Public buildings and grounds, excluding maintenance, storage or repair facilities.
- (7) Flower shop.
- (8) General office.
- (9) Branch banks.
- (10) Any use permitted in a BN-RP District.
- (11) Public utilities substations and uses, excluding power plants, maintenance or storage facilities or uses of a similar nature.
- (12) Sit-down restaurants.
- (13) Office buildings.

[Amended 12-15-1998 by L.L. No. 15-1998]

(14) Drive-in bank auto tellers.

(15) Professional or retail uses not specifically listed in the Local Business District, General Business District, Light Industrial District or Industrial District, provided that such uses do not occupy or exceed 5,000 square feet of gross floor area. Under no circumstances shall any use specifically listed in the General Business District, Light Industrial District or Industrial District be permitted in the Local Business District.

(16) Billiard parlors, provided that no alcoholic beverages are sold or served on the lot.

[Added 8-11-1992 by L.L. No. 3-1992]

(17) Video sale and rental stores.

[Added 8-11-1992 by L.L. No. 3-1992]

(18) Commercial schools of instruction, sized appropriately considering the purpose of the zoning district.

[Added 7-18-1995 by L.L. No. 10-1995]

(19) Wine and liquor stores.

[Added 2-5-2002 by L.L. No. 3-2002]

C. Dimensional requirements.

(1) Lot area. The minimum lot size shall be 20,000 square feet.

(2) Lot coverage. Structures and parking areas shall not occupy more than 70% of the total lot area. The remainder of the lot shall be open space or landscape area.

(3) Setback requirements. Where uses in this district abut one another, the side yard setback shall not be less than 15 feet and the rear yard setback shall not be less than 25 feet exclusive of any parking or loading area requirements. The width at the building line shall be at least 100 feet. Front setback shall be 45 feet from the highway right-of-way. When uses in this district abut any residential district, then the side setback and/or rear setback shall be a minimum of 40 feet.

(4) Building height. Principal structures shall not exceed 2 1/2 stories or 35 feet, whichever is the lesser, and accessory structures shall not exceed 20 feet, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

D. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

E. Signs. Signs are permitted as listed in § 280-26.

F. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

G. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

H. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

I. Easements. Easements shall be permitted as listed in § 280-30.

J. Special requirements for inns. Notwithstanding anything to the contrary, the following specific requirements apply to inns:

[Added 6-5-2001 by L.L. No. 7-2001]

(1) The number of lodging units is limited to the lesser of one unit per 15 seats of permitted capacity at the associated sit-down restaurant or thirty units.

(2) The inn must be constructed on the same lot and have the same owner or management as the sit-down restaurant to which it is accessory.

(3) No inn will be constructed on any lot unless the lot is serviced by municipal water and sewer facilities.

(4) No inn will be constructed on any lot where the land area is less than 2,000 square feet per lodging unit.

(5) No certificate of occupancy will be issued for any building constructed under this subsection until there is submitted to the Building Department a certificate of an architect duly licensed by the State of New York, or other

proof acceptable to the Zoning Board of Appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Fire Prevention and Building Code, and further proof satisfactory to the Chief Building Inspector and Zoning Coordinator of the issuance of approval of water supply and sewage disposal facilities by all appropriate regulatory agencies having jurisdiction and whose approval is required by law.

§ 280-21. GB General Business District.

A. Purpose. The purpose of this district is to provide the broader range of general and comparison commercial goods and services necessary to serve a number of neighborhoods and do so in an orderly fashion that maintains viability of residential areas and neighborhood commercial centers.

B. Special uses. The following uses and their accessory uses are permitted upon issuance of a special use permit pursuant to § 280-52, Special use permit review procedures:

- (1) Any use permitted by special use permit in the Local Business (LB) District.
- (2) Retail outlets and department stores.
- (3) Commercial schools such as barber, beauty, art and dancing studios and similar uses.
- (4) Auto accessories and parts (excluding repairs), appliance stores, furniture stores.
- (5) Liquor stores.
- (6) Public buildings and grounds, excluding maintenance, storage or repair facilities.
- (7) Restaurants, including drive-in fast-food restaurants.
- (8) Gasoline service stations, subject to the requirements of Subsection D.
- (9) Hospitals, subject to the requirements of Subsection D of this section.
- (10) Auto sales, new and used, mobile home and recreational vehicle sales, provided that a used automobile sales business may not be operated

except in conjunction with a new automobile sales business, both of which must be established on the same lot.

(11) Auto repair shops.

(12) Rentals of trucks, trailers, etc., associated with gasoline service stations or other uses.

(13) Theaters (not including drive-in theaters), bowling alleys and places of public assemblage.

(14) Drive-in theaters, subject to the requirements of Subsection D of this section.

(15) Public utilities substations and uses, excluding power plants, maintenance or storage.

(16) Bus passenger terminal.

(17) Motel or hotel, subject to the requirements of Subsection D of this section.

(18) Car wash.

(19) Betting parlors.

(20) Animal hospital.

(21) Designed local shopping center.

(22) Designed neighborhood or regional shopping center.

(23) Amusement arcade in regional shopping center over 500,000 square feet.

(24) Dance hall, discotheque, skating rink, billiard hall, bar, nightclub.

(25) Equipment rental sale, excluding outside storage.

(26) Newspaper office, printing shop.

(27) Radio, television and/or other electrical transmission station/towers.

(28) Office building.

[Amended 12-15-1998 by L.L. No. 15-1998]

(29) Off-track betting parlors or theaters.

(30) Commercial recreational facilities, such as tennis and racquet clubs, bowling alleys, indoor or outdoor sports facilities and similar recreational uses, excluding miniature golf facilities, amusement parks, race tracks or other similar uses.

[Added 2-6-2001 by L.L. No. 6-2001]

(31) Other uses not specifically listed here, but determined by the Zoning Board to be of a similar nature.

C. Dimensional requirements.

[Amended 5-3-1988 by L.L. No. 2-1988]

(1) Lot area. The minimum lot area shall be 20,000 square feet.

(2) Lot coverage. Structures and parking areas shall not occupy more than 75% of the total lot area. The remainder of the lot shall be open space or landscaped area.

(3) Setback requirements. The minimum front setback shall be 50 feet. Where uses in this district abut one another or abut uses in the LB or BN-RP District, the side setback shall be at least 25 feet and the rear yard setback shall be at least 50 feet exclusive of any parking and loading requirements. When uses in this district abut any residential district or agricultural zone, then the side and rear yard setbacks shall be a minimum of 75 feet exclusive of any parking and loading requirements.

[Amended 1-17-1995 by L.L. No. 1-1995]

(4) Building height. Principal structures shall not exceed three stories or 35 feet, whichever is the lesser, and accessory structures shall not exceed 20 feet, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

D. Special dimension requirements. Notwithstanding anything to the contrary, the following specific requirements shall apply to the uses contained in this subsection:

(1) Motels and hotels.

[Amended 12-15-1998 by L.L. No. 15-1998]

(a) A motel may exceed the existing height limitations set forth in Subsection C(4) of this section, provided that no motel shall exceed six stories in height; and further provided that the minimum front, side and rear yard setback distances shall be increased, beyond those otherwise required by this chapter, six feet for each additional story above the third story.

(b) No motel shall be constructed on any lot unless the area is serviced by municipal water and sewer facilities.

(c) Except where otherwise provided by this chapter, the minimum distance between the building and any side lot shall be 15 feet and the minimum distance between buildings shall be 10 feet. No motel shall be constructed on any lot where the land area shall be less than 2,000 square feet per unit; provided, however, that in an area serviced by municipal water and sewer facilities and where the lot is within 1/4 of a mile of the corporation line of a city, the Zoning Board of Appeals may, where it finds that the surrounding area will be adversely affected, and all other requirements of this chapter are met, vary the square-foot-per-unit requirements, provided that in no event shall such requirement be less than 1,000 square feet per unit.

(d) No certificate of occupancy shall be issued for any building constructed under this subsection until there is submitted to the Building Department a certificate of an architect duly licensed by the State of New York, or other proof acceptable to the Zoning Board of Appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Uniform Fire Prevention and Building Code, and further proof satisfactory to the Chief Building Inspector and Zoning Coordinator of the issuance of approval of water supply and sewage disposal facilities by all appropriate regulatory agencies having jurisdiction and whose approval is required by law.

(2) Drive-in movie theater. Drive-in movie theaters shall be subject to the following additional regulations:

(a) Minimum area requirements of:

[1] Four hundred eighty thousand square feet.

[2] Minimum frontage of 600 feet, plus an additional 100 feet of frontage for each one-hundred-car capacity above 500 cars.

[3] One hundred feet of front yard for service facilities.

[4] Off-street waiting or storage area for accommodation of not less than 25% of total capacity.

(b) Screens shall not face the highway.

(c) There shall be not less than one ticket booth for each three-hundred-car capacity or fraction thereof.

(d) No sound, as from loudspeakers, shall be audible in a residential district.

(3) Hospital. In addition to all other requirements imposed by this chapter, hospitals shall have a minimum lot area of five acres and shall have a minimum distance between buildings and lot lines of 100 feet.

(4) Gasoline filling stations. A gasoline filling station shall be subject to the following regulations:

(a) Gasoline filling stations shall be permitted only on lots of 40,000 square feet or more, with 150 feet minimum frontage, and on corner lots a minimum of 100 feet of frontage on each street or highway.

(b) The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.

(c) No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 35 feet from any street line, measured from the outside edge of the fuel island.

(d) No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a street 50 feet wide or more lies between such service station and such building or use.

(e) All repair work and storage shall be within a completely enclosed building which has a maximum height of 25 feet.

(f) No gasoline filling station shall have more than four bays.

(5) Office buildings, high-rise. Office buildings, the principal use of which shall be the accommodation of offices for administrative, governmental, public utility, professional or sales activities, including retail stores, shops, restaurants and cafes, may be permitted to exceed the existing height limitations set forth in Subsection C of this section, provided that the minimum front, side and rear yard setback distances shall be increased, beyond those otherwise required by this chapter, six feet for each additional story above the second story. No certificate of occupancy shall be issued for any building constructed under this subsection until there is submitted to the Chief Building Inspector and Zoning Coordinator a certificate of an architect duly licensed by the State of New York, or other proof acceptable to the Zoning Board of Appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Uniform Fire Prevention and Building Code.

E. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

F. Signs. Signs are permitted as listed in § 280-26.

G. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

H. Special access and setback requirements. Access controls and setback measurements shall be provided as listed in § 280-29.

I. Accessory structures. Accessory structures shall be permitted subject to the requirements listed in § 280-34.

J. Easements. Easements shall be granted as required in § 280-30.

§ 280-22. LI Light Industrial District.

A. Purpose. The purpose of this district is to permit, where appropriate, the construction of research and development oriented industries and other manufacturing uses which utilize high technology without adverse effects from smoke, noise, odors, dust and dirt. It is recognized that new discoveries and innovations in the scientific field have given rise to entirely new types of manufactured products in the fields of communication, medicine and health care, data processing and other related areas. The design and manufacture involved with these generally does not require processes associated with heavier industrial uses. This district is thus designed to attract and encourage

these new types of light industrial use and to permit those other, more traditional light manufacturing uses with minimal environmental side effects, in those areas of the Town where high-density business uses may not be appropriate due to traffic patterns and other considerations, and where heavier industry is inappropriate due to environmental concerns in areas of close proximity to populated residential locations.

B. Special uses. The following uses and their accessory uses are permitted upon issuance of a special use permit pursuant to § 280-52 in the LI District:

(1) Scientific research or experimental development of materials, methods of products including engineering and laboratory research.

(2) Administrative, educational and other related activities and facilities in conjunction with a permitted use.

(3) Manufacture of electric, electronic or optical instruments or devices.

(4) Light manufacturing, assembling, fabricating or packaging of products from previously prepared materials such as cloth, plastic, leather, precious or semiprecious metals or stones.

(5) Regional or district offices of various types of companies, such as insurance companies.

(6) Public buildings and grounds, excluding maintenance, storage or repair facilities or uses of a similar nature.

(7) Churches and similar religious institutions (on a lease base only).

[Added 11-7-1996 by L.L. No. 6-1996]

(8) Adult entertainment establishments pursuant to Chapter 111 of the Guilderland Code.

[Added 11-16-1999 by L.L. No. 7-1999]

(9) Commercial recreational facilities, such as tennis and racquet clubs, bowling alleys, indoor or outdoor sports facilities and similar recreational uses, excluding miniature golf facilities, amusement parks, race tracks or other similar uses.

[Added 2-6-2001 by L.L. No. 6-2001]

C. Dimensional requirements.

(1) Lot area. The minimum lot size shall be 30,000 square feet.

(2) Setbacks. The minimum required setbacks shall be as follows:

(a) Widths at building line: 100 feet.

(b) Front setback: 45 feet.

(c) Side and rear setback: 25 feet, except when abutting any other residential use district, then the setback shall be 100 feet.

(3) Building height. Principal structures shall not exceed three stories or 35 feet, whichever is the lesser, and accessory structures shall not exceed 20 feet, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

D. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

E. Signs. Signs are permitted as listed in § 280-26.

F. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

G. Special access and setback requirements. Access controls and setback measurements shall be provided as listed in § 280-29.

H. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

I. Easements. Easements shall be granted as required in § 280-30.

§ 280-23. I Industrial District.

A. Purpose. The purpose of this district is to permit, where appropriate, the manufacturing, fabrication, extraction, assembly or warehousing of materials other than those prohibited herein. The Town does not desire uses which are likely to be noxious or offensive by reason of the emission of odor, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light, or

any combination thereof, or is likely to be harmful or injurious to public health, safety or the general welfare.

B. Special uses. The following uses and their customary accessory uses are permitted in the I District, provided that the lot is serviced by municipal water and sewer facilities, upon issuance of a special use permit pursuant to § 280-52:

[Amended 5-3-1988 by L.L. No. 1988]

- (1) Fuel, gasoline, oil storage.
- (2) Laundry, dry-cleaning plant.
- (3) Manufacturing, fabrication, extraction, assembly, warehousing and other handling of materials except for those prohibited uses specified in Subsection C of this section.
- (4) Any use permitted by special use permit in the LI Light Industrial District.
- (5) Commercial recreational facilities, such as tennis and racquet clubs, bowling alleys, indoor or outdoor sports facilities and similar recreational uses, excluding miniature golf facilities, amusement parks, race tracks or other similar uses.

[Added 2-6-2001 by L.L. No. 6-2001]

C. Prohibited areas. The uses hereinafter enumerated are expressly prohibited. This prohibition shall extend to any other use which in the opinion of the Zoning Board of Appeals or Planning Board, as the case may be, is or is likely to be noxious or offensive by reason of the emission of odor, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light, or any combination thereof, or is likely to be harmful or injurious to public health, safety or the general welfare:

- (1) Acetylene gas manufacture for commercial purposes.
- (2) Ammonia, chlorine or bleaching powder manufacture.
- (3) Arsenal.
- (4) Asphalt manufacture or refining.

- (5) Blast furnace, not including cupola or converter furnaces used in foundries and in which no wood is used as fuel.
- (6) Boiler shops, structural steel fabricating shops, metal working shops, which operate reciprocating hammers or chisels or other noise-producing electric or pneumatic tools within 100 feet of any boundary line of the premises and outside of any masonry buildings.
- (7) Brewing and aluminum powder manufacture.
- (8) Cannery.
- (9) Carbon, lampblack, shoe blacking, graphite or stone polish manufacture.
- (10) Celluloid and other cellulose products manufacture.
- (11) Cement manufacture.
- (12) Coal tar products manufacture.
- (13) Creosote treatment or manufacture.
- (14) Disinfectant and insecticide manufacture.
- (15) Distillation of coal, wood or bones.
- (16) Dump, unless operated or controlled by the Town of Guilderland.
- (17) Excelsior and fiber manufacture.
- (18) Explosives, fireworks or match manufacture, assembling or storage in bulk, except the manufacture, assembling and storage in bulk of safety matches in book form.
- (19) Fat rendering.
- (20) Fertilizer manufacture or potash refining.
- (21) Fish smoking or curing.
- (22) Glue, size or gelatin manufacture or processing involving recovery from fish or animal offal.

- (23) Incinerator, unless operated by the municipality.
- (24) Junkyard.
- (25) Lime, gypsum, cement, plaster of paris manufacture, except the mixing of plaster.
- (26) Linoleum or oil cloth manufacture.
- (27) Ore reduction or the smelting of iron, copper, tin zinc, lead.
- (28) Paint, oil, varnish, turpentine, shellac or enamel manufacture, except the mixing of wet paints.
- (29) Perfume and extract manufacture.
- (30) Petroleum refining.
- (31) Poisons manufacture: fumigants, carbon disulfide, hydrocyanic acid, acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellebore and paris green, contact insecticides, lime, sulfur, nicotine, kerosene emulsions.
- (32) Printing ink manufacture.
- (33) Radium extraction.
- (34) Storage, coloring, curing, dressing or tanning of raw or green salted hides or skins.
- (35) Rubber caoutchouc, or gutta percha manufacture from crude or scrape metal, except in connection with a rubber products manufacture plant.
- (36) Salt works.
- (37) Sand paper and emery cloth manufacture.
- (38) Slaughtering of animals, except for immediate consumption on premises or immediate retail sale.
- (39) Soap, soda ash or washing compound manufacture, except products not containing caustic soda.
- (40) Starch, glucose or dextrine manufacture.

(41) Storage or disposal of such industrial hazardous wastes as are identified and listed as such by the New York State Commissioner of Environmental Conservation pursuant to Title 9 of Article 27 of the New York State Environmental Conservation Law.

(42) Stockyards.

(43) Sulferous, sulfuric, nitric, picric or hydrochloric acid or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry.

(44) Tallow, grease, lard or candle manufacture or refining.

(45) Tar distillation or the manufacture of aniline dyes.

(46) Tar roofing or waterproofing manufacture, except where the tar or asphalt is treated at a temperature under 100° F.

(47) Tobacco processing, exclusive of cigar or cigarette manufacture.

(48) Vinegar, pickle or sauerkraut manufacture in bulk.

(49) Wool pulling or scouring, except in connection with a woolen mill.

(50) Yeast manufacture.

D. Dimensional requirements.

(1) Lot area. The minimum lot area shall be two acres.

(2) Lot coverage. Structures and parking areas shall not occupy more than 75% of the total lot area. The remainder of the lot shall be for open space or landscaped area.

(3) Setbacks. The minimum front setback shall be 50 feet. Where uses in this district abut one another, the side setback shall be at least 25 feet and the rear yard setback shall be at least 50 feet exclusive of any parking and loading requirements. The width of any building line shall be at least 150 feet. When uses in this district abut any other district, then the side and rear yard setbacks shall be a minimum of 100 feet exclusive of any parking and loading area requirements.

(4) Building height. Principal structures shall not exceed three stories or 35 feet, whichever is the lesser, and accessory structures shall not exceed 20 feet, except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

E. Special requirements for industrial districts. In addition to standards and regulations herein prescribed, all uses in industrial districts shall be subject to the following specific regulations:

(1) No use shall:

(a) Cause the emission of excessive smoke, fumes, gas, odors or other atmospheric pollutant beyond the boundaries of the user's lot and, for the purpose of this subsection, smoke shall be deemed excessive when its shade or appearance is darker than Number 2 on Ringelmann's Scale for Grading Density of Smoke.

(b) Cause noise audible beyond the boundaries of the user's lot.

(c) Discharge any waste material into any sanitary disposal system or sewerage system, except as permitted by the public health authorities of the municipality controlling such sewerage system and as permitted by the Town of Guilderland with respect to any Town-owned or -operated sewerage system.

(d) Store or stock any waste material on the premises of the user.

(e) Discharge any waste materials, radioactive materials, hazardous chemicals or other contaminants onto or into the ground.

(2) Requirements.

(a) All users shall:

[1] Store all materials, supplies, finished or partially finished products on the rear half of the premises screened from any existing or proposed street.

[2] Install and maintain loading docks and other facilities for the handling of freight and materials only on those sides of any building not facing any street or proposed street.

[3] Attractively landscape the unoccupied or unused portion of the premises with lawn, trees, shrubs or other plant material with due consideration to the natural growth and the nature and condition of the terrain.

[4] Where the premises adjoin a residence district, in addition to fencing requirements hereinbefore prescribed, provide a buffer strip along the district boundary at least 100 feet in width and landscaped.

[5] Comply with such additional conditions and requirements as may be imposed by the Planning Board where applicable upon review of any proposed development.

(b) The Zoning Board of Appeals may waive any of the requirements of Subsection E(2)(a)[1], [2], [3] and [4] where it finds that such requirement will impose an undue or unreasonable hardship or inconvenience and where such waiver will not adversely affect the surrounding area, provided that no requirement imposed by the Planning Board may be so waived.

F. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

G. Signs. Signs are permitted as listed in § 280-26.

H. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

I. Special access and setback requirements. Access controls and setback measurements shall be provided as listed in § 280-29.

J. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

K. Easements. Easements shall be granted as required in § 280-30.

§ 280-24. Residential Overlay District.

[Added 12-4-1990 by L.L. No. 10-1990]

A. Purpose. The Town Board recognizes that new development can create problems in existing subdivisions with respect to traffic and safety within such subdivisions. The purpose of this section is to encourage new development to

gain ingress and egress directly with connector streets, thereby reducing traffic within existing subdivisions.

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

[Amended 8-6-1991 by L.L. No. 3-1991]

COLLECTOR STREET

A collector street is a roadway having limited curb cuts or access; proper signalization at intersections; access to intersections by means of left turn lanes as to permit the free flow of traffic so as to allow for the safety of pedestrians and motorists; a dedicated pedestrian sidewalk; a dedicated bicycle path; and constructed to withstand current and anticipated levels of traffic. For purposes of this section, New York State Route 20 and New York State Route 146 shall be considered collector streets. The Town Board may, by resolution, add to or modify the list of collector streets upon the recommendation of the Planning Board and Superintendent of Highways. The Town Board shall consider the following criteria in adding to the list of collector streets:

(1) Whether the road has a limited number of curb cuts, proper signalization at intersections and access to intersections by means of left turn lanes so as to permit the free flow of traffic and allow for the safety of pedestrians and motorists.

(2) Whether the road has a dedicated pedestrian sidewalk.

(3) Whether the road has a dedicated bicycle path.

(4) Whether, in the opinion of the Superintendent of Highways, the road has been constructed to withstand the current and anticipated levels of traffic. The Superintendent of Highways shall consider width of pavement, width of shoulders, depth of road base and the depth and condition of pavement top course.

C. Access to collector street. The density of a subdivision may be increased by the Planning Board by up to 100% of the required density in a designated Residential Overlay District, provided that such subdivision constructs or has direct access to a collector street. For purposes of this section, "direct access" means a right of ingress or egress to a collector street from the subdivision without passing on or over a noncollector street.

§ 280-24.1. Rural 3 District.

[Added 7-12-2005 by L.L. No. 2-2005]

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

CUSTOMARY HOME OCCUPATION 2

An occupation or a profession which:

- (1) Is carried on in the principal dwelling unit or an accessory structure or elsewhere on the property.
- (2) Is carried on by a member of the family residing in the principal dwelling unit.
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- (4) Does not employ more than three persons outside the family.
- (5) Is located on a lot of five acres or more in size in the Rural 3 District.
- (6) Shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in the front yard.
- (7) Shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons outside the accessory structure. In case of electrical interference, there shall be no radio or television disruption outside the accessory structure or fluctuations in line voltages off the premises.

B. Purpose.

- (1) The Rural 3 District recognizes the importance of the Watervliet reservoir and watershed as the primary source of drinking water for the Town of Guilderland. The Rural 3 District is intended to promote the maintenance of the natural landscape and limit the adverse impacts of medium-density development through incorporation of the conservation subdivision approach and related design flexibility.
- (2) The purpose of the Rural 3 Zone is to support creative, low-impact development patterns and land uses that conserve natural resources and

agricultural lands identified in a public planning process to implement recommendations of the Comprehensive Plan of the Town, including amendments to update the Zoning Code focused on the area of Town identified as rural Guilderland. The district is established to:

- (a) Maintain the rural quality of life evident in this area;
- (b) Provide and maintain large, contiguous areas of land to promote and support ongoing agricultural uses and activities; and
- (c) Encourage development at a medium to low density on a range of lot sizes using conservation-sensitive design.

(3) Conservation subdivision provision. The Planning Board is authorized to permit or require adherence to the conservation subdivision regulations for all subdivision applications within the Rural 3 District where, in the opinion of the Planning Board during SEQRA review, the intent and purpose of this section and adherence to the Rural Guilderland Design Guidelines cannot be met under conventional subdivision methods. Any lot created under conservation subdivision that is smaller than the minimum required dimensions shall be limited to residential uses only.

(4) Single lot exemption. The owner of any parcel of land at least five acres in size as depicted on the real property tax map on file with the Town Assessor as of June 1, 2005, may apply to the Planning Board for an exemption to subdivide one lot of at least two acres, provided the following occur:

- (a) Only one such single lot exemption shall be permitted from any such parcel. Each lot created or remaining must provide at least two acres in area, 50 feet minimum frontage on a Town, county or state highway and 200 feet lot width at the building line and other dimensional and environmental requirements in addition to any public health requirements associated with water supply and wastewater disposal and for safe access directly to the parcel from the publicly maintained way.
- (b) The Planning Board must render a determination that such application meets the requirements of this section. Upon determination that the application for a single lot exemption applies, the owner may submit a concept sketch to the Planning Board per the Town of Guilderland Subdivision Regulations. Editor's Note: See Ch. 247, Subdivision of Land.

(c) The plat shall be submitted for final approval to the Planning Board. The plat shall bear the following notation: "The two new parcels created by this subdivision have been granted a one-time single lot exemption. Any further subdivision must meet the complete lot area and dimensional requirements of the current Town of Guilderland Zoning Code."

(d) The Town Assessor shall maintain a map and record of all parcels that have received the benefits of this one-time, single lot exemption provision.

C. Permitted uses.

(1) The following uses and their customary accessory uses are allowed in the Rural 3 District:

(a) General farming, including but not limited to the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, flowers, field crops, hay, grains and similar food and fiber crops, and their customary accessory uses, such as barns, greenhouses, silos, etc.

(b) Pastures and grazing.

(c) Animal husbandry, including the breeding, raising and sale of cattle, sheep, horses, goats, pigs, rabbits, poultry, farmed deer, farmed buffalo and fur-bearing animals.

(d) Single-family dwelling.

(e) Customary home occupation, including but not limited to woodworking, blacksmith shops and mail-order sales.

