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CHAPTER 1. GENERAL PROVISIONS

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

ARTICLE I. Adoption of Code

[Adopted 6-25-2008 by L.L. No. 1-2008]

§ 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 Milton, as codified by General Code, and consisting of Chapters 1 through 180, together with an Appendix, shall be known collectively as the "Code of the Town of Milton," 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 Milton" 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 Milton, 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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.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 Milton in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Milton 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 Milton 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 Milton.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Milton.
- E. Any local law or ordinance of the Town of Milton 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 Milton or any portion thereof.
- F. Any local law or ordinance of the Town of Milton 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 Milton or other instruments or evidence of the Town's indebtedness.

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

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

I. The annexation or dedication of property.

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

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

L. Any 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 legislation relating to the regulation of vehicles and traffic and parking in the Town.

O. Any local law adopted subsequent to 12-27-2007.

§ 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 Milton 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 Milton 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 Milton" 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 Milton required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or

resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

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

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

§ 1-10. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of Milton in any manner whatsoever which will cause the legislation of the Town of Milton 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 Milton, 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 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) 6-25-2008 by L.L. No. 1-2008." Schedule A, which contains a complete description of all changes, is on file in the Town offices. 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.)

C. Nomenclature: Throughout the Code:

(1) References to "Building Inspector" are revised to read "Code Enforcement Official."

(2) References to "New York State Fire and Building Code(s)" (and similar references to "Building Code") are revised to read "New York State Uniform Fire Prevention and Building Code."

§ 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 Milton, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

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

CHAPTER 3. APPEARANCE TICKETS

§ 3-1. Legislative intent.

§ 3-2. Authority to issue tickets.

§ 3-3. Jurisdiction.

§ 3-4. Limitations.

CHAPTER 3. APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Milton 4-11-1990 by L.L. No. 2-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 34.

§ 3-1. Legislative intent.

It is the intent of this chapter to authorize the enforcement personnel of the office of the Code Enforcement Official and employees of the Town of Milton assigned to enforcement of ordinances and local laws to issue appearance tickets to persons and businesses in violation of ordinances and local laws enacted by the Town Board of the Town of Milton pursuant to the laws of the State of New York over which the office of the Code Enforcement Official is given enforcement jurisdiction pursuant to local laws and ordinances and any other person authorized by the Town Board of the Town of Milton and assigned to enforcement of local laws and ordinances. The Town Board of Milton enacts this chapter for the purpose of providing for efficient enforcement of building codes and all other codes enacted by the Town of Milton and ordinances, local laws, rules and regulations, including but not limited to fire protection, removal or repair of unsafe buildings or collapsed structures, drainage- and watercourses, freshwater wetlands, garbage removal, landfill, littering and posting, sewers and trees, shrubbery and other laws and ordinances and local laws of the Town of Milton.

§ 3-2. Authority to issue tickets.

The code enforcement personnel of the Code Enforcement Official's office and all other persons authorized by the Town Board of the Town of Milton to enforce local laws and ordinances shall have the power to issue an appearance ticket as the same is defined in Article 150 of the Criminal Procedure Law.

§ 3-3. Jurisdiction.

The power and jurisdiction of the persons authorized to issue appearance tickets pursuant to this chapter are limited to ordinances, codes and local laws enacted by the Town of Milton.

§ 3-4. Limitations.

This chapter does not include the power to issue appearance tickets for a violation of the Penal Law of the State of New York.

CHAPTER 5. ASSESSMENTS

ARTICLE I. Assessment Review Board

§ 5-1. Number of members increased.

§ 5-2. Compliance with statutory provisions.

CHAPTER 5. ASSESSMENTS

[HISTORY: Adopted by the Town Board of the Town of Milton as indicated in article histories.

Amendments noted where applicable.] Editor's Note: Pursuant to § 310, Subdivision 1, of the Real Property Tax Law, there will be one appointed Assessor in the Town of Milton.

GENERAL REFERENCES

Taxation — See Ch. 158.

ARTICLE I. Assessment Review Board

[Adopted 4-6-1983]

§ 5-1. Number of members increased.

The number of Board members on the Assessment Review Board is increased from three to five members.

§ 5-2. Compliance with statutory provisions.

[Added 3-19-1997 by L.L. No. 5-1997]

The Board of Assessment Review shall have the powers, duties and terms of office as provided in § 523 of the Real Property Tax Law.

CHAPTER 6. ASSETS, FIXED

§ 6-1. Purpose.