(f) Sale of agricultural products grown, raised or produced on the premises. Stands erected for such sales shall not exceed 400 square feet and shall be located a minimum of 20 feet from the highway right-of-way, and adequate off-street parking area shall be provided.

(g) Public schools, family day-care homes and group family day-care homes.

(h) Public buildings and grounds, including Town, school and fire districts.

(2) In addition to the above permitted uses, the following shall be permitted uses within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more:

(a) Open recreational uses, such as public and private parks, playgrounds, hiking trails, picnic areas, cross-country skiing and riding trails.

(b) Wildlife preserves and any preserves of historic, scenic or scientific areas.

(c) Veterinary clinics and animal hospitals, excluding boarding.

(d) The cultivation of aquaculture and aquaculture products, including fish, fish products, plants and shellfish.

(e) Bed-and-breakfasts consisting of four guest rooms or fewer.

D. Special uses.

(1) The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

(a) Churches and similar religious institutions.

(b) Rest, nursing and convalescent homes approved by the New York State Health Department or other health-related approving agencies.

(c) Day-care centers, provided that such centers front on a state or county highway.

(d) Nonprofit private schools, licensed by a governmental agency, but not including business, dancing, trade or any other commercially oriented schools.

(e) Open recreational uses, such as parks, playgrounds, golf courses, driving ranges, country clubs, conservation or game clubs, and hunting clubs, but not including such intensive commercial uses as a miniature golf course, race track or amusement park.

(f) Wildlife preserves, a preserve or scenic, historic and scientific areas, historic or agricultural-related museums.

(g) Community centers or public facilities owned and operated by a governmental agency.

(h) Riding instruction and academies; boarding stables.

(i) Cemeteries and related uses, provided that no burial or memorial plots or buildings shall be located closer than 100 feet to any residential lot line. Crematories shall be located only in cemeteries.

(j) Farm implement stores, farm machinery sales and service, grain silo outlets, fertilizer outlets, farm cooperative outlets, agricultural processing facilities such as slaughterhouses, and other agricultural-related businesses.

(k) Grower-owned and -operated commercial nurseries and plant retail and wholesale outlets, greenhouses and landscape contracting facilities (both retail and wholesale).

(l) Excavation of sand, gravel, stone, loam, dirt and other earth products subject to the provisions of § 280-35, Excavations and topsoil removal.

(m) Kennels, provided that a kennel may not be operated within 300 feet of a residence other than the residence of the owner or operator thereof. Dogs must be confined within a building between the hours of 10:00 p.m. and 7:00 a.m.

(n) Public and private utility substations and uses, excluding power plants or repair yards, maintenance or storage facilities or uses of a similar nature.

(o) Country store: a retail business includes the sale of agricultural and arts and hand-crafted products produced locally (within rural Guilderland) within an enclosed structure of no more than 5,000 square feet in size. Additionally, nonagricultural-related retail products may be sold in an area that is no more than 20% of the net sales floor space. Outside sales of locally produced agricultural products (i.e., strawberries, pumpkins, Christmas trees, etc.) are permitted.

(p) Two-family dwelling, provided that the minimum lot size shall be 4.5 acres.

(q) Customary home occupation 2.

(2) In addition to the above uses listed in Subsection D, the following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures, within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more:

(a) The production and sale of water, subject to Albany County Health Department regulations.

(b) Agricultural research laboratories, both public and private.

(c) Grower-owned and -operated commercial farm markets, garden centers, lawn and garden supply centers and the sale of related products (such as specialty foods, crafts, antiques, bakery and deli products, etc.) in which 60% or more of gross sales are from products grown, raised, produced, processed or manufactured on the farm. Such buildings shall be located a minimum of 45 feet from the highway right-of-way, and adequate off-street parking with a blacktop or gravel area shall be provided.

E. Dimensional requirements. The following dimensional requirements shall be observed for the Rural 3 District. Note: all applications to the Town required to adhere to § 280-28.1, Conservation subdivision, shall refer to the dimensional requirements within that section.

(1) Minimum required (nonconservation subdivision*):

(a) Lot area: three acres (130,680 square feet).

(b) Lot width: 200 feet at the building line.

(c) Front setback: 50 feet.

(d) Side setback: 50 feet.

(e) Rear setback: 100 feet.

(f) Maximum lot coverage: 30%.

(2) Any building housing livestock or any noxious commodity shall be no nearer than 100 feet to any lot line; except when abutting any other district, then the distance shall be no nearer than 200 feet.

(3) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

* Note: All subdivision applications required to conform to § 280-28.1, Conservation subdivision, must adhere to the bulk and area table set forth within that section.

F. Agricultural uses. All ordinary, customary and usual agricultural activities are permitted in agricultural zones, including the erection in connection with and reasonably necessary to the conduct of such activities, which activities shall include the processing, packaging, warehousing and storage of agricultural products; provided, however, that the erection and maintenance of slaughterhouses, rendering plants, fertilizer plants and canneries is expressly prohibited; and further provided that the keeping of swine and disposal of offal and garbage shall be in accordance with Chapter 120, Animals, Article I, Keeping Swine. The enclosed storage of manure or areas for storage of dead fowl, animal or other odor- or dust-producing substance or use shall not be permitted within 100 feet of a property line or 125 feet of a public street right-of-way. Stables and buildings for the housing of fowl or farm animals shall not be located in the required front setback nor within 100 feet of a property line.

G. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

H. Signs. Signs are permitted as listed in § 280-26.

I. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

J. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

K. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

L. Easements. Easements shall be granted as required in § 280-30.

§ 280-24.2. Rural 5 District.

[Added 7-12-2005 by L.L. No. 3-2005]

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

CUSTOMARY HOME OCCUPATION 2

An occupation or a profession which:

- (1) Is carried on in the principal dwelling unit or an accessory structure or elsewhere on the property.

- (2) Is carried on by a member of the family residing in the principal dwelling unit.
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
- (4) Does not employ more than three persons outside the family.
- (5) Is located on a lot of seven acres or more in size in the Rural 5 District.
- (6) Shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in the front yard.
- (7) Shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons outside the accessory structure. In case of electrical interference, there shall be no radio or television disruption outside the accessory structure or fluctuations in line voltages off the premises.

B. Purpose.

- (1) The Rural 5 District recognizes the unique characteristics of Guilderland's rural and agricultural areas and is intended to encourage only low-density development that respects and maintains the area's natural setting, including but not limited to rural character, topography, woodlands and farms, soils, views, and water resources.
- (2) The purpose of the Rural 5 Zone is to support creative, low-impact development patterns and land uses that conserve natural resources and agricultural lands identified in a public planning process to implement recommendations of the Comprehensive Plan of the Town, including amendments to update the Zoning Code focused on the area of Town identified as rural Guilderland. The district is established to:
 - (a) Maintain the rural quality of life evident in this area;
 - (b) Provide and maintain large, contiguous areas of land to promote and support ongoing agricultural uses and activities; and
 - (c) Encourage development at a low density on a range of lot sizes using conservation-sensitive design.

(3) Conservation subdivision provision. The Planning Board is authorized to permit or require adherence to the conservation subdivision regulations for all subdivision applications within the Rural 5 District where, in the opinion of the Planning Board during SEQRA review, the intent and purpose of this section and adherence to the Rural Guilderland Design Guidelines cannot be met under conventional subdivision methods. Any lot created under conservation subdivision that is smaller than the minimum required dimensions shall be limited to residential uses only.

(4) Single lot exemption. The owner of any parcel of land at least seven acres in size as depicted on the real property tax map on file with the Town Assessor as of June 1, 2005, may apply to the Planning Board for an exemption to subdivide one lot of at least three acres, provided the following occur:

(a) Only one such single lot exemption shall be permitted from any such parcel. Each lot created or remaining must provide at least three acres in area, 50 feet minimum frontage on a Town, county or state highway and 200 feet lot width at the building line and other dimensional and environmental requirements in addition to any public health requirements associated with water supply and wastewater disposal and for safe access directly to the parcel from the publicly maintained way.

(b) The Planning Board must render a determination that such application meets the requirements of this section. Upon determination that the application for a single lot exemption applies, the owner may submit a concept sketch to the Planning Board per the Town of Guilderland Subdivision Regulations. Editor's Note: See Ch. 247, Subdivision of Land.

(c) The plat shall be submitted for final approval to the Planning Board. The plat shall bear the following notation: "The two new parcels created by this subdivision have been granted a one-time single lot exemption. Any further subdivision must meet the complete lot area and dimensional requirements of the current Town of Guilderland Zoning Code."

(d) The Town Assessor shall maintain a map and record of all parcels that have received the benefits of this one-time, single lot exemption provision.

C. Permitted uses

(1) The following uses and their customary accessory uses are allowed in the Rural 5 District:

(a) General farming, including but not limited to the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, flowers, field crops, hay, grains and similar food and fiber crops, and their customary accessory uses, such as barns, greenhouses, silos, etc.

(b) Pastures and grazing.

(c) Animal husbandry, including the breeding, raising and sale of cattle, sheep, horses, goats, pigs, rabbits, poultry, farmed deer, farmed buffalo and fur-bearing animals.

(d) Single-family dwelling.

(e) Customary home occupation, including but not limited to woodworking, blacksmith shops and mail-order sales.

(f) Sale of agricultural products grown, raised or produced on the premises. Stands erected for such sales shall not exceed 400 square feet and shall be located a minimum of 20 feet from the highway right-of-way, and adequate off-street parking area shall be provided.

(g) Public schools, family day-care homes and group family day-care homes.

(h) Public buildings and grounds, including Town, school and fire districts.

(2) In addition to the above permitted uses, the following shall be permitted uses within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more:

(a) Open recreational uses, such as public and private parks, playgrounds, hiking trails, picnic areas, cross-country skiing and riding trails.

(b) Wildlife preserves and any preserves of historic, scenic or scientific areas.

(c) Veterinary clinics and animal hospitals, excluding boarding.

(d) The cultivation of aquaculture and aquaculture products, including fish, fish products, plants and shellfish.

(e) Bed-and-breakfasts consisting of four guest rooms or fewer.

D. Special uses.

(1) The following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures:

- (a) Churches and similar religious institutions.
- (b) Rest, nursing and convalescent homes approved by the New York State Health Department or other health-related approving agencies.
- (c) Day-care centers, provided that such centers front on a state or county highway.
- (d) Nonprofit private schools, licensed by a governmental agency, but not including business, dancing, trade or any other commercially oriented schools.
- (e) Open recreational uses, such as parks, playgrounds, golf courses, driving ranges, country clubs, conservation or game clubs, and hunting clubs, but not including such intensive commercial uses as a miniature golf course, race track or amusement park.
- (f) Wildlife preserves, a preserve or scenic, historic and scientific areas, historic or agricultural-related museums.
- (g) Community centers or public facilities owned and operated by a governmental agency.
- (h) Riding instruction and academies; boarding stables.
- (i) Cemeteries and related uses, provided that no burial or memorial plots or buildings shall be located closer than 100 feet to any residential lot line. Crematories shall be located only in cemeteries.
- (j) Farm implement stores, farm machinery sales and service, grain silo outlets, fertilizer outlets, farm cooperative outlets, agricultural processing facilities such as slaughterhouses, and other agricultural-related businesses.
- (k) Grower-owned and -operated commercial nurseries and plant retail and wholesale outlets, greenhouses and landscape contracting facilities (both retail and wholesale).

(l) Excavation of sand, gravel, stone, loam, dirt and other earth products subject to the provisions of § 280-35, Excavations and topsoil removal.

(m) Kennels, provided that a kennel may not be operated within 300 feet of a residence other than the residence of the owner or operator thereof. Dogs must be confined within a building between the hours of 10:00 p.m. and 7:00 a.m.

(n) Public and private utility substations and uses, excluding power plants or repair yards, maintenance or storage facilities or uses of a similar nature.

(o) Country store: a retail business includes the sale of agricultural and arts and hand-crafted products produced locally (within rural Guilderland) within an enclosed structure of no more than 5,000 square feet in size. Additionally, nonagricultural-related retail products may be sold in an area that is no more than 20% of the net sales floor space. Outside sales of locally produced agricultural products (i.e., strawberries, pumpkins, Christmas trees, etc.) are permitted.

(p) Customary home occupation 2.

(2) In addition to the above uses listed in Subsection D, the following uses and their accessory uses are permitted when authorized in accordance with § 280-52, Special use permit review procedures, within the State Agricultural District on owner-occupied and -operated farms with 10 acres or more:

(a) The production and sale of water, subject to Albany County Health Department regulations.

(b) Agricultural research laboratories, both public and private.

(c) Grower-owned and -operated commercial farm markets, garden centers, lawn and garden supply centers and the sale of related products (such as specialty foods, crafts, antiques, bakery and deli products, etc.) in which 60% or more of gross sales are from products grown, raised, produced, processed or manufactured on the farm. Such buildings shall be located a minimum of 45 feet from the highway right-of-way, and adequate off-street parking with a blacktop or gravel area shall be provided.

E. Dimensional requirements. The following dimensional requirements shall be observed for the Rural - 5 district. Note: all applications to the Town required to adhere to § 280.28.1 Conservation subdivision, shall refer to the dimensional requirements within that section.

(1) Minimum required (nonconservation subdivision*):

(a) Lot area: five acres (217,800 square feet).

(b) Lot width: 200 feet at the building line.

(c) Front setback: 50 feet.

(d) Side setback: 50 feet.

(e) Rear setback: 100 feet.

(f) Maximum lot coverage: 30%.

(2) Any building housing livestock or any noxious commodity shall be no nearer than 100 feet to any lot line; except when abutting any other district, then the distance shall be no nearer than 200 feet.

(3) Building height. The maximum building height shall be 2 1/2 stories or 35 feet, whichever is the lesser, except as provided in § 280-32A.

*Note: All subdivision applications required to conform to § 280-28.1, Conservation subdivision, must adhere to the bulk and area table set forth within that section.

F. Agricultural uses. All ordinary, customary and usual agricultural activities are permitted in agricultural zones, including the erection in connection with and reasonably necessary to the conduct of such activities, which activities shall include the processing, packaging, warehousing and storage of agricultural products; provided, however, that the erection and maintenance of slaughterhouses, rendering plants, fertilizer plants and canneries is expressly prohibited; and further provided that the keeping of swine and disposal of offal and garbage shall be in accordance with Chapter 120, Animals, Article I, Keeping Swine. The enclosed storage of manure or areas for storage of dead fowl, animal or other odor- or dust-producing substance or use shall not be permitted within 100 feet of a property line or 125 feet of a public street right-of-way. Stables and buildings for the housing of fowl or

farm animals shall not be located in the required front setback nor within 100 feet of a property line.

G. Off-street parking and loading requirements. Off-street parking and loading areas shall be provided as listed in § 280-25.

H. Signs. Signs are permitted as listed in § 280-26.

I. Fences, hedges and screen plantings. Fences, hedges and screen plantings are permitted or, alternatively, shall be required as listed in § 280-27.

J. Special access and setback requirements. Access control and setback measurements shall be provided as listed in § 280-29.

K. Accessory structures. Accessory structures shall be permitted as listed in § 280-34.

L. Easements. Easements shall be granted as required in § 280-30.

§ 280-24.3. Country Hamlet (CH) District.

[Added 7-12-2005 by L.L. No. 4-2005]

A. Purpose. The purpose of this section is to allow for the development of land in appropriate areas of the Town of Guilderland that is consistent with the design principles of traditional neighborhoods, including: compact, human-scale design; a mix of uses (limited-scale commercial, residential, civic, open space, etc.); a mix of housing styles and types; a system of interconnected streets with sidewalks and other amenities; to encourage pedestrian and bicycle use and multipurpose pathways; and links to existing and future developments, community centers, and park and recreation resources while conserving large expanses of the rural landscape as natural areas, working farm and forest lands and supporting outdoor recreation experiences. As a limited number of country hamlets serve as the centerpieces of new growth in rural Guilderland, these hamlets will also support and provide extensive acreage of land conservation and secure substantial benefits and open space amenities to the residents of the hamlet and the greater community.

B. Applicability. Any application to rezone a portion of the Town of Guilderland to a Country Hamlet (CH) District is a voluntary action of the applicant. Approval of such zoning designation is at the complete discretion of

the Town Board. To be considered by the Town Board, CH District applications must comply with the following development parameters:

- (1) Minimum size: 160 acres (applications for sites less than 160 acres shall be considered when they are located adjacent to an existing CH District, hamlet as determined by the Town Board through the rezoning process, or village. Larger projects that protect significantly larger acreages as open space are encouraged.
- (2) Location: Rural 3 District.
- (3) Infrastructure: demonstrate capacity and access to sewer and water infrastructure.
- (4) Roads: demonstrate substantial frontage on and access to a county or state highway.
- (5) Compatibility: demonstrate compatibility with the surrounding area.

C. Application procedure and approval process. Prior to the approval of any new CH District, the following steps shall be completed:

- (1) Planning conference.
 - (a) Prior to submission of a CH District application, the applicant shall present a general description of the project to the Planning Board designee (Town Planner) at a preapplication conference. The submittal should include sketch plans, a description of how the project meets the applicability criteria in Subsection B, Applicability, and a narrative sufficient for understanding the proposal.
 - (b) The purpose of this conference is to discuss and clarify the purpose and goals of the CH District, review the approval process, ensure that the project sponsor has access to the Town's Rural Development Design Guidelines, and review the general project description.
- (2) Formal application to Town Board.
 - (a) All CH District applications shall be submitted to the Town Board and follow the requirements set forth in § 280-50, Amendments. In addition to all applicable procedures, Town forms, and information required according to § 280-50, applications shall also include the following information:

[1] Legal description of site: a legal description of the land to be included within the proposed CH District, a survey or map accurately portraying the boundaries of the property, the name(s) of every person owning an interest in any part of the site and the nature of each person's interest and documents substantiating ownership.

[2] Statistical tables. In addition to the project summary, the applicant shall provide summary tables showing, at a minimum, the following information:

[a] Number of units broken down by type (e.g., single-family).

[b] Amount of proposed commercial space (in square feet).

[c] Total amount of open space to be included.

[3] Area map and brief project summary: a map showing the properties to be included within the CH District and all properties within a radius of 500 feet of the exterior boundaries thereof and a statement of the proposed zoning change (brief description of the CH District).

[4] Existing conditions and site analysis map(s): showing general location; existing property lines; zoning and land use; location and names of all streets, right-of-way lines, buildings, transmission lines, water and sewer lines, and easements; surface waters and wetlands; other unique natural areas and vegetation; topography; and any known or potential historic and cultural resources. Existing conditions maps must show 500 feet surrounding proposed CH District area.

[5] Concept sketches. Along with the existing conditions and analysis maps, the applicant shall submit concept sketches to give the Town a preliminary review and understanding of the proposal. The concept sketches shall include a general map of land use allocations, roadway circulation, open space areas, unit count by use and type and any other information to assist with explanation of the project.

[6] Tract Resource Map. This map, described in detail within the Rural Guilderland Design Guidelines, is used to identify appropriate conservation and recreation lands within the CH District.

(b) The Town Board shall make an initial decision whether to entertain the application based on how the proposal meets the intent and

applicability of this section. The Town Board shall refer all such applications to the Planning Board for its review.

(3) Planning Board review. The Planning Board shall consider all CH District applications in accordance with the requirements of this section and the Town's rural development design guidelines in two phases: concept review and preliminary review.

(a) Concept review.

[1] The Planning Board will review the project application and submitted materials, including the project summary, existing conditions and site analysis map, and concept sketches. Upon completion of this review, the Board will make an initial statement of findings in writing to the applicant. This decision shall be provided to the applicant within 45 days and be based on how the project matches the overall purpose, goals, and applicability of the CH District and principles of the rural development design guidelines.

[2] At this stage, the Planning Board may suggest changes in the concept sketches involving street layout, traffic patterns, lot sizes, preservation of natural features or other matters which, in its opinion, will improve the layout in keeping with the best interests of the Town and the CH District.

(b) Preliminary review - the development plan.

[1] Following concept review, the project applicant shall submit a development plan for preliminary review (see development plan components below). The Planning Board's review shall be in accordance with the regulations of this chapter and the Town's Rural Development Design Guidelines. The Board shall render a decision within 60 days following submission of the development plan.

[2] The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the development plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final development plan, conformance with which shall be considered a condition of approval. If the development plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend

further study of the application and resubmission of the development plan to the Planning Board after it has been revised.

(c) Development plan components. Each application to establish a CH District shall include a development plan that describes existing conditions and the future development pattern. The development plan shall be reviewed by the Planning Board in accordance with this chapter and the design guidelines and, upon approval, shall be part of the adopted local law. The development plan shall include a series of maps, drawings, tables, and narratives discussing the overall CH District application that demonstrate the following:

[1] Land use relationships and boundaries of each use area.

[2] An updated tract resource map (see hamlet district design guidelines) showing appropriate areas to be included as open space. (Note: the tract resource map is submitted with preliminary review materials, but should be updated based on the Planning Board's initial commentary and submitted within the development plan.)

[3] Delineation of proposed open space, recreational, and civic areas broken down by type (preserves, parkland, agriculture, commons, neighborhood greens, or plazas).

[4] Vehicle, bicycle, and pedestrian, and multipurpose circulation system, including locations, widths of rights-of-way, and any use restrictions.

[5] General drawings indicating the architectural character and appearance of building types, streetscapes, parking layout areas, and landscaping concepts.

[6] Streetscape drawings showing streets (travel lane dimensions and ROW widths), sidewalks, parking, street lights, tree planting areas and other landscaping treatments.

[7] Use, size, location and height of all proposed buildings and structures.

[8] Building design standards which depict architectural styles, construction materials, and construction methods.

[9] Land management plan for open spaces, including provisions for buildings and support structures and any limitations thereon.

[10] Statistical data demonstrating the gross acreage and percent for each land use and housing type.

[11] Table establishing minimum area sizes; width, side yard, frontage, depth, rear setbacks, and other dimensional standards. While there are no minimum bulk requirements, the town's design guidelines should be used as a base. Where the applicant deviates from this model, a table shall be created and included in the development plan.

[12] Stormwater pollution prevention concept plan addressing stormwater runoff and water quality.

[13] A development schedule for the CH District if phasing is proposed.

[14] A discussion of how the project meets each principle and guideline of the Hamlet District guidelines from the Town's Rural Development Design Guidelines.

[15] A discussion of impacts to surrounding area and opportunities for future hamlet expansion.

(4) Town Board approval.

(a) Upon receiving the statement of findings from the Planning Board, the Guilderland Town Board shall hold at least one public hearing on the proposed rezoning. Following this hearing, the Board shall render a decision within 60 days to deny, approve, or approve with amendments the rezoning application. The Town Board may also refer the proposed amendment back to the Planning Board for report and recommendation before adoption.

(b) Approval with amendments. If the Town Board approves the application with amendments, the applicant shall revise the CH District development plan to include such conditions or modifications within 60 days of Board approval. Failure to revise the development plan within the prescribed time shall render Town Board approvals null and void unless a sixty-day extension is requested in writing and approved by the Town Board.

(5) Final approval. The CH District shall be considered conditionally approved pending final site plan review in accordance with the procedures established in § 280-53. Site plan approval shall suffice for Planning Board review of subdivisions under Chapter 247, Subdivision of Land, subject to the following conditions:

(a) The developer shall prepare sets of subdivision plats suitable for filing with the Albany County Clerk.

(b) The developer shall plat the entire development as a subdivision; however, hamlets being developed in phases may be platted and filed in the same stages.

(c) Final site plan approval under § 280-53 shall constitute final plat approval under Chapter 247, Subdivision of Land, and provisions of § 276 of the Town Law regarding the filing of a plat with the Albany County Clerk shall apply.

(6) Applicant amendments to the development plan. All deviations from a development plan approved by the Town Board shall be reviewed pursuant to the following:

(a) Requests for minor changes to the development plan adopted by the Town Board may be approved by the Town Planning Board, provided that the changes do not:

[1] Adversely affect land owners within 200 feet of the project boundary.

[2] Increase the total number of units.

[3] Modify the gross amount of commercial space within the project.

[4] Increase traffic impacts.

[5] Reduce the amount of open space to be provided.

(b) Requests for major changes to the development plan (major changes are all changes that do not meet the above criteria) shall be submitted to the Town Board in the form of an updated development plan. The Town Board and Planning Board shall review the updated development plan in accordance with the procedures outlined in Subsection C, Application procedure and approval process.

D. Allowed number of units. The base number of units allowed in the CH District is 0.8 unit per acre of buildable land. (See open space requirements below.)

Example:

Total project site = 200 acres

Unbuildable acreage = 40 acres

Buildable acreage = 160 acres

Required open space = 120 acres (60% of 200 acres)

Maximum number of units = 128 units (160 * 0.8) to be located on no more than 80 acres

(1) Density bonuses and incentives.

(a) The Town Board is authorized to award a density bonus based on the provision of open space beyond the basic requirements of this section (beyond 60%) as well as the provision of certain community amenities. Such open space and amenities can be located within or outside of the CH District or take the form of a monetary contribution to the town's open space fund (incentives are discussed below).

[1] High percentage of conservation. Where 75% or more of the total acreage of the Country Hamlet is to be protected as conservation areas in perpetuity, the development may be awarded a unit bonus. The following table shall be used to determine the allowed number of units under this density bonus clause:

Percent of Total Acreage Permanently Protected	Units per Developable Acre
60% (standard requirement)	0.8 (standard allowance)
75%	1.0

[a] Off-site open space. At the discretion of the Town Board, permanently protected open space located off of the development site may be included as part of the Country Hamlet open space. Where off-site open space of permanently protected land is being offered for transfer of development intensity to the development area of the Country Hamlet, the Town Board shall make a finding that the amount and quality of off-site acreage protected as open space is

commensurate with the level of density transfer being awarded. In these cases, the applicant must show how these lands will have a demonstrable benefit to the proposed CH District and the relationship between increased development in the hamlet area and the benefit of the open space area to be protected.

[b] Contribution to Town of Guilderland open space fund. Where a contribution to the Town's open space fund is included and/or substituted for permanently protected land, the Town Board shall make a finding that such funds are commensurate with the level of density bonus being awarded. Such funds should be sufficient for the purchase of an equivalent amount of open space related to the increase in density.

[2] Protection of historically significant resources from development. Where a development protects historically significant buildings, resources, or landscapes, the development may be awarded a five-percent-unit-count bonus. Historical significance must be established pursuant to the findings of the Town Historian and/or the New York State Historic Preservation Office.

[3] Off-site linkages. Where a development includes linkages such as sidewalks to off-site resources and community amenities, the development may be awarded a ten-percent-unit-count bonus.

[4] Provision of public water. Where an applicant provides extensions of public water facilities along corridors and to areas where it is not provided, a unit count bonus up to 20% may be awarded. Such public water extension must be made available for use by properties off of the applicant's development site.

[5] Elderly housing. Where the greater of at least 25% or 36 or more of the housing units within a proposed CH District are specifically designed for and restricted to the elderly, a twenty-five-percent-density bonus may be awarded.

[6] Other: The Town Board reserves the right to award a unit count bonus up to 25% over the base density based on the provision of additional amenities provided by the project applicant that meet the goals and objectives of this section and the Rural Guilderland Design Guidelines.

[7] Limits on incentives. In no situation may the unit count be increased beyond 25% of the site's allowed base figure, except where an applicant takes advantage of the incentives in Subsection D(1)(a)[4], Public water, or Subsection D(1)(a)[5], Elderly housing. In these situations, the unit count increase may be extended up to, but not exceed, 40% of the site's allowed base figure.

(b) Final determination of incentives shall be made by the Town Board in its review of the application and in accordance with the conservation subdivision design guidelines and other Town planning documents.

(2) Determining density for commercial uses. To determine permitted commercial space, each permitted unit according to the chart above can be converted to an equivalent following the schedule below:

1 allowed unit = 1,000 square feet of commercial space

(3) Density and size limits. The following limits shall be placed on commercial development within the CH District:

(a) No single commercial establishment shall exceed 25,000 gross square feet.

(b) No more than 40% of the total allowed density may be dedicated to commercial uses.

(c) Multiple-family dwelling units may account for no more than 20% of all housing units within the CH District.

E. Open space. To identify appropriate open space and conservation lands, each CH District application must include a tract resource map as described in the CH District section of the Town's Rural Development Design Guidelines.

(1) Open space requirements. A minimum of 60% of the site shall be set aside as open space and identified in the applicant's development plan. The plan must also identify the type of open space according to the categories described within the Town's Rural Development Design Guidelines (preserves, parkland, agriculture, commons, neighborhood greens, or plazas).

(a) At least 50% of the gross buildable land within the CH District shall be set aside as open space.

(b) The Planning Board shall determine the amount of publicly accessible parkland required on a case-by-case basis.

(2) Allowed uses in open space areas. Land designated as open space shall be limited to the following uses:

(a) Nature preserves.

(b) Passive recreation.

(c) Active recreation.

(d) Commercial recreation.

(e) Reasonable support buildings (e.g., picnic pavilion, barns), including limitations (e.g., size/percent coverage) thereon.

(f) Water supplies and distribution systems.

(g) Agricultural or farming operations and reasonable support buildings.

(h) Forestry operations with a forest management plan developed by a professional forester participating in the New York State DEC's cooperating forestry program.

(i) Stormwater management systems, water supplies and distribution systems.

(3) Enforcement of provisions. To ensure the enforcement of the provisions of this section, the Planning Board, as a condition to the granting of subdivision approval, may require the subdivider, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the Planning Board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such open area in accordance with the spirit and intent of this section.

(4) Conveyance of land. Nothing contained in this subsection, however, shall prohibit open area created pursuant to this section to be conveyed to the Town for recreational use upon acceptance of the Town Board, or from being conveyed to a recognized conservation organization or other entity (e.g., school district, Pine Bush Commission) upon approval of the Town Board.

F. Permitted uses (Country Hamlet development area). It is the intention that CH Districts will include a variety of residential and commercial use types. The variety of housing and business types should reflect the principles and guidelines set forth in the Rural Development Design Guidelines as well as the standards of Subsection D(3) of this section (Density and size limits).

(1) Residential uses. In the developed area of a CH District, all residential types and their accessory uses shall be allowed.

(2) Commercial uses. In the developed area of a CH District, allowed commercial uses include:

(a) All uses allowed in the BN-RP Business Non-Retail Professional District.

(b) All uses allowed in the LB Local Business District.

G. Dimensional requirements.

(1) There are no standard dimensional requirements for the CH District. Rather, all dimensional standards shall be established and described by the applicant in the applicant's development plan in accordance with the Rural Development Design Guidelines and as approved by the Planning Board.

(2) Furthermore, the Planning Board is authorized to waive all other dimensional requirements of the Town of Guilderland zoning, subdivision, and other relevant regulations in order to allow for site layout and design that meets the purpose and goals of this section in the creation or expansion of a CH District.

(3) A table establishing setbacks for the CH District shall be included within the applicant's development plan.

H. Off-street parking. The requirements contained within the Town's Zoning Ordinance, § 280-25, are used as a base to determine parking standards for the CH District. For all uses, the total minimum quantity of off-street parking required shall be reduced by 50% with the exception of the following:

(1) Single-family, two-family, and multifamily dwellings: A minimum of one off-street parking space is required for each dwelling unit.

(2) The Planning Board is authorized to establish maximum off-street parking figures to limit excessive pavement and oversized parking lots.

I. Additional requirements.

(1) Trails. Each CH District shall include a publicly accessible trail network connecting the development to surrounding uses.

(2) Sidewalks. Each CH District shall include sidewalks in accordance with the design criteria outlined in the Town's Subdivision Regulations. Editor's Note: See Ch. 247, Subdivision of Land.

J. Country Hamlet expansion. Expansion of CH Districts in Guilderland is encouraged. This would include creation of projects greater than the minimum acreages to foster large expanses of open space and more diverse and expanded hamlet development areas. Potential areas for future expansion should be identified and discussed within the applicant's development plan. Proposals for CH District expansions are required to follow the process outlined within this chapter with the following exceptions and caveats:

(1) The minimum CH District size requirement is waived.

(2) The applicant's development plan must clearly demonstrate how the expansion will integrate with the existing hamlet.

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

AGRICULTURE

The employment of real property for the primary purpose of raising, harvesting, and selling crops or feeding, including but not limited to grazing, breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees or by dairying and the sale of dairy products or composting which includes agricultural wastes or by any other horticultural, floricultural, or viticulture use, aquaculture, hydroponics, silviculture, by animal husbandry or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows, and other on farm niche marketing promotion.

BUILDABLE LAND

Land excluding state- or federally regulated wetlands, waterbodies, floodways, slopes 25% or greater, including the environmental setbacks and buffers of these features, and preexisting developed areas of the site.

DEVELOPMENT AREA, COUNTRY HAMLET

Portion of the Country Hamlet District that may be used to locate home sites and other development features. This area does not include open space.

DEVELOPMENT PLAN

Report submitted to the Planning Board that describes existing conditions and proposed development patterns within the Country Hamlet District.

ELDERLY HOUSING

Housing established and maintained in compliance with the Fair Housing Act, as amended, 42 USC § 3601 et seq., that is designed to meet the needs of persons 55 years of age or older.

IMPERVIOUS SURFACES

Anything situated on the surface of the earth which cannot be penetrated by water. (This is the existing Guilderland definition.)

OPEN SPACE, COUNTRY HAMLET

The portion of the Country Hamlet District that has been set aside for permanent protection from development. These lands are those that have important ecological functions, natural resources, or cultural resources and may contain, but are not limited to, forests, farmland, fields, floodplains, wetlands, and stream banks. Open space can also encompass scenic vistas, recreational areas, and historic sites.

RECREATION, ACTIVE

Leisure activities usually performed with others, often requiring equipment and taking place at prescribed places, sites or fields. Active recreation includes but is not limited to swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

RECREATION, COMMERCIAL

Recreational activities provided on a fee-for-service basis, such as golf courses, driving ranges, country clubs, and downhill ski areas, including horseback trail rides and similar activities, conservation or game clubs and hunting clubs, but not including such intensive uses as miniature golf operations, paintball operations, race tracks, water slide parks, or amusement parks.

RECREATION, PASSIVE

Recreational activities that generally do not require a developed site. This generally includes such activities as hiking, horseback riding, and picnicking.

TRADITIONAL NEIGHBORHOOD

A compact, mixed-use neighborhood where site design and layout allows for and encourages nonmotorized and other less-intrusive methods of transportation.

ARTICLE IV. Regulations Applicable to All Districts

§ 280-25. Off-street parking and loading requirements.

A. Purpose and requirements.

[Amended 6-1-1999 by L.L. No. 4-1999]

(1) Off-street parking requirements serve several purposes. The first is to ensure that adequate parking is provided on site so as not to interfere with traffic or the safety of pedestrians. The second is to ensure that the property on which the use is located is not overdeveloped. It is a finding of the Town Board that the construction of multilevel parking facilities may result in the overdevelopment and use of property.

(2) No building or other permit shall be issued until plans and evidence are presented, reviewed and approved or conditionally approved by the Planning Board and or the Zoning Board of Appeals to show the off-street parking and loading requirements are to be fulfilled and that property is and will be available for exclusive use as off-street parking and loading space. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this chapter.

B. Off-street loading. Every hospital, institution, hotel, commercial or industrial building hereafter erected or established having a gross floor area of 5,000 square feet or more shall provide and maintain at least one off-street loading space, plus one additional off-street loading space for each additional 10,000 square feet of gross floor area. Any use requiring 1/2 or more of a loading space shall be deemed to require the full space. Each loading space shall not be less than 12 feet in width, 35 feet in length and 14 feet in height clearance. These requirements apply to each separate occupancy and are exclusive of driveways, aisles and other necessary circulation areas.

C. Off-street parking.

[Amended 6-1-1999 by L.L. No. 4-1999]

(1) Off-street parking spaces shall be provided and maintained as set forth in this section for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time:

(a) A new building is hereafter erected or enlarged.

(b) A building existing on the effective date of this chapter is enlarged to the extent that the cost of construction exceeds 50% of the market value of the building as shown on the Town of Guilderland Assessor's record or to the extent that the building's capacity is increased by more than 50 percent in terms of units used in the "required parking spaces" column of Subsection D of this section.

(c) The use is changed to another use with greater parking requirements.

(2) It is a finding of the Town Board that the use of multilevel parking in order to satisfy off-street parking requirements may result in the overdevelopment and over-use of property violating the spirit and intent of this chapter. The erection or construction of multilevel parking facilities is prohibited. The Zoning Board of Appeals may grant a variance from this subsection, only upon a showing by the applicant:

(a) That the primary purpose of a multilevel parking facility is to provide additional on-site green space;

(b) That the green space to be provided is at least equal to the gross floor area of all floors, excluding the ground level floor, in the multilevel parking facility;

(c) That the green space provided by the applicant is located on the same parcel of land as that of the multilevel parking facility and is contiguous to such multilevel parking facility;

(d) That the multilevel parking facility is designed and constructed with an enclosed roof, and it shall be a condition made by the Zoning Board of Appeals that no parking or activities may be permitted on the roof of said multilevel parking facility; and

(e) That such additional green space is, in fact, provided and designated on the final site plan.

D. Number of spaces required.

(1) Off-street parking spaces shall be provided as listed below. In the case of combination of uses, the total requirements for off-street parking shall be the sum of the requirements for the various uses, unless it is established that staggered hours of use would justify modification. If a portion of a space is required, a full space shall be provided.

Use	Requirement
Residential	
Single-family dwellings	2 spaces
Two-family dwellings	4 spaces
Dormitories	1 space per dwelling unit
Multifamily dwellings	1 1/2 spaces per dwelling unit
Mobile homes	2 spaces per unit
Business-Residential	
Hotels and motels, clubs, lodges	1 space per guest room, plus 1 space per employee (maximum shift), plus spaces to meet the combined requirements of the uses being conducted, such as restaurant, auditorium, etc
Bed-and-breakfast	2 spaces for the home, plus 1 space for each guest room
[Added 4-2-1996 by L.L. No. 2-1996]	
Institutions	
Nursing care homes	1 space per 3 beds for patients or residents, plus 1 space per each staff member (maximum shift)
Hospitals	3 spaces per 2 beds
Medical and dental outpatient facilities	1 space for every 150 square feet of gross floor area, plus 1 space per employee (maximum shift)
Places of public assembly	

Use	Requirement
Churches	1 space per 3 seats or 8 feet of bench length in the main auditorium, plus 1 space for each member of the clergy
Swimming pools	1 space per each 25 square feet of pool area
Libraries, meeting rooms	1 space for every 100 square feet of gross floor area, plus 1 space for each employee (maximum shift)
Preschools, nurseries, day-care centers and adult day-care centers	1 space per teacher and 1 space per 3 students
Private colleges or schools, commercial schools, nonresidential	1 space per teacher and 2 spaces per 3 seats in classrooms
Elementary or junior high schools	1 space per employee or 1 space per 6 seats or 12 feet of bench length in the auditorium or assembly room, whichever is greater
High schools	1 space per employee, plus 1 space for each 4 students or 1 space per 4 seats or 8 feet of bench length in the main auditorium, whichever is greater
Business amusements	
Arenas, stadiums, civic centers, field houses	1 space per 4 seats or 8 feet of bench length, whichever is greater, plus 1 space per employee (maximum shift)
Bowling alleys	6 spaces per lane, plus 1

Use	Requirement
	space for each employee (maximum shift)
Dance halls, discotheques, night clubs, skating rinks	1 space per 100 square feet of gross floor area, plus 1 space for each employee (maximum shift), plus spaces to meet combined requirements of the uses being conducted, such as a restaurant, bar, etc.
Tennis or racquetball clubs	4 spaces per court, plus 1 space per employee (maximum shift)
Theaters	1 space per 2 seats, plus 1 space per employee (maximum shift)
Business	
Business uses, 1,500 square feet or less	1 space per 100 square feet of gross floor area, plus 1 space for each employee (maximum shift)
Public garages	6 spaces for each service bay, plus 1 space for each employee (maximum shift)
Gasoline filling stations	1 space for each gas pump and 1 space for each service bay, plus 1 space for each employee (maximum shift)
Gasoline filling station and public garages	1 space for each gas pump and 6 spaces for each service bay, plus 1 space for each employee (maximum shift)
Supermarkets, grocery stores or convenient food	1 space per 100 square feet of gross floor area, plus 1 space

Use	Requirement
stores	for each employee (maximum shift)
Service or repair shops, retail stores and outlets selling furniture, automobiles or other bulky merchandise where the operator can show that bulky merchandise occupies the major area of the building	1 space per 200 square feet of gross floor area, plus 1 space for each employee (maximum shift), plus 1 space for each auto or piece of farm equipment available for sale
Retail stores not selling bulky merchandise and over 1,500 square feet	1 space per 150 square feet of gross floor area, plus 1 space for each employee (maximum shift)
Banks, offices, professional offices other than medical/ dental offices	1 space per 200 square feet of gross floor area, plus 1 space per employee (maximum shift)
Professional offices, medical/ dental	1 space per 150 square feet of gross floor area, plus 1 space for each employee (maximum shift)
Restaurants or bars Restaurants, fast-food	1 space per 2 seats, plus 1 space per each employee (maximum shift) or 1 space per 50 square feet of gross floor area, plus 1 space per employee (maximum shift), whichever is greater
Restaurants, sit-down	1 space per 3 seats, plus 1 space per each employee (maximum shift) or 1 space per 100 square feet gross floor area, plus 1 space per employee (maximum shift), whichever is greater

Use	Requirement
Restaurants, sit-down with inn as an accessory use [Added 6-5-2001 by L.L. No. 7-2001]	1 space per 3 seats in the restaurant, plus 1 space per employee (maximum shift) or 1 space per 100 square feet gross floor area, whichever is greater for the restaurant, plus 1 space per lodging unit, plus 1 space per employee (maximum shift) at the inn
Bars or restaurants with bar	1 space per 2 seats, plus 1 space per employee (maximum shift) and 1 space per 20 square feet of standing room
Mortuaries, funeral homes	2 spaces for each 50 square feet of gross floor area up to 500 square feet, plus 1 additional space for each 100 square feet or fraction thereof in excess of 500 square feet
High-rise offices	1 space for each employee (maximum shift), plus 1 visitor parking space for every 200 square feet of gross floor space, plus 1 space for each 200 square feet of gross floor space in the retail store within the office building
Roadside stands	5 spaces per stand, plus 1 space for each 100 square feet of floor area
Public utilities	1 space for each employee (maximum shift)
Shopping centers	
Designed local	1 parking space for each 150

Use	Requirement
	square feet of gross floor area
Designed neighborhood	1 parking space for each 150 square feet of gross floor area
Designed regional	1 parking space for each 200 square feet of gross floor space
Industrial storage, warehouse manufacturing, establishment, air, rail or trucking freight terminal	1 space per employee (maximum shift)
Research development laboratories	1 space for each employee (maximum shift), plus 1 visitor space for every 600 square feet of gross floor space
Wholesale establishments	1 space per employee (maximum shift), plus 1 space per 700 square feet of patron service area

(2) Other uses not specifically listed above shall furnish parking as required by the Zoning Board of Appeals. The Zoning Board of Appeals shall use the list as a guide for determining requirements for said other uses.

(3) The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

E. Location of parking facilities. Off-street parking for dwellings shall be located on the same lot as the dwelling. Other required parking spaces shall be located on the same parcel or on another parcel, provided that the farthest parking space is not farther than 200 feet from residential units or 300 feet

from the commercial building or use they are intended to serve measured in a straight line from the building. The burden of proving the existence of such off-premises parking arrangements rests upon the person who has the responsibility of providing parking.

F. Use of parking facilities.

(1) Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for storage of vehicles, equipment, materials or for the parking of vehicles used in conducting the business or use.

(2) Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any property other than in completely enclosed buildings. However, one boat or one travel trailer may be stored in the rear yard if it has a current license.

(3) In all residential districts, external storage of commercial vehicles, industrial equipment and materials is prohibited. In such districts, external parking of commercial vehicles between the hours of 10:00 p.m. and 6:00 a.m. is prohibited except when such parking is incidental and reasonably necessary to the performance of service at the time of such parking.

G. Parking in front yards.

(1) Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard, except in the case of a single- or two-family dwelling where such parking may be permitted on a driveway.

(2) In all districts, except industrial districts and light industrial districts, off-street parking spaces on corner lots shall be set back from one side street line a distance of not less than 20 feet.

H. Development and maintenance standards for off-street parking areas in multiple-residence business districts (BN-RP; LB; GB).

(1) Development standards. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

(a) A parking space shall have a minimum rectangular dimension of not less than nine feet in width and 18 feet in length for angle and ninety-degree parking, and nine feet in width and 22 feet in length for parallel

parking. Aisle widths shall be established as follows: twelve-foot aisle width for one directional flow and twenty-four-foot aisle width for two directional flow for parallel parking, twenty-six-foot aisle width for forty-five-degree parking, sixty-degree and ninety-degree parking. All dimensions shall be exclusive of driveway, aisles and other circulation area. With respect to exiting commercial establishments operating prior to the effective date of this chapter, such establishments may comply with the parking space size requirements contained in this chapter without obtaining permission from the Zoning Board of Appeals.

(b) Any parking area which is intended to be used during nondaylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from all adjoining property.

(c) Except for single-family dwellings, any parking area shall be designed in such a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access to driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving such lot shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street.

(d) Except for single-family dwellings, the required number of parking and loading spaces as set forth in this section, together with aisles and other circulation areas, shall be improved with acceptable impervious material to provide a durable and dust-free surface.

(e) All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

(2) Traffic and parking control standards. Owners of premises containing off-street parking and loading areas shall be ordered by the Zoning Board of Appeals to conform to any or all of the following standards relating to traffic and parking controls on said premises where such conformance is deemed necessary by the Zoning Board of Appeals in its discretion, to promote the public health, safety and welfare and to ensure the safe and unhazardous use of such premises.

(a) Fire lanes shall be established and maintained in the parking area at the front, side and rear of all buildings and structures on the site and

properly painted and marked as such. Vehicular parking and standing is prohibited in a fire lane.

(b) Traffic lanes for the control and regulation of automobile, truck, bicycle, other vehicle and pedestrian flow in the parking area shall be established and maintained and properly delineated through the use of pavement markings, signs or median strips.

(c) Parking lanes for parking spaces shall be established and maintained in the parking area and shall be properly painted and marked as such.

(d) Provisions shall be made on the premises for the parking of bicycles.

(e) Parking spaces in the parking area shall be set aside and designated for handicapped persons and ramp facilities provided where necessary.

(f) Provision shall be made for the safe movement of pedestrians while in the parking area or accessory area through the use of walkways, medians and crosswalks.

[Amended 9-17-2002 by L.L. No. 8-2002]

(g) Curbing and traffic barriers or islands shall be built where necessary and maintained so as to enforce desired traffic patterns within the parking area. Where possible, traffic islands shall contain vegetation and landscaping conducive to growth in a parking area environment.

(h) Stop signs, flashing signals or yield signs shall be erected at entrance or exit locations of a parking area or at intersections within the parking area where required for traffic safety.

(i) Signs regulating parking, traffic flow and speed limits on the premises shall be erected.

(3) Maintenance regulations. Any owner of premises containing an off-street parking and/or loading area shall comply with the following regulations:

(a) All roads, sidewalks, driveways and parking areas used in connection with the premises must be kept in proper repair, free of potholes where paved and free from refuse, snow and ice, except that snow may be piled on the premises so long as it does not interfere with the internal circulation and parking of the parking area and does not hinder driver vision where entering or leaving the premises.

(b) The premises must be kept free and clear of ashes, dirt, debris, rubbish, garbage, refuse and other obstructions and must be kept properly repaired and maintained.

(c) Fire lanes, traffic lanes and parking lines for parking spaces, where required, shall be maintained and properly painted and marked so that such lanes and lines will be clearly visible to vehicle operators and pedestrians.

(d) Because of the traffic and safety hazard resulting from the random leaving of shopping carts in parking and accessory areas by persons, holders which provide shopping carts for their customers and allows their customers to remove such carts from their store premises are required to take whatever steps necessary to ensure that such carts are not left in parking or accessory areas after use by such customers. Shopping cart collection stations may be used in a parking area, provided that such stations do not create a traffic hazard, are kept free of snow and ice and are frequently policed by the store's employees so that the capacity of the stations is not exceeded.

(e) All prescribed lights on the premises must be kept in proper working order and lighted during the hours of darkness when the premises or any portion thereof is open for business. The Chief Building Inspector and Zoning Coordinator may require the holder of any premises to reduce outdoor lighting after business hours.

(f) All fences, signs, screening, curbing, traffic barriers and islands, trees, grass, shrubbery, landscaping, retaining walls, slopes and other space used in connection with the premises must be maintained and or repaired.

(g) All water drains and water drainage systems used in conjunction with the premises must be kept clean and in proper working order.

(h) All stormwater retention ponds and systems related thereto used in connection with the premises shall be maintained in proper working condition.

(i) All exterior areas on subject premises must be kept free and clear of the storage of goods, wares and merchandise unless otherwise permitted by the Zoning Board of Appeals. Loading and unloading are to be done in designated zones only.

(j) All refuse and rubbish must be stored in a designated place or places in proper garbage receptacles which shall be screened from public view by fencing or other appropriate screening.

(k) There shall be, at convenient places for use by the public, proper trash receptacles which shall be sufficiently serviced to prevent overflow.

(l) Where required, facilities for the parking of bicycles on the premises and parking spaces and related ramp facilities for handicapped persons shall be maintained and properly designated.

(m) Traffic and parking control standards to which owners of the premises have conformed under Subsection H(2) of this section must be maintained.

(n) Engineering requirements, landscape plans, parking and traffic control plans or any other criteria or requirements upon which the approval of a site plan or special permit for the premises is obtained from the Planning Board or from the Zoning Board of Appeals must be adhered to at all times.

(4) Vehicle and traffic control. The following vehicle and traffic control regulations shall be applicable to all users of a parking area:

(a) No vehicle shall be driven or propelled within a parking area in excess of 15 miles per hour.

(b) No person shall park or stand a motorized vehicle within a fire lane, except as otherwise permitted within a traffic lane, on a sidewalk or in an area or space posted or marked as a no-parking zone.

(c) All persons using a parking area shall obey all traffic control devices, including stop signs, flashing signals, yield signs, directional signs and entrance and exit signs contained in such parking area.

(d) Where parking spaces are designated in a parking area, the parking and standing of vehicles shall only be permitted within such parking spaces.

I. Administration.

(1) This section, except for Subsection H(4), shall be administered and enforced by the Chief Building Inspector and Zoning Coordinator of the Town of Guilderland.

(2) The Chief Building Inspector and Zoning Coordinator, at the discretion of the Town Board, shall notify the owner of any premises containing off-street parking and loading areas of the standards for traffic and parking control which must be met. Such notice shall be in writing and addressed to the owner of record of the premises at the address shown on the last preceding assessment roll, and sent by certified mail, return receipt requested, or hand delivered. Within 30 days of the receipt of such notice, or within such time as said Chief Building Inspector and Zoning Coordinator consents, such owner shall present to the Chief Building Inspector and Zoning Coordinator a comprehensive plan and time schedule for conforming to such standards. The Chief Building Inspector and Zoning Coordinator, after review of such plans by the Planning Director, the Town Engineer and other appropriate boards of officials, shall present such plan and time schedule to the Zoning Board of Appeals, which may make such revisions or add such requirements as it deems necessary to promote the public health, safety and welfare and to ensure the safe and unhazardous use of such premises. Such owner shall be notified, in writing, by certified mail, return receipt requested, or by hand delivery, of the approval of such plan and time schedule, together with revisions and/or additional requirements to be met. Subsequent to such notification, such owner shall conform to the standards and requirements as finally determined by the Zoning Board of Appeals, within the time schedule so specified, except where such owner makes application to the Zoning Board of Appeals for a public hearing as provided herein, in which case conformance shall be stayed until the decision of the Zoning Board of Appeals subsequent to such public hearing.

(3) Within 10 days of receipt of notification of approval of such plan and time schedule, together with revisions and/or additional requirements, an owner of the premises may make written application to the Zoning Board of Appeals for a public hearing under this section for the purpose of reviewing the traffic and parking control standards required by the Zoning Board of Appeals and to permit such owner to submit any objections to the plan and time schedule, as may be revised by the Zoning Board of Appeals, for the public record and for the Zoning Board's further consideration.

(4) The standards set forth in Subsection H(2) of this section shall be applied by the Planning Board on application by an owner of property for site plan approval or by the Zoning Board of Appeals on application for a special use permit, where such property would contain off-street parking and loading areas.

J. Penalties.

(1) Any person, firm, partnership or corporation who or which violates any provision of this section shall be guilty of a violation and subject to a fine of not less than \$50 nor more than \$100, or to imprisonment for not more than 15 days, or both such fine and imprisonment. The imposition of any such penalty or violation of this section shall not excuse such violation nor permit the continuance thereof. The application of the above penalty or penalties of the prosecution for a violation of the provisions thereof shall not be held to prevent the removal, repair or correction of those conditions prohibited by this section or prevent conformance to the standards and regulations of this chapter by such legal means as may be proper.

(2) In addition to any other penalty under the law, where there is a failure to comply with the standards and regulations of this section, and if after giving 15 days' written notice of such failure by certified mail, return receipt requested, or by hand delivery, addressed to the owner of record of the premises, such failure to comply with such standards and regulations or any part thereof has continued, the Chief Building Inspector and Zoning Coordinator, upon the discretion of the Town Board, is hereby authorized and empowered to remove, repair or correct those conditions prohibited by this section and to otherwise bring the premises into conformance with the standards and regulations of this chapter. All costs and expenses incurred by the Town in connection with any action so taken shall be assessed against the land upon which such action is taken. A copy of this chapter shall be attached to any notice set under this section.

(3) Every day that a violation of any of the provisions of this section is committed or continues after written notice from the Town of Guilderland or service of a summons upon an owner shall constitute a separate offense.

§ 280-26. Signs.

A. Purpose and scope.

(1) The purpose of this section is to provide standards to safeguard life, health, property and public welfare by controlling the number, location, construction, installation, illumination and maintenance of all signs and sign structures in the Town of Guilderland.

(2) It is the further purpose of this section to control the quality and quantity of signs so as to enhance the identification of the various business and professional enterprises in the Town and improve the visual quality of the community. It is the design of the Town that all persons concerned with the

location, design and regulation of signs give full consideration as to the impact that signs have on the visual quality and character of Guilderland.

B. Procedures for sign permits.

(1) After the effective date of this chapter and except as otherwise herein provided, no person shall erect, enlarge, change colors, cover or structurally alter any sign without first obtaining a permit therefor from the Zoning Board of Appeals.

(a) Applications for sign permits shall be made, in writing, upon forms provided by the Chief Building Inspector and Zoning Coordinator by the owner, lessee or erector and be accompanied by a scale drawing showing dimensions, proposed design, the legend, color, materials, structural details and a tape [tract] or plat location map delineating the location of highway right-of-way lines, buildings, parking areas, other signs on the same property, frontage of each unit and/or any fences or other obstructions in relation to the designated location of the proposed sign. Lessee or erector applicants shall evidence approval of the owner for such erections.

(b) Before approving a sign permit, the Zoning Board of Appeals shall find that the applicant has demonstrated the following facts to be true:

[1] The proposed sign(s) is (are) in harmony with the standards for permitted signs and within the spirit of this chapter.

[2] The proposed sign shall be comparable with the neighborhood environment and character and shall not be detrimental to adjacent property.

[3] The proposed sign does not, by reason of its location, create a hazard of any nature to the public in general or to any adjacent owner or occupant.

[4] The proposed sign(s) does (do) not in any way interfere with the lawful and aesthetic enjoyment of the public highway or of adjacent property.

(c) Prior to the issuance of any permit for the erection, enlargement or structural alteration of a sign, a fee Editor's Note: See Ch. A285, Fees. shall be paid in accordance with the schedule of fees established by the Town Board.

(d) No permit issued under the terms of this section shall be transferable to any person other than the original applicant without the consent of the Zoning Board of Appeals.

(e) A sign permit shall become null and void if the work for which the permit was issued has not been started within a period of six months after the date of issue of the permit.

(f) The Chief Building Inspector and Zoning Coordinator shall require the proper maintenance of all signs. Such signs, together with their supports, shall be kept in good repair. The display surfaces shall be kept neatly painted at all times. The Chief Building Inspector and Zoning Coordinator may order the removal of any sign that is not maintained in accordance with the provisions of this chapter. Painting, repainting, cleaning or repair maintenance shall be considered an erection or alteration which requires a permit unless a structural change is made.

(g) The Chief Building Inspector and Zoning Coordinator is authorized to issue a sign permit for any sign which replaces an existing sign and which is not different with respect to size, color and/or design and which is in compliance with existing zoning regulations.

[Amended 8-11-1992 by L.L. No. 3-1992]

(2) Where the Chief Building Inspector and Zoning Coordinator finds that any sign no longer advertises an existing business conducted upon the premises on which such sign is located, he may direct the owner or occupant of the premises to remove such sign.

C. General provisions.

(1) Illuminated signs or lighting devices may be permitted, provided that such signs employ only lights emitting a constant intensity, and no sign shall be illuminated by, or contain, a flashing or moving light or lights.

(2) In no event shall an illuminated sign or lighting device be so placed or directed as to permit beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance to adjoining properties. A New York State Board of Fire Underwriters certificate shall be submitted for every electrically illuminated sign.

(3) Except as may be permitted by this chapter, the use of pennants, banners, spinners, streamers, moving signs or flashing, glittering or reflective, animated or rotating signs of similar eye-catching devices shall not be permitted. Preexisting signs in the above category shall conform to this revised regulation immediately upon the change of use request for an amendment to this sign permit.

(4) No bizarre, caricature, offensive or vulgar signs shall be permitted.

(5) No roof signs shall be permitted.

(6) No billboard or commercial advertising signs shall be permitted.

(7) No sign shall be erected or maintained so as to prevent ingress or egress from any door, window or fire escape, or so as to prevent free access from one part of a roof to any other part.

(8) No sign other than safety-related signs shall be attached to a fire escape.

(9) No painted wall signs shall be permitted.

(10) No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal or device.

(11) No sign of any size or description, except traffic signs placed by public agencies, may be erected, placed or maintained or overhung within the highway limits of any public way or within 35 feet of the center line of any public highway within the Town of Guilderland.

D. Signs in residential districts. No signs shall be permitted in any residential districts except the following:

(1) One nameplate sign not exceeding two square feet in area indicating the name and address of the occupant.

(2) Where a home occupation is permitted by this chapter, nameplate signs may be used to identify the home occupation. Such signs shall not exceed two square feet in area and shall be building-mounted. The sign shall only indicate the nature of the home occupation. No pictorial, graphic or representational media shall be permitted.

(3) For multiple-dwelling projects, one sign, building- or ground-mounted, indicating the name of the project may be permitted. Such sign shall not exceed 25 square feet in area or per side if double-faced.

(4) No sign shall project beyond any property line. Ground-mounted signs shall not obstruct the view of vehicles. Building-mounted signs shall be mounted flush and not located on the roof of any building or project above the roofline.

(5) Signs advertising the prospective sale of a single residence or apartments for rent may be placed on the premises to be sold or rented, with the name of the persons affecting the sale or rental, provided that:

(a) The size of any sign shall not exceed an area of six square feet per side of a two-faced sign.

(b) No more than one such sign shall be placed upon any property.

(c) Such signs shall be closer than 10 feet to any lot line.

(d) For sale signs shall be removed within 24 hours of such sale.

(6) Signs indicating the private nature of driveways or trespassing signs shall be permitted, provided that the site of any such sign shall not exceed two square feet. Such signs shall not be less than five feet from any street or property line.

(7) Signs accessory to parking areas, designating entrances and exits to and from a parking area and limited to one sign for each such exit and entrance, and to a maximum size of two square feet each, shall be permitted.

(8) One sign per parking area, designating the conditions of use or identity of such parking areas and limited to a maximum size of nine square feet, shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street. No parking area sign shall be less than 10 feet from any street or property line.

(9) Signs of the type set forth in Subsection D(1), (5), (6) and (8) of this section shall not require a sign permit from the Zoning Board of Appeals.

E. Signs in commercial and industrial districts. Business signs may be permitted within commercial and industrial districts, provided that the following requirements are met:

(1) General requirements.

(a) Business sign(s) shall be located on the same premises as the business or profession to which they refer.

(b) Business sign(s) shall be securely attached to the building or to structurally sound standards and shall not project above the roofline.

(c) Not more than two signs per business unit having a total face area of not more than one square foot per linear foot of width for each foot of principal frontage of the lot may be displayed, but not to exceed a total area of 50 square feet. Such signs shall not project more than five feet beyond the principal building on the lot, and there shall be not more than one projecting sign per business unit; provided, further, that such signs shall not extend more than 20 feet above the ground level or exceed the highest part of the building housing the business or service advertised, whichever is more restrictive.

(d) No representational sign shall be permitted in any district.

(e) Freestanding signs which exceed six square feet in area shall only be permitted on frontages of 100 feet or more and shall not be closer than 100 feet to any other freestanding sign which is greater than six square feet in area.

(f) Suitable landscape planting shall be placed and maintained at the base of all freestanding signs. Such signs and adjacent grounds shall be kept neat, clean, inoffensive and in good repair.

(g) Freestanding signs shall be set back not less than 20 feet from the street right-of-way line, 25 feet from any adjacent commercial or industrial property and 50 feet from any adjacent residential property.

(h) Time and temperature devices may be permitted in all commercial and industrial districts subject to the requirements of this chapter regulating wall, freestanding and/or projecting signs.

(i) Where a business is owned and operated by one proprietor, but contains less than four contiguous facilities which hold separate and distinct products and services, or which utilize different advertising or marketing concepts and are individually designated by interior partitioning and separate front exterior entrances, each facility shall constitute a single business unit for purposes of this provision, and each business unit

shall be entitled to the amount of signs otherwise permitted by this section.

[Added 11-7-2002 by L.L. No. 9-2002]

(2) Other signs.

(a) Signs used in connection with the sale, rental or improvement of real property may only be located on the premises to be sold, rented or improved. Said signs shall not exceed one sign of 12 square feet or two signs of six square feet in area for each development.

(b) Signs advertising the name of agricultural products raised on the property. One sign not exceeding 12 square feet in area on either of two sides may be permitted on each property.

(c) Signs accessory to parking areas, designating entrances and exits to and from a parking area and limited to one sign for each such exit and entrance, and to a maximum size of two square feet each.

(d) Each business or industrial use shall prominently display property address numbers on the face of each structure in such a manner and made of such material that would easily facilitate the recognition of addresses from structure to structure from a moving vehicle. Such address numbers shall not exceed four square feet in area and one foot in height.

(e) One sign per parking area designating the conditions of use or identity of such parking areas and limited to a maximum size of nine square feet shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street. No parking area sign shall be less than 10 feet from any street or property line.

(f) Signs of the type set forth in Subsection E(2)(a), (b), (c) and (e) above shall not require a sign permit from the Zoning Board of Appeals.

F. Temporary signs permitted in any district upon issuance of a temporary permit by the Chief Building Inspector and Zoning Coordinator.

(1) Signs during construction or in connection with a real estate development may be permitted for a temporary period of not more than six months, provided that such signs do not exceed 32 square feet. Permits required for such signs may be renewed for an additional period of like

duration under the same procedures and conditions as required for the original permit.

(2) Temporary signs up to 32 square feet in area advertising any educational, charitable, civic, professional, religious or like campaign or event may be erected on the issuance of a temporary permit for a period not to exceed 14 consecutive days prior to the event. No more than three such temporary permits shall be issued to an organization during any 12 consecutive months. Signs authorized under the provisions of this section shall be permitted to have banners, subject to approval of the Chief Building Inspector and Zoning Coordinator, and all such temporary signs shall be removed within 48 hours after the event.

(3) Posters announcing candidates seeking public elected office and other data pertinent thereto shall be permitted. Such posters and/or signs shall not exceed 12 square feet in area or per side if double-faced. Such signs shall be erected not more than 21 days before the election and shall be removed within four days after the election.

(4) Temporary signs shall not be attached to fences, trees, utility poles, bridges or traffic signs and shall in no way obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the general public.

G. Exemptions. The following types of signs are exempted from the provisions of this chapter except for construction and safety regulations and the following requirements:

(1) Public signs. Signs of a noncommercial nature and in the public interest, erected by or on the order of a public officer in the performance of his/her public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and the like shall be permitted.

(2) Integral. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, when carved into stone, concrete or similar material, or made of bronze, aluminum or other permanent-type construction and made an integral part of the structure shall be permitted.

H. Penalties for violation; appeals; severability.

(1) Violations of the requirements of this section are subject to the penalties as set forth in § 280-60 of this chapter.

(2) The Chief Building Inspector and Zoning Coordinator shall have the authority to force the removal of any signs that are in violation of this chapter. Failure to comply with this written order within 10 days shall be considered a violation. If after 30 days from the date of such notice the objectionable sign has not been removed, the Town of Guilderland shall have the authority to remove such sign and charge the owner for the cost of the removal. In the case of political signs, a sign in violation of this chapter must be removed within two days after notice to remove the same, given by the Chief Building Inspector and Zoning Coordinator. With respect to political signs, such notice may be given either orally or in writing. If the owner of such political sign fails to remove it within such two-day period, the Town of Guilderland shall have the authority to remove such sign.

(3) Prior to this action, the owner of the sign other than a political sign may request a hearing before the Zoning Board of Appeals, and no action shall be taken by the Town until a decision has been rendered by the Zoning Board of Appeals.

§ 280-27. Fences, hedges and screen plantings.

Fences, hedges and screen plantings shall be permitted, or alternatively, shall be required as provided in this section.

A. Provisions applicable to all districts.

(1) In no case shall spikes, chipped glass or similar materials or devices be used in conjunction with or as part of any fence. The exceptions to this rule are certain types of fences listed in Subsection B(5) and D of this section.

(2) No fence shall be permitted which is expressly designed with the intent to injure anyone who attempts to climb such a fence. The exception to this rule are certain types of fences listed in Subsection D of this section.

B. Provisions applicable to residential districts.

(1) Any fence in a residential district shall have its most pleasant or decorative side facing the adjacent lot, with all posts being in the applicant's yard unless such posts or supports are an integral part of the decorative design of the fence.

(2) No fence other than a decorative fence shall extend beyond any required front setback line.

(3) Fences lawfully existing at the time of the passage of this chapter shall be deemed a nonconforming appurtenance and shall be treated as a nonconforming use under this chapter.

(4) Fences shall be continually maintained, and no fence, hedge or screen plantings shall be permitted to become unsightly or in a state of disrepair.

(5) No barbed wire or electrical fence shall be permitted without the issuance of a special use permit, except in an agricultural zone where such fences shall be permitted.

[Amended 1-17-1995 by L.L. No. 1-1995]

C. Provisions applicable to nonresidential districts.

(1) Any fence facing a residential district shall have its most pleasant or decorative side facing the residential district with all posts and supports being on the side of the fence opposite the residential area unless such posts or supports are an integral part of the decorative design of the fence. This relationship shall prevail where any more-restrictive district abuts any less-restrictive district, the less-restrictive district having the posts and/or supports on its side.

D. Barbed wire or electric fences in other than agricultural zones.

(1) Barbed wire or electrical fences may be permitted upon issuance of a special use permit by the Zoning Board of Appeals where it can be demonstrated that:

(a) The fence is needed to prevent entry to an area which could be hazardous to the health, safety or welfare of a person or persons.

(b) The fence is needed to secure an area where materials and/or equipment is stored.

(c) The fence is needed to keep animals other than common household pets, except in a kennel situation, from leaving the site.

(d) Where, in the Board's opinion, other reasons are presented which, in the general community interests or interests of national safety, justify the need for such a fence.

(2) Where such fences are permitted, the fact that they are either barbed wire or electrified shall be clearly indicated on the fences at intervals of not more than 75 feet.

E. Fences between adjoining districts. Where a lot in an LB, GB, LI or I District abuts a lot in a residence district or a BN-RP District, a visual screen not less than six feet in height, which may be composed of a wall, fence, compact evergreen hedge or other such organic substance or material or any combination thereof as may be approved by the Zoning Board of Appeals, shall be erected along such abutting lot line. Where a lot line in a BN-RP District on which is provided on-site customer parking abuts a lot in a residential district, the screening requirement above-provided shall apply.

F. Fences and walls. No fence, wall, sign, tree overhang, yard accessory, item under height exception of § 280-32, Dimensional criteria, Subsection A(2), timber scape, rock scape are allowed under any circumstance and no plantings or organic landscape including trees with a mature height of over 18 inches maximum shall be erected, placed or maintained on a corner lot within the triangular area formed by the intersection street right-of-way lines and a straight line joining said street row line at points which are 35 feet distant from the point of intersection measured along said street right-of-way lines. Except as herein provided, a wall or fence of substantially equal quality and appearance on either side may be erected within any yard; provided, however, that no fence in excess of six feet in height shall be erected except upon permit granted by the Zoning Board of Appeals, which, upon application therefor, shall consider whether the proposed fence will interfere with or impair the use of the light or air enjoyed by the abutting properties, the necessity of such a fence to protect the property to be enclosed thereby or the abutting properties, the character of the abutting properties and the existence and the height and nature of other fences in the vicinity. A fence erected as an appurtenance to a swimming pool and as an enclosure thereof shall comply with the additional provisions of § 280-34C.

G. Buffers, berms and screen plantings. Buffers, berms and screen plantings shall be provided as set forth below.

(1) A buffer area of at least 40 feet shall be provided along the boundary line between any residential district and Local Business District. A buffer area of at least 20 feet shall be provided along the boundary line between any residential district and a BN-RP District.

(2) A buffer area of at least 75 feet shall be provided along the boundary of a GB District and any residential district.

(3) A buffer area of at least 100 feet shall be provided along the boundary of an LI and I District and any other district.

(4) Such buffer areas shall contain screen plantings of trees, hedges, shrubs, etc., to provide a visual and sound buffer between the different districts.

§ 280-28. Residential cluster development and open space.

A. Purpose. The purpose of this section is to provide greater flexibility in the planning of residential subdivisions and to preserve open green areas for community recreation and enjoyment in connection with residential development.

B. Residential cluster development.

(1) The Planning Board is hereby authorized to permit or, pursuant to Town Law § 281-a, to require variance of the strict application of the provisions of this chapter with respect to lot size, building location and density in residential districts where, in the opinion of the Planning Board, the natural and scenic quality, vital environmental features and resources of the land can be permanently preserved and maintained, the overall aesthetic aspects of residential development in the area will be enhanced, overall population density will not be adversely affected, the adequate and economical provisions of streets and utilities is facilitated and the health and general welfare of the community will be promoted.

(2) Variances granted hereunder shall be subject to the following conditions and limitations:

(a) General conditions:

[1] No variance shall be granted hereunder in respect of any residential subdivision without provision for the preservation of an open undeveloped area within such subdivision. Such open area shall be defined pursuant to the purpose set forth in Subsection B(1) of this section and shall comprise one or more undivided parcels of land, at least one of which shall have a minimum area of three acres exclusive of streets or roads.

[2] Where any lot in such subdivision is reduced in area below the minimum otherwise required by this chapter, the minimum area

requirement of such open area shall be increased by the amount of such lot area reduction.

[3] No variance shall be granted hereunder unless the Planning Board shall find that the building lot density in the proposed subdivision will not exceed that otherwise limited by this chapter.

(b) Single-family detached dwellings. Minimum lot size and dimensions for single-family detached dwellings grouped shall be as follows:

[Amended 12-4-1990 by L.L. No. 10-1990; 2-21-1995 by L.L. No. 2-1995; 4-18-1995 by L.L. No. 5-1995]

District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)
R-40	15,000	80	30	10
R-30	15,000	80	30	10
R-20	15,000	80	30	10
R-15	10,000	80	30	10
R-10	8,000	80	30	10
R-88c	25,000	80	30	10

(c) Open area; access rights. Open areas established hereunder shall be conveyed to and held in corporate ownership in such manner and form as shall be approved by the Planning Board. No lot in such subdivision shall be conveyed by the subdivider, developer or other owner of such subdivided tract except by a deed conveying, in addition to fee title to such lot, an easement in and upon the lands of such open area for the use and enjoyment thereof by the grantee, his heirs, successors and assigns, in common with the owners of all other lots within the subdivision, such easement to be in such form as shall be approved by the Planning Board, and such easement shall run with the title to the lot so conveyed. The use of such open areas shall be limited to recreational and agricultural purposes, and no structure shall be erected upon the lands of such open areas except such as shall be determined by the Planning Board to be incidental to such recreational or agricultural use.

No building permit shall be given for such structure in the absence of site plan approval thereof given by the Planning Board in accordance with § 280-53 of this chapter. To ensure the enforcement of the provisions of this subsection, the Planning Board as a condition to the granting of subdivision approval may require the subdivider, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the Planning Board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such open area in accordance with the spirit and intent of this section. All legal, engineering and other expense in connection with the matters herein provided shall be borne by such subdivider, developer or other owner of such subdivision. Nothing contained in this subsection, however, shall prohibit open area created pursuant to this section to be conveyed to the Town for recreational use upon acceptance of the Town Board, or from being conveyed to a recognized conservation organization upon approval of the Town Board.

(d) Determination of number of lots. In determining the number of lots allowed a developer under a cluster development design, the developer shall:

[1] Submit to the Planning Board preliminary plans which include a noncluster subdivision design, demonstrating the number of buildable lots on the entire parcel without use of a cluster technique.

[2] Submit to the Planning Board, at the same time, preliminary plans demonstrating how the land would be developed with a cluster design.

[3] The Planning Board shall not permit a developer to have more buildable lots in a cluster residential development than would be permitted in a noncluster residential development.

(e) Types and percentage of open space to be conveyed.

[1] For purposes of this section, open space shall be classified into two types:

[a] Active open space: that type of land which can be used for some form of recreational activity such as softball, soccer, football, swinging, teeter tottering, children's or adult park space.

[b] Aesthetic open space: that type of land which cannot be used for active recreational activities because of steeply inclined slopes, wetland, swampy area and the like.

[2] The Planning Board shall require that at least 2/3 of the open space to be conveyed by the subdivider, developer or other owner of the proposed cluster development shall be active open space.

C. Fees for parks and/or dedication of open area to the Town. The Planning Board in dealing with residential subdivisions, either cluster or noncluster, shall:

(1) Set and collect a fee Editor's Note: See Ch. A285, Fees. for each dwelling unit for each subdivision proposed and approved by the Planning Board. Such fee shall be established from time to time by resolution of the Town Board. This money shall be placed in a trust and agency fund to assist in the purchase and/or capital improvements of existing and/or proposed parks.

(2) Whenever practical and reasonable, use as a planning tool environmental easements where the use of such would prove beneficial to the residents. The Planning Board may, among other things, consider turning over to the Town of Guilderland Environmental Council the authority to oversee the maintenance, control and management of the land located within such environmental easements. It is the intent of the Town Board, however, that the title to the land within the easement area remain with the appropriate individual or corporation and not be transferred to the Town of Guilderland. Environmental easements shall not be utilized in the computation of open space required pursuant to this section.

(3) Recommendation to Town Board.

(a) Recommend to the Town Board the dedication to the Town of Guilderland of up to 10% of the gross area in a proposed subdivision only under two circumstances:

[1] Where the subdivision adjoins an existing Town park and the land to be dedicated would adjoin an already existing Town park; or

[2] Where the subdivision is large enough so that the dedication of up to 10% open space to the Town would be suitable for the purpose of a Town park.

(b) The Planning Board shall receive approval from the Town Board for such a dedication before final approval is given to the subdivision.

(4) In determining the number of buildable lots in a subdivision, the developer may utilize all of the buildable land of the subdivision, including any land which may subsequently be required to be deducted to the Town under Subsection C(3).

D. Neighborhood parks. It is the intent of the Town Board to establish in the future neighborhood parks throughout the Town of Guilderland. It is the Town Board's intention that the fees collected per dwelling unit in Subsection C of this section be used for the establishment or substantial improvement of any or all of the parks in Guilderland. It is the intent of the Town Board that the recreational needs of all the citizens of the Town may be met by the use of the fee system and the appropriate application of the 10% open space requirement contained in Subsection C of this section.

§ 280-28.1. Conservation subdivision.

[Added 7-12-2005 by L.L. No. 5-2005]

A. Purpose. The purpose of the section is to allow future subdivision of land in the Town of Guilderland to be creatively designed so that new homes are located in the landscape in a way that protects the natural resources and character of Guilderland. In addition to this general purpose, conservation subdivisions shall promote the following objectives:

- (1) Reduce adverse impacts of growth on surface water and groundwater quality.
- (2) Provide incentives for publicly accessible and visible open space resources and recreation lands.
- (3) Protect contiguous open space areas and corridors.
- (4) Conserve scenic resources of rural corridors and roads and reduce the occurrence of strip development.
- (5) Promote efficient use of land in harmony with its natural features.
- (6) Maintain the rural and open character of the Town and encourage the preservation of open space.
- (7) Protect important views, as well as steep slopes, hillsides, and ridges.

(8) Protect historic, archeological, and cultural features.

(9) Protect valuable wildlife and habitat areas.

(10) Locate buildings and structures on portions of the site that are most appropriate for development considering development suitability and conservation importance.

(11) Allow for site design that encourages a more practical utility and transportation network.

B. Applicability. The Planning Board is authorized to allow or require adherence to the regulations of this section (conservation subdivision) for all subdivision applications in the zoning districts listed below where, in the opinion of the Planning Board during SEQRA review, the above objectives cannot be met under conventional subdivision methods.

(1) Applicable districts: Rural -3, Rural -5, R-10, R-15, R-20, R-30, and R-40.

C. Procedures.

(1) Coordination with Town of Guilderland Subdivision Regulations. Editor's Note: See Ch. 247, Subdivision of Land. All applications being considered under this section shall adhere to the submission requirements set forth within the Town of Guilderland Subdivision Regulations.

(2) Preapplication meeting.

(a) Prior to submission of an application for a conservation subdivision, the applicant shall present a general description of the project to the Town Planner at a preapplication meeting. The subdivider should provide sketch plans, a description of how the project meets the purpose of this section, and a narrative sufficient for understanding the proposal.

(b) The purpose of this meeting is to discuss and clarify the purpose and goals of the conservation subdivision approach, review the approval process and expected timetables, ensure that the project sponsor has access to the Town's rural development design guidelines, and review the general project description.

(3) Concept plan requirements. In addition to all requirements for submission of a concept plan per § 247-13 of the Town of Guilderland's

Subdivision Regulations, the subdivider shall submit the following information:

(a) Determination of number of lots. In determining the number of lots allowed prior to incentives, the applicant shall submit to the Planning Board concept plans which include a conventional subdivision design, demonstrating the number of approvable lots per the underlying zoning requirements on the entire parcel without use of the conservation subdivision technique.

(b) Determination of density bonuses.

[1] Applicants under this section who provide the community with certain amenities as a result or part of new subdivisions may receive a density bonus beyond what is allowed in the applicable zoning district. If included, the subdivider shall include a table calculating desired incentives according to the following calculations:

[a] High percentage of conservation. Where 60% or more of the total parent lot is to be protected as conservation areas in perpetuity, the development may be awarded a ten-percent-unit bonus.

[b] Contiguous open space. Where 75% of permanently protected open space is contiguous (with the majority of the contiguous open space acreage 100 feet in width or greater), the development may be awarded a ten-percent-unit bonus.

[c] Public access to conservation areas. Where the public is granted access to conservation areas or there is a linking of open space or trail corridors through the site with existing/proposed trails or open space networks, the development may be awarded a ten-percent-unit count bonus. To qualify, the general public must have regular opportunity for access to and use of at least 10% of the conservation area for pedestrian purposes.

[d] Protection of historically significant resources from development. Where a development protects historically significant buildings, resources, or landscapes, the development may be awarded a five-percent-unit count bonus. Historical significance may be established pursuant to the findings of the Town Historian or the NYS Historic Preservation Office.

[e] Sidewalks. Where the project provides publicly accessible sidewalks in accordance with the design criteria outlined in the Town's Subdivision Regulations, a five-percent-unit count bonus may be awarded.

[f] Provision of public water. Where an applicant provides extensions of public water facilities along corridors and to areas where it is not provided, a unit count bonus of up to 20% may be awarded. Such public water extension must be made available for use by properties off of the applicant's development site.

[g] Other. The Planning Board reserves the right to award a unit count bonus up to 25%, based on the provision of additional amenities provided by the project applicant that meet the goals and objectives of this section and the conservation subdivision design guidelines.

[2] Limit on incentives.

[a] Density bonuses are limited to 25% of the site's allowed base figure except where public water facilities are provided by the applicant. In situations where the applicant provides or extends public water infrastructure per the incentive in Subsection C(3)(b)[1][f] above, the unit count increase may be extended up to but not exceed 40% of the site's allowed base figure.

[b] Final determination of incentives shall be made by the Planning Board in its review of the application and in accordance with the conservation subdivision design guidelines and other town planning documents.

(c) Conservation analysis and tract resource map. Following determination of the number of allowed units, the applicant shall develop a tract resource map and conduct a conservation analysis according to the procedures set forth in the Town of Guilderland's conservation subdivision design guidelines to identify the site's resources and unique features. The conservation analysis will assist in the design evaluation process for the site layout of the development area and will help identify the site's conservation areas.

(d) Conservation areas. Based on the conservation analysis and information provided on the tract resource map, the subdivider shall

highlight proposed conservation areas on the site map in accordance with the following:

[1] Minimum conservation areas.

[a] A minimum of 50% of the parent parcel must remain as a permanently protected conservation area.

[b] At least 50% of the conservation area must be contiguous, with no portion less than 100 feet wide.

[c] A minimum of 50% of the site's total buildable land shall be included in the conservation area.

[2] Conservation area set aside example.

[a] Project site: 100 acres.

[b] Buildable land: 60 acres.

[c] Minimum required conservation area (50% of the one-hundred-acre parent lot): 50 acres.

[d] Required buildable acreage to be included within the conservation area (50% of the 60 acres of buildable land): 30 acres.

[3] Allowed uses within conservation areas.

[a] Land designated as conservation areas shall be limited to the following uses (notwithstanding any special use permits that may be required per the underlying zoning district):

[i] Nature preserves.

[ii] Passive recreation.

[iii] Active recreation.

[iv] Commercial recreation.

[v] Stormwater management systems, water supplies and distribution systems.

[vi] Septic systems.

[vii] Agricultural or farming operations only within the New York State Agricultural District, Rural-3 and Rural 5 Zoning Districts.

[viii] Forestry operations with a forest management plan developed by a professional forester participating in the New York State DEC's cooperating forestry program.

[b] Conservation areas shall be limited to the uses listed above, and no structure shall be erected upon the lands of such open areas except such as shall be determined by the Planning Board to be incidental to such recreational or agricultural use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the Planning Board in accordance with § 280-53 of this chapter.

[4] Enforcement of provisions.

[a] To ensure the enforcement of the provisions of this section, the Planning Board, as a condition to the granting of subdivision approval, may require the subdivider, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the Planning Board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such open area in accordance with the spirit and intent of this section.

[b] Where the proposed ownership and management structure for conservation areas is through a homeowners' association, review and approval shall include but not be limited to ensuring conservation, management and fiduciary responsibility of open space and common lands of the development in perpetuity.

[5] Conveyance of land. Nothing contained in this subsection, however, shall prohibit open area created pursuant to this section from being conveyed to the town for recreational use upon acceptance of the Town Board, or from being conveyed to a recognized conservation organization or other entity (e.g., school district, Pine Bush Commission) upon approval of the Town Board.

[6] Planning Board approval of conservation areas. The selection of land to be designated as the conservation area and associated uses shall be subject to the approval of the Planning Board. The Planning

Board shall base its decision upon consideration of the conservation subdivision design guidelines.

(e) Development area, uses, and dimensions.

[1] Development area and site layout. Once land designated for conservation has been selected, the applicant shall use the conservation subdivision design guidelines to identify appropriate lands and layout for development on the site. A concept plan shall be submitted per § 247-13B(1)(h) of the Town's Subdivision Regulations.

[2] Permitted uses. The permitted and special uses for the development area within any conservation subdivision shall be the same as the applicable zoning district.

[3] Minimum lot size and dimensions. To allow for site design flexibility, the following dimensional tables shall be used in place of the lot and dimensional standards for the underlying district. The minimum lot sizes and dimensions for single-family detached dwellings shall be as follows:

Area and Dimensional Table*

District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)
R-40	15,000	80	30	10
R-30	15,000	80	30	10
R-20	15,000	80	30	10
R-15	10,000	80	30	10
R-10	8,000	80	30	10
R-3	15,000	80	30	10
R-5	15,000	80	30	10

Note: The figures presented in this table relate only to Town requirements. Applicants must meet all state and county requirements for on-site water supply and wastewater disposal systems as applicable.

*These area and dimensional standards relate only to single-family dwellings. The area and dimensional standards for all other uses shall be the same as found in the underlying zoning district.

(4) Preliminary plat requirements. Following concept plan approval, the applicant may proceed with submission of a preliminary plat per § 247-14 of the Town of Guilderland Subdivision Regulations.

D. Costs. All legal, engineering and other expenses in connection with the matters herein provided shall be borne by such subdivider, developer or other owner of such subdivision.

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

ACTIVE RECREATION

Lands which can be used for some form of recreational activity, such as softball, soccer, football, swinging, teeter-tottering, children's or adult park space. These activities typically require some type of improvement to the land (e.g., playground, ball field, etc.).

AGRICULTURE

The employment of real property for the primary purpose of raising, harvesting, and selling crops or feeding, including but not limited to grazing, breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees or by dairying and the sale of dairy products or composting which includes agricultural wastes or by any other horticultural, floricultural, or viticulture use, aquaculture, hydroponics, silviculture, by animal husbandry or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows, and other on-farm niche marketing promotions.

BUILDABLE LAND

Land excluding state- or federally regulated wetlands, waterbodies, floodways, slopes 25% or greater including the environmental setbacks and buffers of these features, and preexisting developed areas of the site.

COMMERCIAL RECREATION

Recreational activities provided on a fee-for-service basis, such as golf courses, driving ranges, country clubs, downhill ski areas, conservation or game clubs and hunting clubs, but not including such intensive uses as miniature golf operations, paintball operations, race tracks, water slide parks, or amusement parks.

COMMUNITY WATER SYSTEM

A central water system, owned, operated and maintained by a private corporation or a nonprofit property owners' association.

PASSIVE RECREATION

Lands which can be used for leisure activities such as hiking, biking, cross-country skiing, horseback riding, picnicking, and nature interpretation/viewing. These activities typically do not require improvements to the land.

§ 280-29. Special access and setback requirements.

A. Access control. No building permit or other permit shall be issued or subdivision of land allowed until the provisions and regulations of this section have been met.

B. Purpose.

(1) It is the purpose of this section to prevent adverse effects from strip road frontage development, to produce more harmonious appearance and to promise public safety by reducing to a reasonable number access points to and from public highways. The following standards shall apply to those highways listed below:

(a) Route 20, between Routes 155 and 146 south.

(b) Route 20, west of Route 146 north.

(c) Route 155.

(d) Route 146 north from Route 20 to Rotterdam Town line.

(e) Route 146 south from Route 20 to the Altamont Village line.

(f) Rapp Road.

(2) Residential districts. All residential development, with the exception of multiple-family residential development, must maintain a minimum spacing of 250 feet between access points. This spacing shall be achieved through

internal subdivision streets, frontage roads or other mutual access arrangements.

(3) Nonresidential districts. All multiple-family residential development and all nonresidential development must maintain a minimum of 400 feet between access points. Adjacent property owners within these districts will be required to give mutual access easements for vehicular traffic across their properties to permit vehicles to get to limited points of access to and from public highways. No building permit or occupancy permit shall be issued until proof of agreement is made available. No access point serving these areas shall be closer than 100 feet to an intersection. A deceleration and/or acceleration lane may be required as deemed necessary by appropriate state, county or Town officials to permit proper traffic flow into and out of the access point.

(4) In the case of undeveloped areas, the first property to develop shall provide the access point for any adjacent parcels through the procedure cited above in order to achieve the spacing requirements of this chapter. In partially developed areas, compliance with the standards of this section shall be achieved where possible and at the discretion of the Planning Board or Zoning Board.

C. Carman Road front yards. The following minimum front yard dimensions shall apply to buildings, structures or premises fronting on Carman Road in the Town of Guilderland:

(1) From the north side of Sunset Lane northerly on the east and west sides of Carman Road to its intersection with the Town of Rotterdam line, the front yard setback for all district classifications shall be 45 feet from the right-of-way line of Carman Road.

(2) From the north side of Sunset Lane southerly on the east and west sides of Carman Road to its intersection with Western Avenue, the front yard setbacks for all district classifications shall be 55 feet from the right-of-way line of Carman Road.

(3) Notwithstanding Subsection C(1) and (2) of this section, in no event shall the front yard dimensions from the front lot line on Carman Road be less than the minimum front yard dimensions required in any district classification for the district in which the lot is located.

D. Setback lines other than on Carman Road. In order to provide the necessary space for possible future highway widenings, the following

regulations for determining front yard setback are adopted for lots located in the Town of Guiderland, except for those lots located and fronting on Carman Road. Setback lines and lot areas shall be measured from the existing right-of-way line of the thoroughfare; provided, however, that setback lines and lot areas shall be measured from the future right-of-way line of a thoroughfare if such a line has been established. In order to determine if a future right-of-way line has been established for any state or county road, the applicant, Chief Building Inspector and Zoning Coordinator or Planning Board shall contact the Albany County Department of Public Works or the New York State Department of Transportation. For Town roads, the Town Planning Board and/or Zoning Board of Appeals shall determine if a future right-of-way should be or has been established for the road abutting the proposed lot(s). If so, the Planning Board and/or Zoning Board of Appeals shall determine the appropriate future right-of-way when none has been established, considering, but not limited to, the following:

- (1) The highway's current road function.
- (2) The highway's future road function as recommended in the Town of Guiderland Comprehensive Plan and other Town plans.
- (3) The possibility of future jurisdictional change of the highway to state or county ownership.

E. Planned new streets. After the planned right-of-way line for future streets, for future extension of existing streets or for future street widening as established on the Official Map, buildings and structures shall be set back from such line as though it were a street line.

F. Steep slope and watercourse setback. No structure shall be erected within 100 feet of the water's edge of any body of water except man-made farm ponds not fed or drained by a running stream. No structure shall be erected or shall encroach upon any area lying between any stream or watercourse and a line running parallel thereto and located at grade level at the end of a line perpendicular thereto forming an angle of repose of 12° at the tow of the slope of such stream or watercourse, except that where such angle or repose is less than 12° , said parallel line shall be 100 feet from the tow of the slope of such stream or watercourse. No building, mobile dwelling or structure designed for human habitation shall be erected or placed within 30 feet of the line so determined.

§ 280-30. Easements.

A. Drainage easements and sedimentation controls. The following provisions regarding drainage easements and sedimentation controls shall apply to all new development:

(1) Drainage easements of sufficient width shall be provided along both sides of open drainage courses. The width of the easement shall be based on the recommendation of the Town Engineer or designated engineer. The easement shall be used for the maintenance of the open drain, remain free of obstructions, be of natural topography and contain no permanent or temporary buildings, plantings, gardens or dumpings.

(2) Temporary sedimentation or catch basins shall be required for all new construction during site preparation and construction in order to minimize sedimentation of nearby watercourses. The size and location of such sedimentation basins shall be based on recommendations of the Town Engineer or designated engineer. Seeding and cover planting shall be required at the earliest possible time during site preparation.

(3) Permanent retention or detention ponds may be required in larger developments by the Town Engineer or designated engineer to slow down the rate of stormwater runoff and prevent downstream flooding. The location, size and design of such ponds shall be based on recommendations of the Town Engineer or designated engineer.

B. Sidewalk and bikeway easements. New development shall provide the necessary easements and/or construct sidewalks or bikeways as specified by the Planning Board and/or Zoning Board of Appeals. In determining where such easements shall be provided, their site, and the manner in which sidewalks or bikeways shall be constructed, the Planning Board and/or Zoning Board of Appeals shall be guided by the Comprehensive Plan of the Town of Guilderland, as well as any specific sidewalk or bikeway plans or policies adopted by the Town Board.

§ 280-31. Nonconforming uses, structures and lots.

[Amended 12-15-1998 by L.L. No. 16-1998]

Continuation of nonconforming buildings and uses. Any lawful building, structure or use of premises existing at the time of enactment of this chapter may be continued although such building, structure or use of premises does not conform to the provisions hereof. No use of occupancy in violation of any prior ordinance, local law, rule or regulation in existence at the time of the enactment of this chapter shall be deemed a nonconforming use hereunder so as to

exempt it from the enforcement provisions hereof, and such use or occupancy shall constitute a violation of this chapter to the extent that it shall not conform herewith.

A. Nonconforming structure.

(1) The use or occupancy of a nonconforming structure, which was a lawful structure at the time of the effective date of this chapter, may be continued; provided, however, that no enlargement, change or alteration shall be permitted upon such nonconforming structure, except upon a finding by the Zoning Board of Appeals, that such enlargement, change or alteration will produce greater compliance with this chapter and that the use within such structure is in conformity with the requirements of this chapter; and further provided that no enlargement, change or alteration of a nonconforming structure housing a nonconforming use shall be permitted, except upon a finding by the Zoning Board of Appeals that such enlargement, change or alteration will permit greater compliance with the provisions of this or other appropriate regulations, as required by the Zoning Board of Appeals, and are installed or instituted to minimize the detrimental effects of the nonconforming use upon adjoining conforming uses.

(2) Residential use. In no instance shall the expansion of a nonconforming use in a nonresidential district be greater than 25% of the gross floor area.

(3) Nonresidential use. In no instance shall the expansion of a nonconforming use in a nonresidential district be greater than 5% of the gross square footage, not to exceed, in any event, 5,000 square feet.

(4) Notwithstanding the provisions of Subsection A(1) of this section, after the effective date of this chapter, the Zoning Board of Appeals may grant only one expansion of a nonconforming use, structure or lot.

(5) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure, or part thereof, declared to be unsafe by any official charged with providing for the public safety and which strengthening or restoration is ordered by such official.

B. Nonconforming lot size, open space, height or building size regulations.

(1) Any building, other structure or use of land which is made nonconforming by any lot size, open space, height or building size requirements of this chapter, or by any subsequent amendments thereto, may be continued, except as hereinafter provided.

(2) Such nonconforming building, other structure or use of land may be enlarged or extended, provided that any such enlargement or extension shall comply with the regulations of this chapter.

C. Destruction of structure. If any structure containing a nonconforming use is destroyed by any cause, to an extent exceeding 75% of its fair market value as indicated on the latest assessment records of the Town of Guilderland, the future structure or use of the site shall conform to this chapter.

D. Maintenance. Nothing in this chapter shall prevent the renovation or repair of nonstructural members or the maintenance of a nonconforming structure made necessary by ordinary wear and tear.

E. Prior building permits. Nothing in this chapter shall nullify any duly issued building permits issued prior to the effective date of this chapter, provided that work is commenced and diligently prosecuted within one year from the date of issuance of such building permit.

F. Accessibility to public right-of-way. No building, special use or occupancy permit shall be issued for any new land use activity where there is no reasonable access from the lot or area upon which such activity is located to an existing public street; provided, however, that this provision shall not prohibit the continued use of any structure or lot as such use existed at the effective date of this provision.

G. Cessation.

(1) Any nonconforming auto wrecking yard, junkyard or billboard in existence at the date of enactment of this chapter shall at the expiration of four years from such date become a prohibited and unlawful use and shall be discontinued. Nonconforming used car lots, nonconforming exterior storage of commercial vehicles, machinery and other equipment shall at the expiration of two years from such date become a prohibited and unlawful use and shall be discontinued.

(2) The construction or erection of any building on a subdivision lot, undeveloped at the time of the enactment of this chapter, the area or depth of which fails to comply with the minimum lot area requirements or average density requirements, shall be a violation unless at the time of enactment of this chapter such subdivision has been finally approved by the Planning Board.

(3) No time period granted under any prior ordinance, local law, rule, regulation or court order for the termination or cessation of any use in existence at the time of the effective date hereof shall be deemed extended by any provision of this chapter.

H. Displacement. No conforming use shall be extended to displace a conforming use.

I. Existing undersized lots.

(1) Any residential lot held in a single separate ownership prior to the adoption of this chapter and whose area and or width and or depth are less than the specified minimum lot requirements for the district may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:

(a) Such residential lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district;

(b) Such residential lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes;

(c) The following minimum yard dimensions are maintained for residences:

[1] Side yards: eight;

[2] Front and rear yard: 25 feet; and

(d) All other bulk requirements for that district are complied with.

(2) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.

(3) A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.

J. Exemption of lots shown on approved subdivision plats. The provisions of § 265-a of the Town Law are hereby made expressly applicable to this

chapter with respect to lots shown on approved subdivision plats duly filed in the office of the Albany County Clerk prior to the enactment of this chapter.

K. Creation of nonconforming uses due to changes in district boundaries. Whenever the boundaries of a district shall be changed so that, under the regulations that apply in the changed area, a conforming use shall become a nonconforming use, all of the foregoing provisions of this section shall apply to such nonconforming use.

§ 280-32. Dimensional criteria.

A. Height exceptions. The maximum building height shall be 35 feet and the maximum height for accessory structures shall be 15 feet in residential districts and 20 feet in nonresidential districts; provided, however, that this regulation shall not apply to:

[Amended 8-13-1991 by L.L. No. 5-1991; 12-15-1998 by L.L. No. 15-1998]

(1) In an agricultural zone: barns, silos, water towers or tanks or other farm buildings or structures on farms, provided that they are not less than 100 feet from every property line if they exceed said height limitation.

(2) Water towers, church spires, belfries, cupolas and domes, not for human occupancy, monuments, observation towers, transmission towers, chimneys, smokestacks, derricks, flagpoles, radio towers, masts and aerials, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof level. Such features, however, shall be erected only to such heights as is necessary to accomplish the purpose they are to serve.

(3) Inns used as accessory to a sit-down restaurant will have a maximum building height of the lesser of 35 feet or 2 1/2 stories.

[Added 6-5-2001 by L.L. No. 7-2001]

B. Yard measurements.

(1) No portion of a building shall extend beyond its front line, side line or rear line into any required yard, side yard or rear yard except as follows:

(a) Open fire escape: four feet into side or rear yards.

(b) Awning or movable canopy: six feet into any yard.

(c) Cornice or eave or other similar architectural feature: three feet into any yard.

(d) Uncovered porch or terrace: 10 feet into any yard.

(2) In the case of corner lots, a front yard of the required depth shall be provided along each road frontage.

(3) Depth of required front yards shall be the distance between the front lot line or, alternatively, the future right-of-way line, if determined, and the closest point of the front of the proposed foundation of the principal structure, excluding all projections not exceeding three feet in length or width from the foundation.

C. Lot grades. All structures shall be constructed or located with a ground elevation so as to provide a sloping grade to cause the surface drainage to flow away from the walls of such structures and any adjacent structures on adjacent properties. The ground grade of any lot upon which new construction or earth movement is to be conducted shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, and shall be approved by the Chief Building Inspector and Zoning Coordinator, or other such authorities having jurisdiction over such systems.

D. Side yards for semidetached or Town houses. Side yards for semidetached or Town houses shall be required at the ends of the total structure only.

E. Distance between principal buildings on the same lot. No detached principal building shall be closer to any other principal building on the same lot than the average heights of said buildings.

F. Measurement of yard dimensions. Measurements of minimum yard dimensions shall be taken from the foundation.

G. Antennas. The following regulations shall apply to antennas of any kind, including, but not limited to, radio towers, masts, aerials, conventional television and radio antennas, satellite television antennas, whip antennas, inverted-V antennas, collinear antennas, yagi antennas, parabolic antennas and microwave antennas.

[Added 8-13-1991 by L.L. No. 5-1991]

(1) Purpose and intent. The purpose of this subsection is to further the health, safety and welfare of the citizens of the Town of Guilderland. More specifically, the Town Board finds that the uncontrolled proliferation of broadcast receiving and transmitting antennas and communication antennas is likely to adversely affect the health, safety and general welfare of the Town. Among other things, reasonable controls contribute to the good appearance of the Town, stabilize and even increase property values, assure the safety of the owner and others, and, in general, contribute to the preservation of a pleasant community in which to work and live. This subsection is intended to comply fully with the Report and Order of the Federal Communications Commissions (FCC 86-28) to the extent that report and order validly preempts local zoning regulation deemed unduly restrictive with respect to antennas. The Town Board hereby determines that the bulk and visual impact of antennas and towers create aesthetic problems making it appropriate to have some special limitation as to size and placement thereof.

(2) Height and placement limitations.

(a) In any zoning district, if the antenna is mounted on a building, no part of the antenna structure shall extend to a height of more than six feet above the surface of the roof directly beneath the antenna.

(b) In any zoning district, no part of the antenna shall extend to a height of more than 100 feet above ground level without obtaining a special use permit from the Zoning Board of Appeals.

§ 280-33. Effect of provisions.

A. Essential services. Nothing in this chapter shall prohibit the provisions of essential services, provided that the installation of such service does not violate any other applicable provision of this chapter. Nothing in this section shall be construed to permit the erection, construction or enlargement of any aboveground structures except utility poles and wires, except as otherwise permitted in this chapter.

B. Temporary use. Nothing in this chapter shall prevent the Chief Building Inspector and Zoning Coordinator from issuing a temporary permit for the use of a travel trailer, a mobile home or other similar structure, in any district except a floodplain district, as a temporary construction field office for a period not to exceed one year. The period of validity of such temporary permit shall be further limited in the case of a public works construction project by the life of such project, and in the case of a nonpublic works construction

project by the remaining life of any unexpired building permit which shall have been issued for construction on the site if it occurs sooner. Subject to the foregoing limitations, the Chief Building Inspector and Zoning Coordinator may for good cause shown extend such permit for field office use and an additional period not to exceed six months. Such structure shall not be used for overnight sleeping accommodations. Adequate arrangements for sanitary facilities shall be made.

§ 280-34. Accessory structures and swimming pools.

A. Accessory structures in residential zones. All accessory structures in any residential zone shall be subject to the same location requirements affecting the principal structure on a lot; except, however, such accessory structure may be placed not less than five feet from any rear lot line or the rear yard portion of any side lot line. In a residential district, no accessory building shall have a height in excess of 15 feet except as provided in § 280-32A. Nothing in this section or this chapter shall permit the occupancy of a basement without a complete residential structure thereon.

[Amended 12-15-1998 by L.L. No. 15-1998]

B. Accessory structures in all other districts. All accessory structures in nonresidential districts shall be subject to the same locational requirements as are required for all principal structures within such districts. No accessory building shall have a height in excess of 20 feet except as provided in § 280-32A.

[Amended 12-15-1998 by L.L. No. 15-1998]

C. Swimming pools.

(1) Swimming pools shall be subject to the provisions of this section.

(2) A permanent, good-quality fence shall be erected to encompass the entire perimeter of the swimming pool, and the fence shall be not less than four feet in height and otherwise shall be in accordance with the standards specified for fences in § 280-27. The Zoning Board of Appeals may grant permission to install a fence not to exceed eight feet in height in accordance with the provisions of § 280-27.

(3) Every gate or other opening in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, shall

be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.

(4) Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.

(5) If the water of such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.

(6) Where the pool is installed in an area supplied by a public water system, the Chief Building Inspector and Zoning Coordinator shall be furnished proof that the appropriate water authority has approved the tie-in with such water system or, in the alternative, proof that the water will be furnished by an independent contractor.

(7) No loudspeaker device which can be heard beyond the property lines of the premises on which any swimming pool has been installed may be operated in connection therewith, nor may lighting be installed in connection therewith which shall throw any rays beyond such property lines.

(8) Swimming pools existing at the time this subsection becomes effective shall within 60 days after such date be enclosed by a fence as herein required for new swimming pools.

§ 280-35. Excavations and topsoil removal.

A. Conformance required. All excavation and appurtenant activities commenced henceforth shall be in conformity with the provisions of this chapter and shall be located only within areas specifically permitted according to the provisions of this section. Excavations operating under current permits at the time when this chapter becomes effective shall continue under the provisions of the permit until expirations. Upon expiration of a currently valid permit, the owner, operator or lessee shall comply with the requirements of this chapter. Topographical alterations, as defined in Article II, shall not be subject to the provision of this section.

B. Application procedure and requirements. Before any excavation or appurtenant activities are commenced, the owner, agent or the owner or lessee of the premises shall file with the Zoning Board of Appeals an application for permit and a filing fee required by the Town in a resolution establishing such fees. Editor's Note: See Ch. A285, Fees. Such permit will

ensure that the applicant has complied with all necessary regulations and/or ordinances and that the Town has seen and agreed to a mined land use reclamation plan that is consistent with the Town's present planning program. In all cases, eight copies of the application for each Town excavation permit shall be signed by the owner of the premises if other than the applicant. It shall include, but not be limited to, the following information:

- (1) Name and address of the applicant and of each owner of the premises.
- (2) A statement of each mortgage or other lien upon the premises, together with the name and address of the holder of each mortgage or other lien upon the premises.
- (3) A certification of the County Finance Office showing payment of all taxes and assessments to date for the property as described in the application.
- (4) Vertical aerial photographs, eight copies, at a scale no smaller than one inch equals 1,000 feet and certified as flown not earlier than one year prior to the date of application. The area covered by such vertical aerial shall include:
 - (a) All land requested for excavation permit and all contiguous land which is or has been used by the owner or lessee for excavation or appurtenant activities.
 - (b) All public roads bounding the proposed excavation site and all structures on adjoining property within 500 feet of the property line.
- (5) A location map in the form of an overlay of the vertical aerial photography, covering the land within at least 1,000 feet of the boundaries of the entire land proposed for the permit, showing existing the classification of public and private land use.
- (6) An identification plat containing a North arrow pointing to the top of the plan sheet, of which five copies shall be prepared by a licensed engineer or surveyor certified to the Town of Guilderland or State of New York, at a scale of one inch equals 100 feet. This plat shall be submitted to the Town Engineer or designated engineer and the Chief Building Inspector and Zoning Coordinator and shall be subject to their approval as to the sufficiency of data shown thereon. The plat shall show:

(a) The boundaries of the entire tract proposed for permit by bearing and distance, existing topography and five-foot contour intervals and the location of all water sources within 1,000 feet of the tract proposed for permit.

(b) Average thickness of overburden within the boundaries of the tract proposed for the permit.

(c) Location of all haulageways to and from the operation to minimize intrusions into residential area and minimize dust.

(d) Any planned impoundment of water to provide lakes or ponds for wildlife at restoration.

(e) Planned drainage and water control for all affected areas so as to reduce soil erosion damage to adjacent lands.

(f) The sequence of cuts or excavations.

(g) The groundwater levels as determined by soil borings.

(h) The prevailing wind directions.

(7) An operations map showing the plan for the operation and appurtenant activities which shall be presented as an overlay to the identification plat. All of the following operations, including the acreage to be devoted to them, should show:

(a) Area of active excavation and area requested for excavation, area of active appurtenant activities and area requested for appurtenant activities.

(b) Area where topsoil and overburden will be temporarily stored for the future use of restoring excavated areas.

(8) A written plan for reclamation and a site plan map for the area involved shall be presented as separate portions from the above requirements, eight copies. Said reclamation plan shall be referred to the Planning Board and the Albany County Soil and Water Conservation District for their recommendations. All items required for filing with the State of New York for a permit to mine shall be included in the reclamation plan.

C. Review of permit application.

(1) Prior to a public hearing held by the Zoning Board of Appeals, all maps, aerial photographs and data filed with the application shall be submitted to the Planning Board, Environmental Conservation Council, the Albany County Department of Planning, Albany County Environmental Management Council and the Albany County Soil and Water Conservation District for review and recommendations. The Chief Building Inspector and Zoning Coordinator shall be responsible for receiving and processing all applications for permits for excavation and appurtenant activities and coordinating the semiannual site inspection. Approval or denial of the application shall be rendered within 60 days after a complete application is filed by the applicant except if both the Zoning Board of Appeals and the applicant mutually consent on a time extension. The running of this sixty-day period will be suspended any time during which the application is returned to the applicant for the furnishing of additional information.

(2) Renewal. If all operations undertaken pursuant to any permit issued hereunder have been conducted in full compliance with the terms of such permit and all provisions of this chapter, the time limit of such permit may be renewed by the Chief Building Inspector and Zoning Coordinator upon recommendation of the Zoning Board of Appeals and the Town Engineer for a period no greater than that for which the permit was originally issued. At least 10 days before taking any such renewal action, the Chief Building Inspector and Zoning Coordinator shall cause to be posted in a paper of local circulation a notice of the proposed renewal and a statement indicating clearly both the party affected and the nature of the operation. All ordinances and regulations in effect at the time of renewal is granted will apply to the renewal permit in the same manner as when a new or original permit is issued.

D. Letter of credit. After the approval of the application and before the issuance of any permit, the applicant and each owner of record of the premises other than the applicant shall jointly make, execute and file with the Town Clerk a letter of credit in an amount approved by the Town Engineer for each acre of land within the area to be used for excavation and appurtenant activities. The above party or parties guarantee that either upon termination of the permit or the operation, whichever may come first, the ground surface of the land so used shall be restored in conformity with both the approval specific requirements and the standards set forth in this chapter. In the event of default of compliance with the conditions of this chapter and any other applicable laws, such credit shall be forfeited to the Town. The Town shall return to the applicant any amount that is not needed to cover the costs of restoration, administration and any other expenses incurred by the Town as a result of the applicant's default. Such credit shall continue in full force and

effect until a certificate of compliance shall have been issued by the Town Engineer or designated engineer after consulting with the Albany County Soil and Water Conservation District and any other agency(s) necessary to ensure that all provisions of this chapter and of the permit have been met.

E. Fee. The owner or lessee of land under excavation shall pay a removal fee per cubic yard of removed mined materials as set forth in the Town's fee schedule Editor's Note: See Ch. A285, Fees. adopted by resolution of the Town Board. The fee shall be paid one year from the approval date of the permit and semiannually thereafter but prior to the semiannual site approval inspection.

F. Dimensional and safeguard requirements.

(1) Permits for excavation within the geographical area outlined in the permit application shall be issued for a three-year period subject to semiannual site inspection and approval by the Town Engineer or designated engineer and any other agency(s) that the Town designates. Any and all costs related to said site inspection shall be charged back to the owner or lessee.

(2) The active excavation area (area from which overburden has been removed or is stored) shall not exceed 25% of the total contiguous lands owned by the applicant or not more than 20 acres, whichever is less. The reclamation process shall occur on an ongoing basis.

(3) No excavation shall be conducted closer than:

(a) Five hundred feet from an adjoining property line containing a habitable structure.

(b) Forty feet from an adjoining property line not containing a habitable structure.

(c) Seventy feet from the center line of a public right-of-way, provided that the angle of repose is no more than 33%. Grading may be conducted within such limits in order to provide adequate access to the premises. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one public notice sign for identifying use, buffer effect and those conditions stated in Subsection F(8) of this section pertaining to top- and subsoil preservation.

(4) All equipment structures and other operation facilities including sedimentation ponds shall not be closer than 600 feet from the right-of-way of the public highway or from an adjoining property line except when the applicant demonstrates that the topography necessitates the location of a sedimentation pond elsewhere and also demonstrates that sufficient safeguards will be constructed or provided for the protection of neighboring residents. Screening from public view will be provided as required in this chapter and as may additionally be required by the Town.

(5) Each tract of land to be granted a permit for excavation shall use only direct access to a dedicated roadway or roadways to major highways and have proof of legal right to that access.

(6) All access roads shall be constructed to include a curve so as to screen the operation from public view; provided, however, that the junction of the access and the public road must be at an angle of not more than 10° deviation from a right angle (90°).

(7) Fencing shall be required on all sides of an excavation area that abuts a residential zone, unless the depth of excavation (vertical face) is less than 10 feet. Fencing shall be erected no closer than 30 feet from a public right-of-way or an adjoining property line. The fencing shall be at least five feet in height and a type listed in § 280-27 and shall be approved by the Zoning Board of Appeals.

(8) Topsoil preservation. All topsoil shall be stripped from the active excavation area and stockpiled and seeded for use in accordance with the restoration plan. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams or adjacent property. This provision applies to all operations except that of topsoil removal.

(9) Landscape. Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained and supplemented by selective cutting, transplanting and addition of new trees, shrubs and other ground cover for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplemental plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back overburden around the perimeter of the excavation site to create a berm for the purpose of screening and noise reduction. No berm shall be constructed within 25 feet of property boundaries. The type and design of screening shall be approved by the Zoning Board of Appeals after referring the proposal to the Albany County Soil and Water Conservation District and

the Albany County Department of Planning. Adequate maintenance approval of the landscape by the Town Engineer or designated engineer shall be required for all permit renewals.

(10) Lateral support. All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land or improvements, or damage to any street by reason of slides, sinking or collapse.

(11) Hours of operation. The hours of operation shall be only between 7:00 a.m. and 7:00 p.m. local time. No operations will be allowed on Sundays.

(12) Dust and dirt control. All haulageways leading to public highways shall be dust- and mud-free. All precautions shall be taken to prevent dust and dirt from being blown from the premises. Also, the first 200 feet of access from public roads shall be paved.

(13) Noise. Operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property.

(14) Drainage system. An adequate and comprehensive drainage system shall be provided to convey the stormwater runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed area. No excavation shall be allowed closer than 100 feet from a natural stream. Sediment control measures must be installed to keep all sediment damage on the applicant's property. The Town Engineer or designated engineer shall determine whether or not the system and control measures are adequate before approval of the original or renewal permit.

(15) Flood and erosion control. The applicant shall include a plan for control of soil erosion and excessive groundwater seepage to public roads, streams or adjacent property. The Town Engineer or designated engineer shall determine whether or not the controls are adequate before approval of the original or renewal permit.

(16) No rock crushing, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted.

G. Restoration and revegetation requirements.

(1) Slope. No slope shall be left with a grade steeper than one foot on three feet; provided, however, that for quarry operations, the Town Engineer or designated engineer shall certify the face of the quarry wall as safe and acceptable and may require any means necessary to reinforce unsafe faces.

(2) All man-made debris shall be removed from the site and disposed of.

(3) Timing. Restoration shall be a continuous operation subject to field review and approval at each annual inspection and at the end of the permit period by the Town Engineer or designated engineer and anyone else designated by the Zoning Board of Appeals. Grading of topsoil or cover material and planting of the area designated for restoration during the permit period shall have been completed before a permit renewal can be granted. Plans for reuse of a quarry which do not call for restoration shall be reviewed and approved by the Zoning Board of Appeals and Town Engineer or designated engineer.

(4) Topsoil and fertilizing. Subsoil and topsoil shall be respread over the excavation area to a minimum depth of one foot (six-inch topsoil and six-inch subsoil). This soil shall be treated with lime and fertilizer and seeded with a grass or legume mixture or other commercial vegetal crop cover prescribed by the Town Engineer or designated engineer after conferring with the Albany County Soil and Water Conservation District. Trees or shrubs shall be planted in order to provide screening, natural beauty and to reduce erosion. The planted area shall be protected from erosion during the establishment period using approved conservation practices.

(5) During and upon completion of the excavation operation within six months after completion of the excavation operation, the land shall be left so that natural storm drainage leaves the property at the original drainage points. Also, the volume of drainage to any one point shall not be increased.

(6) Within six months after termination of the excavation operation, all equipment, building and structures associated with the soil mining operation shall be removed from the premises and all restoration and reclamation shall have been completed.

§ 280-36. Keyhole lots.

[Added 2-6-1996 by L.L. No. 1-1996]

Any subdivision that proposes keyhole lots accessing a street must conform to the following.

A. Area requirements.

(1) That portion of the keyhole lot comprising the keyhole access shall not be counted for the purpose of determining minimum lot area compliance.

(2) The front yard setback of a keyhole lot shall be measured from the rear lot line of the front lot, unless otherwise requested by the Planning Board during subdivision approval.

(3) The minimum width at the building line for a keyhole lot shall be measured parallel to the street line, unless otherwise requested by the Planning Board during subdivision approval.

(4) In R-7.5, R-10, R-15, R-20, R-30, R-40, RO-30 and RO-40 Districts, the minimum area of a keyhole lot shall be 50% greater than the requirements prescribed for the zoning district in which it is located. In addition, the front, side and rear yard setbacks of the keyhole lot shall be 50% greater than the requirements prescribed for the zoning district in which it is located or a minimum of 50 feet, whichever is greater.

B. Supplementary requirements.

(1) No structure or off-street parking shall be allowed within the area comprising the keyhole access except mailboxes, address signage or other minimal accessories commonly found within the neighborhood.

(2) The street number of a dwelling situated on a keyhole lot shall be permanently and conspicuously displayed on a sign, with lettering no less than three inches in height, and placed no more than 25 feet from the road pavement. The sign shall be displayed for both directions of travel and be visible at night.

C. Exclusions. These regulations do not pertain to any existing lot of record.

§ 280-37. Telecommunications towers.

[Added 3-18-1997 by L.L. No. 6-1997]

A. Enabling authority. The Zoning Board of Appeals is hereby authorized to review and approve, approve with modifications, or disapprove site plans and

special use permits consistent with this section and the zoning laws and regulations of the Town of Guilderland.

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

ACCESSORY FACILITY

A facility that serves the principal use, is subordinate in area, extent and purpose to the principal use and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

ANTENNA

A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radionavigation, radio, television, wireless and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

SPECIAL USE

A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Zoning Board of Appeals.

TELECOMMUNICATIONS TOWER

A structure on which transmitting and/or receiving antenna(e) are located.

C. Purpose. The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town, to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations and to protect the natural features and aesthetic character of the Town. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

D. Application of special use regulations.

(1) No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.

(2) These regulations shall apply to all property within the Town, including the following zones: Business Non-Retail Professional District, Local Business District, General Business District, Light Industrial District and Industrial District. Telecommunications towers and their accessory facilities are prohibited and shall not be erected in the Agricultural Zone, Single-Family Residential Districts, Multiple Residence District, Townhouse Dwelling District, Planned Unit Development District and/or Mobile Dwelling District.

[Amended 11-18-1997 by L.L. No. 12-1997]

(3) Exceptions to these regulations are limited to new uses which are accessory to residential uses and lawful or approved uses existing prior to the effective date of these regulations.

(4) Where these regulations conflict with other laws and regulations of the Town of Guilderland, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

E. Site plan submission requirements for sharing existing facilities. An applicant proposing to share use of an existing tall structure shall submit a site plan as described in § 280-53 of this chapter. The site plan and supporting documentation shall include:

(1) A completed application for a special permit.

(2) Documentation of intent from the owner of the existing facility to allow a shared use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening and other changes, including real property acquisition or lease required to accommodate shared use.

(3) A site plan. The site plan shall show all existing and proposed structures and improvements, including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

(4) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, will

not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify to the above.

(5) A completed short EAF and a completed visual EAF addendum, including mitigation measures of the visual impacts.

(6) A copy of its Federal Communications Commission (FCC) license.

(7) A copy of the lease agreement.

F. Site plan submission requirements for new towers. An applicant proposing to construct a new tower shall submit a site plan as described in § 280-53 of this chapter. The site plan and supporting documentation shall include:

(1) A completed application for a special permit.

(2) A site plan. The site plan shall show all existing and proposed structures and improvements, including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

(3) Documentation on the proposed intent and capacity of use.

(4) Justification for the height of any tower or antennae and justification for any land or vegetation clearing required.

(5) A completed Visual Environmental Assessment Form (visual EAF) and a landscaping plan addressing other standards listed within this section, with particular attention to visibility from key viewpoints within and outside the municipality as identified in the visual EAF. The Zoning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.

(6) A report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared uses of existing facilities and use of other preexisting structures as an alternative to a new construction.

(7) A report demonstrating good faith efforts to secure shared uses from existing towers as well as documenting capacity for future shared uses of the proposed tower. Written requests and responses for shared uses shall be provided.

(8) Proof of certified announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.

(9) A report detailing the compatibility of proposed construction with existing emergency networks.

(10) A report detailing the long-range plans for additional towers within the area.

(11) A copy of its Federal Communications Commission (FCC) license.

(12) A copy of any proposed lease agreement.

G. Special use standards.

(1) Shared uses. At all times, shared uses of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on preexisting structures shall be considered.

(2) Setbacks. Towers and antennas shall comply with all existing setbacks within the affected zone. Additional setbacks may be required by the Zoning Board to contain on-site substantially all icefall or debris from tower failures and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities.

(3) Visibility.

(a) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

(b) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend in with natural surroundings below the surrounding treeline unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e., monopoles or guyed towers) shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers should be designed and sited

so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(c) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

(4) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special permit use. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be provided.

(5) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of the berm.

(6) Access and parking. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours' potential. Public road standards may be waived in meeting the objectives of this subsection.

H. Authority to impose conditions. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications tower special use or site plan.

I. Removal. The applicant shall submit to the Zoning Board of Appeals a letter of intent committing the tower owner, and his/her successors in interest, to notify the Chief Building Inspector and Zoning Coordinator within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Chief Building Inspector and Zoning Coordinator prior to issuance of a building permit (assuming the telecommunications tower is approved according to this

section). Obsolete or unused towers and accessory structures shall be removed from any site within four months of such notification. The Zoning Board of Appeals is hereby authorized to require the applicant, as a condition of approval, to post an escrow deposit with the Town in an amount sufficient to ensure compliance with this section.

[Amended 11-18-1997 by L.L. No. 12-1997]

J. The Zoning Board of Appeals is hereby authorized to retain a consultant or Town-designated engineer, to be paid for by the applicant, to aid it in reviewing the application, site plan submission and other materials and data submitted by the applicant.

[Added 11-18-1997 by L.L. No. 12-1997]

§ 280-37.1. Landing motorized aircraft in unauthorized places.

[Added 9-3-2003 by L.L. No. 13-2003]

No person shall land a piloted, motorized aircraft, except for medical or mechanical emergencies or agricultural, military or official government purposes, at any place within the Town other than landing facilities approved by the Town and federal aviation agencies.

ARTICLE IVA. Interim Development District

Editor's Note: Former Art. IVA, Interim Development Limitations, consisting of §§ 280-37.1 through 280-37.4, added 3-16-1999 by L.L. No. 3-1999 and amended 2-15-2000 by L.L. No. 2-2000, expired 3-31-2000.

§ 280-37.2. Title.

This article shall be known as and may be cited as the "Interim Development Law for the Rural Guilderland Study Area of the Town of Guilderland."

§ 280-37.3. Study area.

The Interim Development District shall comprise of the area bounded as follows: all lands west of the Consolidated Railroad line and all lands south of the Normanskill.

§ 280-37.4. Purpose and intent.

A. Purpose. The Interim Development District is hereby established to preserve the status quo in the district on a temporary basis while a comprehensive study of the area is conducted to consider necessary amendments to the land use regulations. For this purpose, the Town of Guilderland is conducting a study which will gather input through informational meetings and formal public hearings. This procedure will then lead to amendments to the Comprehensive Plan and the creation and adoption of necessary amendments to the Zoning Ordinance, Subdivisions Regulations and laws of the Town of Guilderland in order to implement the plan.

B. Legislative findings of fact. The Town Board hereby finds that the area within the Interim Development District is primarily rural in character and under considerable development pressures. The Board further finds and determines that unless reasonable interim measures are implemented, significant building and land development may occur within the district and may thereby undermine the implementation of appropriate salutary planning measures needed to protect the public interest and welfare, and further the goals of the Comprehensive Plan.

C. Legislative intent. It is the intent of the Town Board to protect the public health, safety and general welfare by enacting this Interim Development District and regulation for a reasonable period. The Town is undertaking a comprehensive study of the area with the district to develop solutions to open space and farmland protection, conservation and development, and to implement necessary amendments to the land use and zoning regulations to accomplish such goals. It is the further Intention to protect the public interest by preventing premature land development which could prejudice the integrity and objectives of the proposed changes or result in a land use pattern that might be inconsistent with the intent of the recommendations of said study.

§ 280-37.5. Scope of regulations.

A. During the effective period of this article, the Planning Board, Zoning Board or Town Board shall not consider any application within the Interim Development District for concept, preliminary or final approval of a subdivision plat of three or more lots; site plan approvals; special use permits; use variances; or changes in zoning districts, regardless of the fact that an application has been submitted prior to the effective date of this article.

B. The restrictions contained herein shall not apply to:

(1) Subdivision plats which, prior to the effective date of this article, have received final Planning Board approval;

(2) Special use permit applications which, prior to the effective date of this article, have received Zoning Board approval;

(3) Applications for additions, alterations, or rebuilding of existing structures, including those that require area variances;

(4) Certificates of occupancy for any and all construction made pursuant to building permits issued prior to the effective date of this article.

C. The Town Board reserves the right to direct the Zoning Administrator and Chief Building Inspector to revoke or rescind any building permit or certificates of occupancy issued in violation of this article.

§ 280-37.6. Violations; penalties for offenses.

Any person, firm, entity or corporation that shall violate any of the provisions of this article shall be subject to:

A. Penalties as otherwise provided by law or ordinances of the Town of Guilderland for such violations; and

B. Injunction relief in favor of the Town of Guilderland to cease operations which are in conflict with this article.

§ 280-37.7. Variances.

Notwithstanding any of the aforementioned prohibitions, the Town Board, upon request of any party whose application for subdivision, variance, special use permit, or rezone has been denied consideration hereunder, may vary or modify the application of any provision of this article upon the Town Board's determination, in its absolute legislative discretion, that:

A. The applicant will suffer an undue and unjustifiable hardship, which is not of his or her own causation, if his or her application is denied consideration; and

B. The requested variance or modification is consistent with the purpose of this article and with the health, safety and general welfare of the Town.

§ 280-37.8. Effective date.

This article shall become effective July 7, 2004 and shall remain in force until January 2005, subject to extension of an additional 90 days by resolution of the Town Board.

ARTICLE V. Administration and Enforcement

§ 280-38. Enforcing official.

The Town of Guilderland Chief Building Inspector and Zoning Coordinator shall have the power and duty to enforce the provisions of this chapter. He shall be appointed and may be removed by the Town Board and shall serve at the pleasure of the Town Board of Guilderland. An appeal from a ruling by him regarding a requirement of the law may be made only to the Zoning Board of Appeals.

§ 280-39. Form of petitions, applications and appeals.

All petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Town Board. Forms shall be accompanied by plans and specifications as required by this chapter.

§ 280-40. Filing fees.

Fees shall be paid to the Chief Building Inspector and Zoning Coordinator upon the filing of an application. Such fees shall be as established by Town Board resolution and are not refundable.

§ 280-41. Notice of public hearing.

When the Town Board, Planning Board or Zoning Board of Appeals is required to hold a public hearing, as provided for in this chapter or elsewhere by law, notice of the hearing shall be given in the following manner:

A. Each notice of a hearing on a special use permit, subdivision approval, site plan approval and or a variance shall be published in a newspaper of general circulation in the Town at least five days prior to the date of the hearing.

B. Each notice of a hearing regarding an amendment to this chapter shall be published at least one time in a newspaper of general circulation in the Town at least 10 days prior to the date of the hearing. All other provisions of § 264 of the Town Law shall be adhered to.

C. Each notice of a hearing on an appeal authorized by this chapter shall be published in a newspaper of general circulation in the Town not less than five days prior to the date of the hearing.

D. The Planning Board, Town Board or Zoning Board of Appeals may recess a hearing in order to obtain additional information or upon request of the applicant. At the time of recessing, the time and date of when the hearing is to be resumed shall be announced, if possible. If no date of resumption is announced or if the hearing is recessed for a period of three months or more, public notice of resumption of the hearing shall be published as in Subsection C above.

§ 280-42. Limitation on new application.

In a case where a special use permit or variance is denied by the Zoning Board of Appeals, unless specifically stated to be without prejudice, the application shall not be eligible for resubmittal for the period of one year from the date of said denial, unless, in the opinion of the Zoning Board, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

§ 280-43. Building permit required; expiration and extensions.

No structure shall be erected, altered, placed, moved or demolished, nor shall an excavation be made or footing or foundation be constructed therefor until a permit has been issued by the Chief Building Inspector and Zoning Coordinator, and such permit is prominently displayed upon the premises. This requirement applies equally to the construction or installation of underground structures, including sewage disposal systems. Such permit shall expire 180 days after the issuance thereof unless construction shall have been commenced within said period, and it shall expire 12 months after date of issue. The Building Department may, for good cause, grant up to two six-month extensions of the above time period.

§ 280-44. Conformance with state regulations.

No structure shall be built or erected unless it meets the New York State Uniform Fire Prevention and Building Code. All proposed structures shall be reviewed by the Chief Building Inspector and Zoning Coordinator to assure conformance with the New York State Uniform Fire Prevention and Building Code.

§ 280-45. Certificate of occupancy required.

Upon the completion of a structure legally erected or altered, as required by this chapter, a permit for the occupancy of the structure and the use designated in the building permit shall be issued within 10 days of a written request for inspection. No structure shall be occupied or the premises used until such permit is issued, and such certificate shall automatically become invalid upon any change in use of said premises.

§ 280-46. Planning Board membership; powers.

Pursuant to § 271 of the Town Law, the Planning Board of the Town shall consist of seven members appointed by the Town Board which shall also designate the Chairman thereof, in such manner and for such terms as provided in the Town Law. The Planning Board shall have power to pursue all those duties established for it by statute and this chapter. It shall establish such rules and regulations as are necessary for the transaction of its business and may amend, modify and repeal the same.

§ 280-47. Zoning Board of Appeals membership; powers.

Pursuant to the provisions of § 267 of the Town Law, the Zoning Board of Appeals shall consist of seven members to be appointed by the Town Board which shall designate the Chairman thereof, and for such terms as provided by the Town Law and any amendments thereto and shall have all the powers and perform all the duties prescribed by statute and by this chapter. Said Board shall establish and may, from time to time, amend or repeal rules and regulations for the effectuation of its powers and duties.

§ 280-48. Subdivision maps.

[Amended 12-5-1989 by L.L. No. 2-1989; 2-6-1996 by L.L. No. 1-1996]

No real property shall be subdivided into two or more lots, or any lot line changed, until a map of such subdivision, drawn to a scale as prescribed by the Planning Board, showing such lots and any streets laid out in connection therewith, shall have been approved by the Planning Board of the Town of Guilderland and filed with the County Clerk of the County of Albany in accordance with Chapter 247, Subdivision of Land.

§ 280-49. Permit applications; fee.

Application for any permit hereunder shall be made to the Chief Building Inspector and Zoning Coordinator upon such form or forms and in such manner as he shall from time to time prescribe and upon the payment of such fee

Editor's Note: See Ch. A285, Fees. as shall from time to time be prescribed by the Town Board.

§ 280-50. Amendments.

A. Purpose. This chapter may be amended by changing the boundaries of districts or by changing any other provision thereof, whenever the public necessity and convenience and the general welfare require such amendment by following the procedures of this section.

B. Authorization to initiate amendments. An amendment to the text of this chapter or the Zoning Map Editor's Note: The Zoning Map is on file in the Town offices. may be initiated by:

- (1) Resolution of intention of the Town Board.
- (2) Resolution of intention of the Planning Board.
- (3) Application by one or more property owners or their agents.

C. Application for an amendment to the Zoning Map. A property owner(s) or his agent(s) may initiate a request for an amendment to the Zoning Map by filing an application with the Chief Building Inspector and Zoning Coordinator using forms provided for such requests by the Town. Such application shall be accompanied by a legal description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof, a statement of the proposed use of the property if the zoning change is granted and a filing fee as required in the Town's fee schedule established by Town Board resolution.

D. Public hearing on amendment. A public hearing shall be held by the Town Board before an amendment is permitted to the text of this chapter or the Zoning Map. Notice of said hearing shall be provided as required in § 280-41 of this chapter.

E. Referral to Planning Board. The Town Board shall refer all applications for a zoning amendment to the Planning Board, when such was not initiated by such Board, for review and recommendation. The Town Board may also specify the time limit on the review by the Planning Board.

F. Hearing before Town Board. In no case shall any amendment or change be finally considered by the Town Board until all provisions of this chapter have been met. If the Town Board proposes to adopt an amendment that is

substantially altered from the recommendation of the Planning Board, the Town Board may refer said proposed amendment back to the Planning Board for report and recommendation before adoption.

G. Time of and notification of decision. The Town Board shall render a decision on the application for amendment to the Zoning Map within 60 days after the public hearing required herein has concluded. The Town Board shall notify the applicant for amendment to the Zoning Map, in writing, of the Town Board's decision within five days after the decision has been rendered.

H. Records of amendments. The Town Clerk shall maintain separate files and records of each amendment to the Zoning Map or this chapter which shall be open to public inspection upon request.

§ 280-51. Variances.

A. Purpose. Where the strict application of certain provisions of this chapter may result in practical difficulties, unnecessary hardships and results inconsistent with the general purposes thereof, variances may be granted as provided in this chapter.

B. Authorization to grant or deny variances. Any variance to this chapter shall be authorized by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this section. In granting a variance, the Board of Appeals may impose conditions similar to those provided for special uses to protect the best interests of the surrounding property, the neighborhood or the Town as a whole.

C. Application for a variance. A property owner(s) or his agents(s) may initiate a request for a variance by filing an application with the Chief Building Inspector and Zoning Coordinator using forms provided for such requests by the Town. Such application shall be accompanied by a legal description of the property, a map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed variance, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee as required in the Town's fee schedule, Editor's Note: See Ch. A285, Fees. established by Town Board resolution.

D. Circumstances for granting variances. The Zoning Board of Appeals may grant an area variance or a use variance pursuant to § 267-b of the New York State Town Law. All applications for an area variance or a use variance shall include written responses to the conditions enumerated in § 267-b of the New

York State Town Law in order for the application to be considered by the Zoning Board of Appeals.

[Amended 9-21-1999 by L.L. No. 8-1999]

E. Public hearing on a variance. Before the Zoning Board of Appeals may act on a request for a variance, it shall hold a public hearing. Notice of said hearing shall be given as provided in § 280-41, and a decision shall be rendered within 60 days of the final hearing date.

F. Notification of decision. The Zoning Board of Appeals shall notify the applicant for a variance, in writing, of the Board's decision within five days after the decision has been rendered.

§ 280-52. Special use permit review procedures.

A. Purpose. The purpose of special use approval is to allow the proper integration of uses into the community and zoning district which are only suitable in such areas given certain conditions and at appropriate locations. Because of their characteristics or the special characteristics of the area in which they are to be located, special uses require special consideration so that they may be properly located with respect to the objectives of the law and their effect on surrounding properties.

B. Authorization to grant or deny special uses. The special uses listed in this chapter may be permitted, enlarged or otherwise altered upon authorization by the Zoning Board of Appeals. In permitting a special use or the modification of a special use, the Zoning Board may impose, in addition to those standards and requirements expressly specified by the law, any recommendation made by the Planning Board as part of its site plan review, and any additional conditions which the Board considers necessary to protect the best interests of the surrounding property, the neighborhood or the Town as a whole. These conditions may include but are not limited to increasing the required lot size or yard dimensions; limiting the height or size of buildings; controlling the location and number of vehicle access points; increasing the street widths; increasing the number of off-street parking and loading spaces required; limiting the number, size and location of signs; and required fencing, screening, landscaping or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a special use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with special uses.

C. Application for special use. Any application for a special use permit shall be made in writing. The application and required information shall be submitted to the Chief Building Inspector and Zoning Coordinator at least 15 days prior to the date for the public hearing. Two copies of the application and required information as set forth below shall be submitted. The application shall be accompanied by any or all of the following information, as required by the Zoning Board of Appeals, prepared by a licensed engineer, architect, landscape architect or surveyor, and certified by the seal and signature of such professional.

(1) An area map showing that portion of the applicant's property under consideration, the applicant's entire adjacent holdings and all properties, subdivisions, street and easements within 500 feet of the applicant's property.

(2) A tracing overlay showing existing contour intervals of not more than five feet of elevation, and shall include 200 feet of adjacent property.

(3) A tracing overlay showing proposed finished contour intervals of not more than five feet of elevation and direction of drainage with arrows. Data required here may be placed on the same tracing as required in Subsection C(2) above, provided that the proposed finished contours are illustrated by solid lines.

(4) A preliminary site plan, including the following information:

(a) Title of drawing, including name and address of applicant.

(b) North point, scale and date.

(c) Boundaries of the property plotted to scale.

(d) Existing watercourses.

(e) A plan showing the location of all buildings; location and size of off-street loading facilities, with access and egress drives thereto; location and size of outdoor storage, if any, and the method of screening the storage area from public view; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities, and any proposed changes in existing stream channels; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and any existing and proposed easements

and the location, if any, of waste storage and the method of screening from public view, air-conditioning units and other facilities located on roof tops of buildings, and location of exhaust fans for use in relationship to adjacent residential area.

(f) A tracing overlay showing all soil areas and their classification, and those areas, if any, with moderate to high susceptibility to flooding, and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

D. Factors for consideration.

(1) The Zoning Board of Appeals review of an application for special use permit shall include, but is not limited to, the following considerations:

(a) Full conformance of the permit request with the provisions of this chapter.

(b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls. Consideration will also be given to the project's impact on the overall traffic circulation system of the neighborhood and the Town.

(c) Adequacy of fire lanes and other emergency zones, traffic circulation and system of fire hydrants.

(d) Adequacy and arrangement of pedestrian traffic access and circulation, including, but not solely limited to, separation of pedestrians from vehicular traffic, control of intersections and overall pedestrian convenience; where appropriate, consideration of access and facilities for bicycles.

(e) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. As much as it is possible, consideration should be given to noise sources, privacy, prevailing wind directions and seasonal sun movements when locating structures, patios and open spaces on parcels, exhaust fans and outdoor waste disposal locations.

(f) Location, arrangement and setting of off-street parking and loading areas.

(g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and or noise deterring buffer between the project and adjoining properties.

(h) In the case of an apartment house or multiple-dwelling complex, the adequacy of usable open space for playgrounds and informal recreation.

(i) Adequacy of provisions for the disposal of stormwater and drainage, sanitary waste and sewage, water supply for both fire protection and general consumption, solid waste disposal and snow removal storage areas.

(j) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

(k) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.

(l) Retention of existing trees and vegetation for protection and control of soil erosion, drainage, natural beauty and unusual or valuable ecology.

(m) Such use is reasonably necessary or convenient to the public health, welfare or the economic or social benefit of the community.

(n) Such use is suitably located in relation to transportation, water and sewerage requirements of this chapter, or where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use.

(o) No undue traffic congestion or hazard will be created.

(p) The character of the neighborhood and values of surrounding property are reasonably safeguarded.

(2) In its review, the Zoning Board of Appeals is encouraged to consult with the Town Engineer and other Town and county officials and board, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. The Zoning Board of Appeals may require that interior design of all structures be made by or under the direction of a registered architect whose seal shall be affixed to the plans.

(3) A special use permit shall become void one year after approval unless construction has begun within such time or, by conditions of the use permit, greater or lesser time is specified as a condition of approval, or unless prior to the expiration of one year, the permit is extended for a period of no more than one year.

(4) The Zoning Board of Appeals, on its own motion, may revoke any special use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in § 280-41. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a special use permit.

E. Public hearing on a special use permit. Before a special use permit is granted, the proposed special use shall be considered by the Zoning Board of Appeals at a public hearing. Notice of said hearing shall be given as provided in § 280-41.

F. Site plan review by Planning Board.

(1) With respect to any application for a special use permit, the Planning Board shall make a written site plan review report on the proposed project to the Zoning Board of Appeals, and such report shall be a part of the public hearing record.

(2) The Planning Board in its review procedure shall follow and consider the following criteria:

(a) Whether the proposed use and site conforms to the Town of Guilderland Comprehensive Plan.

(b) The appropriateness of the proposed site including such matters as the following:

[1] The physical features and the general character, present use and probably future use of the land in the neighborhood.

[2] The density of the land in the vicinity such as to warrant the proposed use.

[3] The adaptability of the site for the proposed use in addition to topography, natural buffers, screening and fencing.

[4] The location of the site in relation to transportation, water and sewerage requirements of this chapter, or where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use.

(c) Whether the project conforms to accepted design and aesthetic principles in the proposed functional roadway, system, land use configuration, open space system and drainage system.

(d) The effect of the proposed use on the other properties in the neighborhood and the enjoyment by the inhabitants of their properties, and whether it will materially affect the value of such properties and the use and enjoyment of such properties by the occupants and any other effect of such use on the health, welfare and safety of the occupants of such properties.

(3) The report shall contain specific findings either recommending approval, disapproval or approval with conditions or modifications of the site plan of the project. If the Planning Board shall recommend in its review report that the site plan not be approved, a special use permit shall not be granted by the Zoning Board of Appeals except upon affirmative vote of at least five of its members.

G. Notification of action. The Zoning Board of Appeals shall notify the applicant for a special use, in writing, of the Board's action within five days after the decision has been rendered.

§ 280-53. Site plan approval.

A. Purpose. The purpose of site plan approval is to determine that a proposed development subject to site plan approval is in compliance with the objectives of this chapter, creates no unhealthful or unsafe conditions and does not adversely impact on adjacent land uses or the health, safety or general welfare of the community.

B. Authorization to grant or deny site plan approval. The power to approve or approve with conditions site plans as required by this section is vested in the Planning Board. Prior to issuing a building permit for the construction of any townhouse or mobile dwelling unit; or before any permit for erection of a permanent building in a planned unit development shall be granted; or before any subdivision plat or any part thereof may be filed in the office of the Albany County Clerk, the Chief Building Inspector and Zoning Coordinator shall refer the site plan and supporting documentation of such project to the Planning

Board. All site plan information shall be prepared by a licensed architect, engineer, surveyor or landscape architect. All site plans shall show the seal and signature of said architect, engineer, surveyor or landscape architect. In addition, such professional shall submit to the Town a signed affidavit that the plans for the project were prepared by said professional, his employees or by an agency of the federal, state or local government. No building permit shall be issued except in accordance with standards and procedures set forth in this section.

C. Time of submittal.

(1) A site plan shall be submitted to the Planning Board only when the land on which the proposal is situated is in the proper zoning district to allow the intended use(s), except for proposals submitted pursuant to § 280-17. The Planning Board shall determine which of the following stages and/or date requirements are necessary and completely document its reasons for its actions on these matters as part of the information on an application.

(2) Prior to issuing a building permit for the construction of a building on a parcel of land for any permitted use in any district, except single-family dwellings and their customary accessory structures and farm-related structures, the owner, developer, agency or Chief Building Inspector and Zoning Coordinator shall refer the site plans for such parcel of land to the secretary of the Planning and Zoning Department. Such plans shall be placed on the agenda of the Planning Board for its review and approval.

D. Preapplication sketch.

(1) The developer should arrange with the Planning Board secretary for an informal discussion with the Planning Board prior to submission of a preapplication sketch of the site plan, to determine any or all of the data to be included in the preapplication sketch.

(2) The secretary schedules informal discussion for the next convenient public Planning Board meeting or, otherwise, at the convenience of the Board, but in no event shall such informal discussion take place less than seven days from the date of filing the preapplication sketch.

(3) The preapplication sketch shall include:

(a) Title of drawing, North arrow, date and scale. North arrow shall point to the top of the plan sheet.

(b) Location of site with respect to existing and proposed rights-of-way and intersections.

(c) Internal street pattern, if any, of the proposed development.

(d) Location of all existing structures on the site and future use of the same.

(e) Existing zoning classification(s) of the property and all adjacent properties, and any restrictions on land use of the site.

(f) Existing natural features on the site and future use of the same.

(g) Contour intervals at 10 feet, including 200 feet of adjacent property.

(h) Names of owners of adjacent properties.

(4) The Planning Board may, at this state, suggest changes in the preapplication sketch involving street layout, traffic patterns, lot size or shape, preservation of natural features or other matters which, in its opinion, will improve the layout in keeping with the best interest of the Town.

(5) The Planning Board shall be permitted to have a reasonable time to review the plan but in no instance longer than 45 days unless provided for elsewhere in this chapter.

(6) The Planning Board shall notify the applicant, in writing, of its decision. A copy of the minutes of the meeting at which the decision was made shall suffice.

E. Application for preliminary site plan approval. Any preliminary application for site plan approval shall be made in writing. The preliminary application and required information shall be submitted to the Chief Building Inspector and Zoning Coordinator at least 15 days prior to the date for the public hearing. Ten copies of the preliminary application and required information as set forth below shall be submitted. The preliminary application shall be accompanied by any or all of the following information, as required by the Planning Board, prepared by a licensed engineer, architect, landscape architect or surveyor, and certified by the seal and signature of such professional.

(1) An area map showing that portion of the applicant's property under consideration, the applicant's entire adjacent holdings and all properties,

subdivisions, streets and easements within 500 feet of the applicant's property.

(2) A tracing overlay showing existing contour intervals of not more than five feet of elevation, and shall include 200 feet of adjacent property.

(3) A tracing overlay showing proposed finished contour intervals of not more than five feet of elevation and direction of drainage with arrows. Data required here may be placed on the same tracing as required in Subsection E(2) above, provided that the proposed finished contours are illustrated by solid lines.

(4) A preliminary site plan, including the following information:

(a) Title of drawing, including name and address of applicant.

(b) North arrow pointing to the top of the plan sheet, scale and date.

(c) Boundaries of the property plotted to scale.

(d) Existing watercourses.

(e) A plan showing the location of all buildings; location and size of off-street loading facilities, with access and egress drives thereto; location and size of outdoor storage, if any, and the method of screening the storage area from public view; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities, and any proposed changes in existing stream channels; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and any existing and proposed easements and the location, if any, of waste storage and the method of screening from public view, air-conditioning units and other facilities located on roof tops of buildings, and location of exhaust fans for use in relationship to adjacent residential areas.

(f) A tracing overlay showing all soil areas and their classification, and those areas, if any, with moderate to high susceptibility to flooding, and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

F. Factors for consideration.

(1) The Planning Board's review of a preliminary site plan shall include, but is not limited to, the following considerations:

(a) Full conformance of the site plan with the provisions of this chapter.

(b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls. Consideration will also be given to the project's impact on the overall traffic circulation system of the neighborhood and the Town.

(c) Adequacy of fire lanes and other emergency zones, traffic circulation and system of fire hydrants.

(d) Adequacy and arrangement of pedestrian traffic access and circulation, including, but not solely limited to, separation of pedestrians from vehicular traffic, control of intersections and overall pedestrian convenience; where appropriate, consideration of access and facilities for bicycles.

(e) Location, arrangement, site, design and general site compatibility of buildings, lighting and signs. As much as it is possible, consideration should be given to noise sources, privacy, prevailing wind directions and seasonal sun movements when locating structures, patios and open spaces on parcels, exhaust fans and outdoor waste disposal locations.

(f) Location, arrangement and setting of off-street parking and loading areas.

(g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between these adjoining properties.

(h) In the case of an apartment house or multiple-dwelling complex, the adequacy of usable open space for playgrounds and informal recreation.

(i) Adequacy of provisions for the disposal of stormwater and drainage, sanitary waste and sewage, water supply for both fire protection and general consumption, solid waste disposal and snow removal storage areas.

(j) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

(k) Protection of adjacent properties against noise, glare unsightliness or other objectionable features.

(l) Retention of existing trees and vegetation for protection and control of soil erosion, drainage, natural beauty and unusual or valuable ecology.

(2) In its review, the Planning Board is encouraged to consult with the Town Engineer and other Town officials and boards, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. The Planning Board may require that interior design of all structures be made by or under the direction of a registered architect whose seal shall be affixed to the plans.

G. Modification. The Planning Board may require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

H. Action on preliminary application.

(1) Within 60 days of the receipt of the application for preliminary site plan approval, the Planning Board shall act on it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, conformance with which shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.

(2) No modification of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with a moderate to high susceptibility to erosion, or excavation for and construction of site improvements shall begin until the developer has received final site plan approval and met any conditions thereof. Failure to comply shall be construed as a violation of this chapter, and, when necessary, final site plan approval may require the modification or removal of unapproved site improvements.

I. Application for final detailed site plan approval.

(1) After receiving conditional approval from the Planning Board in a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board for approval; except that if more than six months has elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for approval.

(2) The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It shall incorporate any revision or other features that may have been recommended by the Planning Board at the preliminary review. In addition to that provided elsewhere in the law, the Planning Board may require a letter of credit, bond or maintenance bond for any facility or improvement that is indicated as part of the plan, such as parking areas and buffer and screen devices. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

J. Action on the final detailed site plan application.

(1) Within 60 days of the receipt of the application for final site plan approval, the Planning Board shall render a decision to the Chief Building Inspector and Zoning Coordinator.

(2) Upon approving an application, the Planning Board shall endorse its approval on three copies of the final site plan and shall forward one copy to the Chief Building Inspector and Zoning Coordinator who may then issue one or more building permits to the applicant if the project conforms to all other applicable requirements of this chapter. The second copy shall be filed with the Planning Board, and it shall be considered the legally approved plan with which all development on the respective site must conform. The third copy shall be forwarded to the applicant.

§ 280-54. Dumps; dumping of garbage.

Dumping of refuse, rubbish, garbage or waste material of any kind upon lands in the Town of Guilderland is prohibited, except in accordance with the

provisions of Chapter 236, Solid Waste, and except for the purpose of filling to establish grades under permit issued by the Town Board.

§ 280-55. Sanitary disposal.

No person shall undertake to construct any new building or structure in the Town of Guilderland without first meeting the requirements of a system, or facilities, for the disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the Town, the New York State Department of Health, New York State Department of Environmental Conservation and other government authorities.

§ 280-56. Interpretation.

A. Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provision of this chapter or of any other local law, resolution or regulation, the provisions which are more restrictive shall govern.

B. The Zoning Board of Appeals shall have the power to determine any question involving an interpretation of any provision of this chapter.

§ 280-57. Retention of experts; payment.

[Amended 4-21-1998 by L.L. No. 8-1998]

A. The Zoning Board of Appeals and the Planning Board are hereby authorized to retain engineering consultants and/or such other expert consultants as are determined to be necessary to enable the full performance of the duties of the respective Board relative to any matters before either Board.

B. Payment for the services of such consultants and/or engineers is to be made from funds deposited by the applicant with the Town in escrow accounts for such purpose.

C. It shall be the responsibility of the applicant to submit to the Town, prior to the commencement of any work associated with said application before the Board or at such other time as directed by the Board, certified check(s) in amounts equal to the estimate of the expert consultant and/or engineer for the cost of services to be rendered to the Town. This sum shall be released by the Town to said consultant or engineer in payment for the services rendered to it upon acceptance by the Town of said services.

D. In the event that an application required Town Board action for review or implementation, including consideration of zoning issues, variances, contracts, bonding, financing or other associated actions required by virtue of an application under local zoning ordinances, the experts retained by the Planning Board and/or the Zoning Board of Appeals on behalf of the Town as outlined in Subsection A through C above shall provide to the Town Board such services as may be required by it also in connection with its review of the application and associated actions; the cost of said experts to be provided for as set forth under this section. The purpose of this provision is to avoid duplication of services and provide for coordinated review of said application.

[Added 10-20-1998 by L.L. No. 14-1998]

§ 280-58. Completion of utilities and road improvements.

No building permit shall be issued for the construction, remodeling or rehabilitation of any building until all utilities and road improvements required by the Town Board, Zoning Board of Appeals and/or Planning Board have been completed and accepted by the Town of Guilderland, except as may be otherwise authorized by Chapter 247, Subdivision of Land.

§ 280-59. Issuance of certificates; inspection; completion of construction.

A. No certificate of occupancy shall be issued for any building, except a one- or two-family dwelling, a certificate of an architect duly licensed by the State of New York or other proof acceptable to the Zoning Board of Appeals, that the building as constructed complies in all respects with the applicable requirements of the New York State Uniform Fire Prevention and Building Code, and further proof satisfactory to the Chief Building Inspector and Zoning Coordinator of the issuance of approval of water supply and sewage disposal facilities by all appropriate regulatory agencies having jurisdiction and whose approval is required by law.

B. The architect or professional engineer whose seal and signature appear on the drawings for buildings or structures other than one- or two-family dwellings, or his designated representative, shall be responsible for making periodic visits to the construction site to familiarize himself with the progress and quality of the construction, and to determine, in general, if the construction is proceeding in accord with the drawings, specifications and addenda thereto which have been approved by the Building Department. He shall file reports with the Building Department at regular intervals indicating the times of such visits, the status of the construction and of any defects or discrepancies between the actual construction and the approved drawings

and specifications affecting structural, fire, health or safety which he may observe. He shall advise the Building Department when such discrepancies have been corrected.

C. Upon completion of the construction, the architect or engineer shall file a certificate of the completion with the Building Department stating that to the best of his knowledge, the building or structure has been completed in accord with the approved drawings, specifications and addenda thereto, insofar as structural, fire, health and life safety are concerned, or shall state any defects of which he is aware.

D. Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued for a period not to exceed six months. Temporary certificates of occupancy may be renewed for additional six-month periods; such renewals shall not exceed a total of three in number. Such temporary certificates of occupancy shall be issued only in cases of emergency or hardship. A building shall be considered under construction and uncompleted until there is a complete exterior of a story other than a basement.

§ 280-60. Penalties for offenses.

A. Penalty. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or by imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

[Amended 5-3-1988 by L.L. No. 2-1988]

B. Alternative penalty. In case of any violation of any of the provisions of this chapter or conditions imposed by the Planning Board or Zoning Board of Appeals in addition to the penalties herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building,

structure or land and to prevent any illegal act, conduct or business use in or about such premises.

CHAPTER A285. FEES

§ A285-1. Listing of fees from Code sections.

CHAPTER A285. FEES

[HISTORY: Adopted by the Town Board of the Town of Guilderland 11-18-2008 Editor's Note: This resolution also superseded former Ch. A285, Fees, adopted 4-5-2005. . **Amendments noted where applicable.]**

§ A285-1. Listing of fees from Code sections.

Specific fees from particular Code sections are as follows:

Chapter/Section Number/Type of Fee	Fee
Chapter <u>38</u>, Department of Fire Prevention and Investigation	
Fireworks permit	\$42
Public school fire inspection	\$60 per annual booklet; \$48 per quinquennial booklet
Public school structural inspection	DNA
Private school inspection	\$24 per booklet
College fire inspection	DNA
Apartments	\$2.40 per unit
Commercial space (per business occupant)	
Square footage	
Up to 2,000	\$42

Chapter/Section Number/Type of Fee	Fee
2,001 - 5,000	\$54
5,001 - 10,000	\$72
10,001 - 25,000	\$90
25,001 - 35,000	\$102
35,000 or greater	\$150
Industrial and storage occupants	
Per tenant, up to 5,000 square feet	\$42
Each additional 1,000 square feet	\$2.40
Public assembly occupants (number of persons)	
Up to 50	\$36
51 - 300	\$48
301 - 1,000	\$72
Over 1,000	\$120
Family home day-care inspections	\$36
Adult day-care facilities inspection	\$36
Group family day-care home inspections	\$36
Hazardous materials technical assistance fee rate for inspector and/or investigator	Current hourly rate and/or overtime rate
Late fees	5%
Fire Training Center usage fees (for use by non-fire-fighting	

Chapter/Section Number/Type of Fee	Fee
agencies or groups and emergency medical services)	
Training classroom	\$60 per day
Training grounds	
Monday - Friday, 9:00 a.m. - 4:30 p.m.	\$42 per hour
Nights and weekends	\$54 per hour
Building permit fee covers home inspection	
Fireplace permit fee covers fireplace inspection	

Chapter 66, Mynderse-Frederick House

§ <u>66-2A(8)</u> Town residents (nonrefundable)	\$50
Nonresidents (nonrefundable)	\$100

Chapter 113, Alarms

§ <u>113-4B</u> Annual fee for alarm supplier permits	\$25
§ <u>113-4C</u> One-time application fee	\$25
§ <u>113-5A</u> Annual fee for alarm systems terminating directly at the Police Department	\$25
§ <u>113-5B</u> Penalty fee for reconnection of terminal	\$10, plus yearly fee

Chapter 120, Animals

Article II, Dogs and other Animals

§ <u>120-19</u> Adoption of dog	\$25

Chapter/Section Number/Type of Fee	Fee
§ <u>120-19A</u> Redemption of dog	\$10
§ <u>120-20A</u> Dog license: local fee	\$2.50
§ <u>120-20B</u> Penalty: failure to license dog	\$150
§ <u>120-20C</u> Guide dog, hearing dog, service dog, war dog or police work dog	Local fee waived
§ <u>120-20D</u> Spayed/neutered dog	\$5
§ <u>120-20E</u> Nonspayed/nonneutered dog	\$13
§ 120-20F Under 6 months/unaltered	\$10

Chapter 127, Auctions

§ <u>127-3</u> Permit fee	\$10

Chapter 135, Bingo

§ <u>135-4</u> License fee (per occasion)	\$18.75
§ <u>135-14</u> Admission fee for any room/place in which games of chance are held	Not to exceed \$1
Participation fee (all games played under the license)	Not to exceed \$1 per opportunity

Chapter 140, Building Permits

Article I, Permits

§ <u>140-3</u> Building permit fees	
Private garage (attached or unattached)	\$42
Existing one- and two-family dwellings:	
Structural alterations less	\$42

Chapter/Section Number/Type of Fee	Fee
than \$1,000	
Structural alterations over \$1,000, but less than \$15,000	\$5 per \$1,000
Structural alterations over \$15,000, but less than \$50,000	\$4 per \$1,000
Structural alterations exceeding \$50,000	\$3 per \$1,000
New construction: One-family dwelling:	
2,000 square feet or less	\$200
Over 2,000 square feet, but less than 3,000 square feet	\$250
Over 3,000 square feet	\$400
New construction: Two-family dwelling (combined square footage):	
2,000 square feet or less	\$300
Over 2,000 square feet, but less than 3,000 square feet	\$400
Over 3,000 square feet	\$500
New construction: more than two dwelling units:	
First 10,000 cubic feet	\$400
Over 10,000 cubic feet, but less than 30,000 cubic feet	\$7 per 1,000 cubic feet

Chapter/Section Number/Type of Fee	Fee
Over 30,000 cubic feet	\$5 per 1,000 cubic feet
New construction: nonresidential, business use:	
First 10,000 cubic feet	\$300
Over 10,000 cubic feet, but less than 40,000 cubic feet	\$8 per 1,000 cubic feet
Over 40,000 cubic feet	\$6 per 1,000 cubic feet
New construction: churches, convents, schools and accessory buildings:	
First 10,000 cubic feet	\$120
Over 10,000 cubic feet, but less than 50,000 cubic feet	\$7 per 1,000 cubic feet
Over 50,000 cubic feet	\$5 per 1,000 cubic feet
Farm buildings, barns, animal housing, silos, sheds, storage:	
Construction Cost	
Up to \$1,000	\$36
\$1,001 - \$15,000	\$3 per \$1,000
\$15,001 - \$50,000	\$2 per \$1,000
Over \$50,000	\$1 per \$1,000
Other construction not listed above, such as but not limited to pools, sheds, fences, decks, accessory garages, signs,	

Chapter/Section Number/Type of Fee	Fee
bleachers, towers, fuel stations:	
Construction Cost	
Up to \$1,000	\$42
\$1,001 - \$15,000	\$5 per \$1,000
\$15,001 - \$50,000	\$4 per \$1,000
Over \$50,000	\$3 per \$1,000
Construction trailer	\$100
Solid-fuel-burning appliance	\$60
Application to Zoning Board of Appeals:	
Residential	\$75
Commercial	\$300
Zoning confirmation letter:	
Commercial	\$50
Residential	\$25
Stormwater management review	\$350

Chapter 200, Motorcycles (ATVs)

Article II, Registration of Off-Highway Motorcycles (vehicles)

§ <u>200-7C</u>	Registration of such off-highway motorcycle	\$5

Chapter 216, Peddling and Soliciting

§ <u>216-5D</u>	License application	\$250

Chapter/Section Number/Type of Fee	Fee
Additional employees	\$25 each

Chapter 225, Sewers

§ <u>225-12</u>	Residential building sewer permit and inspection	\$125
	Duplex and commercial building sewer permit and inspection	\$150
	Sewer tap (excavation by others)	\$500
	Core and seal (by others)	\$125

Chapter 236, Solid Waste

Article I, Garbage Disposal

§ <u>236-9A</u>	Resident license for rubbish/garbage collection	\$50 each vehicle
	Nonresident license for rubbish/garbage collection	\$100 each vehicle

Chapter 243, Streets and Sidewalks

Article II, Block Parties

§ <u>243-5</u>	Block party permit application	\$3

Chapter 247, Subdivision of Land

§ <u>247-8A(3)</u>	Minor subdivision concept plan application	\$50
§ <u>247-9A(4)</u>	Minor subdivision final plat plan hearing	\$25 per lot
§ <u>247-13A(3)</u>	Major subdivision concept plan application	\$250
§ <u>247-14A(2)(d)</u>	Major subdivision preliminary plat plan hearing	\$50 per lot

Chapter/Section Number/Type of Fee	Fee
§ <u>247-32C</u> Fee in lieu of parkland reservation [see also § <u>280-28C(1)</u>]	\$1,500 per dwelling unit

Chapter 272, Water

	Residential	Commercial
§ <u>272-4G(5)</u> Underground sprinkler system inspection	\$50	\$75
3/4-inch water connection and inspection	\$125	\$150
1-inch water connection and inspection	\$150	\$175
3/4-inch water tap (water main same side of road)	\$650	\$650
3/4-inch water tap (push under road required)	\$975	\$775
1-inch water tap (water main same side of road)	\$675	\$675
1-inch water tap (push under road required)	\$1,000	\$1,000
Residential and commercial subdivision connection		
Size (in inches)		
1 1/2		\$150
2		\$200

Chapter/Section Number/Type of Fee	Fee
3	\$300
4	\$400
6	\$600
8	\$800
10	\$1,000
12	\$1,200
Meters	actual cost
Size (in inches)	
3/4	\$158
1	\$216
1 1/2	\$416
2	\$506
Meters larger than 2 inches are to be furnished by the owner, meeting Guilderland Water District specifications.	
Road excavation shall be borne by permittee.	
§ <u>272-5F(3)</u>	Reestablishment of water service \$15 minimum charge
§ <u>272-5H</u>	Meter testing \$45
Chapter <u>280</u>, Zoning	
§ <u>280-14C(11)(e)</u>	Special use permit: renewal \$25
§ <u>280-18D(2)</u>	Application for temporary permit or renewal thereof, for use of mobile \$50

Chapter/Section Number/Type of Fee	Fee
dwelling as a field office	
Application for temporary permit or renewal thereof, for use of mobile dwelling as a field office public works project	No fee required
§ <u>280-26B(1)(c)</u>	Sign permit
	Erection, enlargement or structural alteration
§ <u>280-35B</u>	Application for excavation/appurtenant activities permit
§ <u>280-35E</u>	Removal fee for mined materials (per cubic yard)
§ 285-2A	Miscellaneous fees
	Copies of municipal documents
	Chapter <u>280</u> , Zoning
	Actual reproduction cost
	Chapter <u>243</u> , Article <u>III</u> , Street Specifications
	\$5
	Chapter <u>247</u> , Subdivision of Land
	\$5
	Photocopy of Town documents (nine inches by 14 inches maximum)
	\$0.25 per page
§ 285-2B	Parks and Recreation
	Tawasentha nonresident entrance fee

Chapter/Section Number/Type of Fee	Fee
Weekdays	\$10 per vehicle
Weekends and holidays	\$20 per vehicle
Tawasentha large pavilion rental	
Residents	
Monday - Thursday	\$95
Friday - Sunday	\$110
Nonprofit groups	
Monday - Thursday	\$95
Friday - Sunday	\$110
Business/private groups of 100+	
Monday - Thursday	\$120
Friday - Sunday	\$180
Tawasentha small pavilion rental	
Residents	
Monday - Thursday	\$50
Friday -	\$75

Chapter/Section Number/Type of Fee	Fee
Sunday	
Nonprofit groups	
Monday - Thursday	\$50
Friday - Sunday	\$75
Business/private groups of 100+	
Monday - Thursday	\$75
Friday - Sunday	\$100
Nott Road Fields	
Residents	
Field per game	\$30
Leagues: field per game	\$35
Nonprofit groups	
Field per game	\$30
Leagues: field per game	\$35
Business/private groups of 100+	
Field per game	\$45

Chapter/Section Number/Type of Fee	Fee
Parks and Recreation conference room	
Residents	\$50
Nonprofit groups	\$50
Business/private groups	\$60
Cross-country skiing at Western Turnpike Golf Club	
Residents	Free
Ski, boot, pole rental (weekends)	\$7
Nonresidents	\$3
Ski, boot, pole rental (weekends)	\$7
Snowshoe rentals per person	\$5
Tawasentha pool daily fees	
Adults	\$3
Seniors over 60	Free
Children 14 and under	\$1
Children under 5 years	Free
Tawasentha pool season pass fees	
Family	\$100
Individual	\$60
Tawasentha pool swim	\$3 per 2-week

Chapter/Section Number/Type of Fee		Fee
	lesson fee	period
	Guilderland Rock Adventure Barn	\$5 per person
	Tawasentha Summer Day Camp fee	\$99 per 2-week session
	Tawasentha Junior Volunteer Counselor fee	\$25 per 2-week session
	Enrichment and sports camps fees	(60% to instructor; 40% to Town of Guilderland)
§ 285-2C	Towing and impound	
§ 285-2D	Sanitary demolition landfill	
§ 285-2E	Transfer station fees	
	Household kitchen garbage	
		Per Trip Per Card of 10 Trips
	Nonseniors	\$6 \$55
	Seniors	\$5 \$45
	Demolition materials, appliances and cleanouts	
	Residents	
		Up to 100 pounds \$5.75

Chapter/Section Number/Type of Fee	Fee
Over 100 pounds	\$115 per ton
Contractors and businesses	
Up to 100 pounds	\$6.25
Over 100 pounds	\$125 per ton
20-pound propane tanks (actual cost to Town)	\$3
Private use of weight scale	\$5
Tires	
Passenger and light truck tires	\$3
On rim	\$5
Industrial and small to medium commercial	\$7
Commercial 20 inches to 24 1/2 inches	\$12
On rim	\$17
Small solid tires	\$22
Medium solid tires	\$37
Large solid tires	\$57
Super single/high flotation	\$17
On rim	\$27
Light- to standard-duty tractor up to 35 inches	\$27

Chapter/Section Number/Type of Fee		Fee
	Grader up to 28 inches	\$27
	On rim	\$37
	Standard-duty loader up to 30 inches	\$37
	On rim	\$47
	Heavy-duty loader and special use designations	\$50 and up
§ 285-2F	Administrative fee to garbage haulers licensed to operate in Town	\$0.50 per ton
§ 285-2G	Special fees associated with issuance of soil mining special use permits	
	Plan review and field inspection service	\$30 to \$35 per hour
	Nonprincipal, professional engineer	\$50 to \$60 per hour
	Occasional additional services	
	Geologist	\$50 to \$60 per hour
	Assistant Geologist	\$40 to \$50 per hour
	Survey crew	\$400 per day
§ 285-2H	On site construction burial permit	\$10
§ 285-2I	Town Clerk's fees	
	Marriage license	\$40

Chapter/Section Number/Type of Fee	Fee
Certified copies	\$10 each
Certificate of residency	\$1
Genealogical searches provided by Town Clerk	Per New York State fee schedule, with the option to waive such fees

CHAPTER DL. DISPOSITION LIST

§ DL-1. Disposition of legislation.

CHAPTER DL. DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Guilderland 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 Town Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 1-1999, adopted 2-2-1999. 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 Town Clerk.

§ DL-1. Disposition of legislation.

Local Law No.	Adoption Date	Subject	Disposition
2-1999	3-16-1999	Key boxes	Ch. <u>193</u>
3-1999	3-16-1999	Zoning amendment	Ch. <u>280</u>
4-1999	6-1-1999	Zoning amendment	Ch. <u>280</u>

Local Law No.	Adoption Date	Subject	Disposition
5-1999	6-1-1999	Adoption of Code	Ch. <u>1</u> , Art. <u>I</u>
6-1999	8-3-1999	Retirement incentive program	NCM
7-1999	11-16-1999	Adult entertainment establishments; zoning amendment	Chs. 111; 280
8-1999	9-21-1999	Zoning amendment	Ch. <u>280</u>
9-1999	12-7-1999	Zoning Map amendment	NCM
1-2000	2-15-2000	Tax exemption for real property owned by persons with disabilities and limited income amendment	Ch. <u>251</u> , Art. <u>VIII</u>
2-2000	2-15-2000	Zoning amendment	Ch. <u>280</u>
3-2000	2-15-2000	Zoning Map amendment	NCM
4-2000	6-6-2000	Attendance at meetings	Ch. <u>62</u> , Art. <u>II</u>
5-2000	7-11-2000	Mediation	Ch. <u>61</u>
6-2000	8-30-2000	Retirement incentive program	NCM
7-2000	9-19-2000	Code of Ethics and Disclosure	Ch. <u>33</u>
1-2001	1-16-2001	Tax exemption for Gold Star Parents	Ch. <u>251</u> , Art. <u>IX</u>

Local Law No.	Adoption Date	Subject	Disposition
2-2001	1-16-2001	Tax exemption for real property owned by persons with disabilities and limited income amendment	Ch. <u>251</u> , Art. <u>VIII</u>
3-2001	1-16-2001	Alternate members of Zoning Board of Appeals	Ch. <u>109</u> , Art. <u>I</u>
4-2001	1-16-2001	Senior citizens tax exemption amendment	Ch. <u>251</u> , Art. <u>VI</u>
5-2001	2-6-2001	Zoning Map amendment	NCM
6-2001	2-6-2001	Zoning amendment	Ch. <u>280</u>
7-2001	6-5-2001	Zoning amendment	Ch. <u>280</u>
8-2001	6-19-2001	Zoning amendment	Ch. <u>280</u>
9-2001	7-17-2001	Traffic control devices in Town parks	Ch. <u>212</u> , Art. <u>III</u>
1-2002	1-15-2002	Key boxes amendment	Ch. <u>193</u>
2-2002	2-5-2002	Snow on sidewalks and near fire hydrants	Repealed by 8-2002
3-2002	2-5-2002	Zoning amendment	Ch. <u>280</u>
4-2002	3-19-2002	Zoning amendment	Ch. <u>280</u>
5-2002	4-2-2002	Zoning amendment	Ch. <u>280</u>
6-2002	9-3-2002	Code of Ethics	Ch. <u>33</u>
7-2002	10-1-2002	Dogs amendment	Ch. <u>120</u>

Local Law No.	Adoption Date	Subject	Disposition
8-2002	9-17-2002	Sidewalks amendment	Chs. 227, 243, 247 and 280
9-2002	11-7-2002	Zoning amendment	Ch. <u>280</u>
10-2002	12-17-2002	Tax exemption for real property owned by persons with disabilities and limited income amendment	Ch. <u>251</u> , Art. <u>VIII</u>
11-2002	12-17-2002	Senior citizens tax exemption amendment	Ch. <u>251</u> , Art. <u>VI</u>
1-2003	2-4-2003	Recycling	Ch. <u>236</u> , Art. <u>II</u>
2-2003	4-1-2003	Water use amendment	Ch. <u>272</u>
3-2003	4-15-2003	Zoning amendment	Ch. <u>280</u>
4-2003	6-17-2003	Sewers amendment	Ch. <u>225</u>
5-2003	9-3-2003	Zoning amendment	Ch. <u>280</u>
6-2003	12-16-2003	Noise	Ch. <u>205</u>
7-2003	12-2-2003	Zoning Map amendment	NCM
1-2004	2-3-2004	Senior citizens tax exemption amendment	Ch. <u>251</u> , Art. <u>VI</u>
2-2004	2-3-2004	Tax exemption for real property owned by persons with disabilities	Ch. <u>251</u> , Art. <u>VIII</u>

Local Law No.	Adoption Date	Subject	Disposition
		and limited income amendment	
3-2004	7-6-2004	Zoning amendment (Interim Development District)	Ch. <u>280</u>
4-2004	7-6-2004	Zoning Map amendment	NCM
5-2004	10-5- 2004	Speed limits	Ch. <u>267</u> , Art. <u>I</u>
6-2004	10-5- 2004	Vehicles and traffic: surcharge on convictions	Ch. <u>267</u> , Art. <u>II</u>
7-2004	11-16- 2004	Zoning Map amendment	NCM
1-2005	3-15- 2005	Zoning Map amendment	NCM
Res.	4-5-2005	Fee schedule	Superseded 11-18-2008
2-2005	7-12- 2005	Zoning amendment	Ch. <u>280</u>
3-2005	7-12- 2005	Zoning amendment	Ch. <u>280</u>
4-2005	7-12- 2005	Zoning amendment	Ch. <u>280</u>
5-2005	7-12- 2005	Zoning amendment	Ch. <u>280</u>
1-2006	4-4-2006	Veterans tax exemption	Ch. <u>251</u> , Art. <u>IV</u> and Art. <u>X</u>
2-2006	6-20- 2006	Zoning Map amendment	NCM

Local Law No.	Adoption Date	Subject	Disposition
3-2006	6-20-2006	Zoning Map amendment	NCM
4-2006	7-11-2006	Zoning Map amendment	NCM
5-2006	7-11-2006	Planned Unit Development amendment	NCM
1-2007	10-16-2007	Stormwater management: illicit discharges, activities and connections to storm sewer system	Ch. <u>241</u> , Art. <u>I</u>
2-2007	10-16-2007	Stormwater management and erosion and sediment control	Ch. <u>241</u> , Art. <u>II</u>
Res.	11-18-2008	Fee schedule	Ch. <u>A285</u>
1-2008	5-20-2008	Zoning Map amendment	NCM
2-2008	11-18-2008	Planned Unit Development	NCM
1-2009	1-20-2009	Tax exemption for Cold War veterans	Ch. <u>251</u> , Art. <u>XI</u>
2-2009	5-5-2009	Tax exemption for capital improvements to residential buildings	Ch. <u>251</u> , Art. <u>XII</u>
3-2009	5-19-2009	Tax exemption for historic barn reconstruction or rehabilitation	Ch. <u>251</u> , Art. <u>XIII</u>

ETHICS, CODE OF

EXHIBIT A

Town Officers and Employees Required to File Annual Statement of Disclosure

1. Supervisor
2. Town Board
3. Zoning Board of Appeals
4. Chairman, Zoning Board of Appeals
5. Planning Board
6. Chairman, Planning Board
7. Environmental Council
8. Chairman, Environmental Council
9. Industrial Development Agency
10. Chairman, Industrial Development Agency
11. Economic Development Council
12. Chairman, Economic Development Council
13. Ethics Board
14. Chairman, Ethics Board
15. Board of Assessment Review
16. Chairman, Board of Assessment Review
17. Chief of Police
18. Lieutenant
19. First Sergeant
20. Director of Emergency Medical Services
21. Medical Director
22. Town Historian
23. Chief Building Inspector and Zoning Administrator
24. Zoning Enforcement Officer

GUILDERLAND CODE

25. Deputy Building Inspector
26. Town Attorney
27. Assistant Town Attorney
28. Fire Inspector
29. Chief Fire Inspector
30. Planning and Zoning Coordinator
31. Director of Parks and Recreation
32. Superintendent of Parks
33. Town Clerk
34. Receiver of Taxes
35. Assessor
36. Comptroller
37. Deputy Comptroller
38. Purchasing Officer
39. Chief Court Clerk
40. Director, Senior Services
41. Superintendent of Highways
42. Superintendent of Water and Wastewater Treatment
43. Treatment Plant Operator
44. Town Engineer
45. Senior Engineering Technician
46. Superintendent of Transfer Station
47. Chief Mechanic

ETHICS, CODE OF

RETURN TO:
Town of Guilderland Ethics Board
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339

EXHIBIT B

ANNUAL STATEMENT OF DISCLOSURE TO THE TOWN OF GUILDERLAND ETHICS BOARD FOR CALENDAR YEAR 200__

Last Name First Name Initial

Home Address

If the answer to any of the following questions is "none" or "not applicable", please so indicate.
The Town of Guilderland is hereinafter referred to as the "Town". "Applicant" or "you" shall refer to the
person executing and filing this Disclosure Statement.

1. List the positions you hold as a Town officer or employee, or as a member of or counsel to a Town
office, board, body, advisory board, council, commission, agency, department, district, administration,
division, bureau, unit or committee, whether paid or unpaid:

2. For each position you hold, list the name of your immediate supervisor and their job title:

3. List the telephone number(s) you may be contacted at with respect to this document between 9:00
a.m. and 4:00 p.m. from Monday through Friday: _____

4. What is your current marital status?

Married _____
Single, Divorced or Widowed _____
Legally Separated _____

GUILDERLAND CODE

5. List the address of each piece of property in which you, your spouse, or other relative own or have a financial interest. List only real estate that is in the Town. "Relative" means your spouse, child, stepchild, brother, sister, parent, or a person you claimed as a dependent on your latest state income tax return, or the spouse of any such person. (Attach additional sheets if necessary).

[illegible]

6. List the name of any outside employer, business, organization or association from which you, your spouse, or other relative receive compensation for services rendered or goods sold or produced or of which you, your spouse, or other relative are an officer, director or employee. Also include any entity in which you, your spouse, or other relative have an ownership interest, except a corporation of which you, your spouse, or other relative own less than five percent (5%) of the outstanding stock. Identify the type of business, such as a partnership, private, public (other than with the Town) or not-for-profit corporation, self employment, sole proprietorship, partnership, incorporated association or other unincorporated business, and list such person's relationship to the employer or business (i.e., you are, or are a relative of, an owner, partner, officer, director, member, employee, or shareholder). "Relative" means your spouse, child, stepchild, brother, sister, parent, or a person you claimed as a dependent on your latest state income tax return, or the spouse of any such person. (Attach additional sheets if necessary).

[illegible]

ETHICS, CODE OF

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7. If an entity identified in 6 is currently or has within the last two (2) years been licensed and/or regulated by any Town department, agency or public benefit corporation, please list the name of the entity, the name of such Town department, agency or public benefit corporation and the type of license or permit received from Town. (Attach additional sheets if necessary).

Name	Town Licensing or Permitting Department, Agency or Public Benefit Corporation	Type of License or Permit
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. If an entity identified in 6, as a regular or significant part of the business or activity of said entity, does business with or did business within the last two (2) years with a Town department, agency or public benefit corporation, please list the name of the entity, the name of such Town department, agency or public benefit corporation and the nature of the business conducted by such entity with such Town department, agency or public benefit corporation. (Attach additional sheets if necessary).

Name	Town Department, Agency or Public Benefit Corporation	Nature of Business with Town
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I make the above statement to the Town of Guilderland Ethics Board of my assets, affiliations and sources of income as of the close of business set forth below. The information contained in this Annual Statement of Disclosure constitutes a full and complete financial statement as of the date indicated and, to the best of my knowledge, I have no conflict of interest prohibited by the Town of Guilderland Code of Ethics for the position(s) I hold with the Town.

_____	_____
Applicant's Signature	Date

Sworn to before me this
____ day of _____, 200____.

Notary Public

ETHICS, CODE OF

RETURN TO:
Town of Guilderland Ethics Board
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339

EXHIBIT C

APPLICATION TO THE TOWN OF GUILDERLAND ETHICS BOARD TO
REDACT, FROM PUBLIC REVIEW, INFORMATION CONTAINED IN
APPLICANT'S ANNUAL DISCLOSURE STATEMENT FOR CALENDAR YEAR 200____

Last Name

First Name

Initial

Home Address

If the answer to any of the following questions is "none" or "not applicable", please so indicate.
The Town of Guilderland is hereinafter referred to as the "Town". "Applicant" or "you" shall refer to the
person executing and filing this Disclosure Statement.

1. List all the positions you hold as a Town officer or employee, or as a member of or counsel to a
Town office, board, body, advisory board, council, commission, agency, department, district,
administration, division, bureau, unit or committee, whether paid or unpaid:

2. For each position you hold, list the name of your immediate supervisor and their job title:

3. List the telephone number(s) you may be contacted at with respect to this document between
9:00 a.m. and 4:00 p.m. from Monday through Friday: _____

4. Briefly set forth the specific nature of your job duties and also attach a copy of your formal job
description to this application, if applicable (Attach additional sheets if necessary):

GUILDERLAND CODE

5. Briefly set forth why information should be redacted from public disclosure (Attach additional sheets if necessary):

6. Briefly set forth the reasons in support of your application why redaction of information from public inspection will have no material bearing on the discharge of your official duties. (Attach additional sheets if necessary).

7. Briefly set forth the reasons in support of your application why the information you wish to have reacted, if disclosed, would constitute an unwarranted invasion of personal privacy or would otherwise likely endanger the life or safety of any person. (Attach additional sheets if necessary).

8. Attach a copy of your completed financial disclosure statement with the information requested to be redacted highlighted or underlined.

Applicant's Signature

Sworn to before me this
____ day of _____, 200____.

Notary Public

ETHICS, CODE OF

RETURN TO:
Town of Guilderland Ethics Board
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339

EXHIBIT D

APPLICATION TO THE TOWN OF GUILDERLAND ETHICS BOARD
REQUESTING AN EXTENSION OF TIME FOR FILING ANNUAL DISCLOSURE
STATEMENT FOR CALENDAR YEAR 200__

Last Name	First Name	Initial

Home Address

If the answer to any of the following questions is “none” or “not applicable”, please so indicate. The Town of Guilderland is hereinafter referred to as the “Town”. “Applicant” or “you” shall refer to the person executing and filing this Disclosure Statement.

1. List all the positions you hold as a Town officer or employee, or as a member of or counsel to a Town office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, unit or committee, whether paid or unpaid:

2. For each position you hold, list the name of your immediate supervisor and their job title:

3. List the telephone number(s) you may be contacted at with respect to this document between 9:00 a.m. and 4:00 p.m. from Monday through Friday: _____.

4. Set forth the date your Annual Disclosure Statement is due _____.

5. List the item numbers contained in the Annual Disclosure Statement you require additional time to address: Item #'s _____.

GUILDERLAND CODE

6. Briefly state the reasons why you believe you are entitled to an extension of time for filing your financial disclosure form. (Attach additional sheets if necessary):

Applicant's Signature

Sworn to before me this
_____ day of _____, 200____.

Notary Public

ETHICS, CODE OF

RETURN TO:
Town of Guilderland Ethics Board
Town Hall, Route 20
P.O. Box 339
Guilderland, NY 12084-0339

EXHIBIT E

APPLICATION TO THE TOWN OF GUILDERLAND ETHICS BOARD TO EXEMPT INFORMATION PERTAINING TO APPLICANT'S SPOUSE FROM BEING REPORTED ON APPLICANT'S ANNUAL DISCLOSURE STATEMENT FOR CALENDAR YEAR 200__

_____	_____	_____
Last Name	First Name	Initial

Home Address

If the answer to any of the following questions is "none" or "not applicable", please so indicate.
The Town of Guilderland is hereinafter referred to as the "Town". "Applicant" or "you" shall refer to the
person executing and filing this Disclosure Statement.

1. List all the positions you hold as a Town officer or employee, or as a member of or counsel to a
Town office, board, body, advisory board, council, commission, agency, department, district,
administration, division, bureau, unit or committee, whether paid or unpaid:

2. For each position you hold, list the name of your immediate supervisor and their job title:

3. List the telephone number(s) you may be contacted at with respect to this document between
9:00 a.m. and 4:00 p.m. from Monday through Friday: _____.

4. Briefly set forth the specific nature of your job duties and also attach a copy of your formal job
description to this application (Attach additional sheets if necessary):

GUILDERLAND CODE

5. Briefly set forth why information regarding your spouse should be exempt from public disclosure (Attach additional sheets if necessary):

6. Briefly set forth the reasons of your application why an exemption from reporting information pertaining to your spouse will have no material bearing on the discharge of your official duties. (Attach additional sheets if necessary).

7. Briefly set forth the reasons of your application why an exemption from reporting information pertaining to your spouse, if disclosed, would constitute an unwarranted invasion of personal privacy or would otherwise likely endanger the life or safety of any person. (Attach additional sheets if necessary).

8. Attach a copy of your completed annual disclosure statement and a copy of the information on your spouse which you wish to be exempt from reporting.

Applicant's Signature

Sworn to before me this
____ day of _____, 200____.

Notary Public