§ 6-2. Adherence to policy required.

§ 6-3. Definitions.

§ 6-4. Accountability.

§ 6-5. Annual reporting.

CHAPTER 6. ASSETS, FIXED

[HISTORY: Adopted by the Town Board of the Town of Milton 12-29-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 38.

§ 6-1. Purpose.

It shall be the policy of the Town of Milton to effectively manage all Town materials, equipment and other physical resources held by the Town of Milton and to assure adequate accountability for all Town property.

§ 6-2. Adherence to policy required.

All departments, boards, commissions and officers who are authorized to purchase goods or are entrusted with the custody and maintenance of any Town property will adhere to the following procedures.

§ 6-3. Definitions.

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

CONSUMABLES

Includes items not covered by this policy, including but not limited to office supplies, janitorial supplies, fuels, lubricants, sand and gravel, expendable spare parts such as gaskets, filters, nuts, bolts, etc., building materials, paints, etc.

DEPARTMENT HEAD

For the purposes of property accountability, the Code Enforcement Official, Dog Control Officer, Supervisor, Highway Superintendent, Town Clerk and elected or appointed heads of boards, agencies or commissions shall be classed as "department heads."

FIXED ASSETS

"Fixed assets" will generally include all property identified above, but the value shall be greater than \$250.

MAJOR ACCESSORIES

Any item of equipment which from time to time may be removed from the parent place of equipment and has a value greater than \$250.

PROPERTY

A. Any article which meets the following criteria:

- (1) It has a value greater than \$25;

- (2) It has a useful life of one year or more;
- (3) It is not considered a consumable product; and
- (4) It is not permanently incorporated into a building or other structure.

B. "Property" includes, but is not limited to, office equipment, furniture, maintenance equipment and major accessories, reference books, testing equipment, election machines, radios, special clothing, recreational equipment, etc.

§ 6-4. Accountability.

A. It shall be the responsibility of each department head and appointed or elected officials to maintain an inventory record of all Town property entrusted to his/her care. The property record shall be maintained on the forms prescribed and furnished by the Town Board.

B. At the time of acquisition of any property (whether through purchase order or donation) the department head shall enter all pertinent information on a property record card available from the Property Control Clerk.

C. Upon notification of receipt of goods and authorization of payment, the Supervisor shall notify the department head in those cases where the property is to be treated as a fixed asset. The Property Control Clerk shall enter the applicable information in the fixed asset inventory record, assign an inventory number and forward a Town inventory decal to the department head. The department head shall then affix the decal prominently on the property and enter the decal number in his equipment file.

D. For each acquisition, the Property Control Clerk will maintain the property record card and file with the Town property records.

§ 6-5. Annual reporting.

A. On August 15 of each year the Property Control Clerk will have departments undertake a complete inventory of all Town property which will include:

- (1) A complete physical inventory of all equipment in possession, using the physical inventory worksheet to record each item.
- (2) A recommendation for equipment to be purchased in the next year, including a cost estimate and any other information required by the Board, using the property acquisition form.
- (3) A recommendation of surplus or obsolete equipment to be liquidated, using the property disposition form.

B. Upon receipt of the inventory records, the Town Property Control Clerk shall review them for accuracy, update Town records and return the input forms to the appropriate department. The Town Property Control Clerk shall then initiate a complete review of the Town's assets and make a summary report to the Town Board by September 30.

C. The official Town property records will be maintained by the Property Control Clerk.

CHAPTER 11. DEFENSE AND INDEMNIFICATION

§ 11-1. Statutory authority.

§ 11-2. Provision of defense by Town.

CHAPTER 11. DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Milton 5-21-1997 by L.L. No. 6-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 34.

§ 11-1. Statutory authority.

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

§ 11-2. Provision of defense by Town.

The Town shall provide for the defense of any Town officer or employee in any civil action or proceeding arising out of any alleged act or omission in which it is alleged that the officer or employee has violated the civil rights of the claimant, petitioner or plaintiff under Sections 1981 and 1983 of the United States Civil Rights Act. The Town shall indemnify and save harmless such officer or employee in the amount of any judgment or settlement of claim obtained against such officer or employee. Such legal defense and indemnification shall be provided where the officer or employee at the time of such alleged act or omission was acting in good faith and within the scope of his public employment, powers and duties. The provisions of this section shall be in addition to any other statute, local law or enactment providing legal defense and indemnification in civil actions brought against such officer or employee.

CHAPTER 14. ETHICS, CODE OF

§ 14-1. Provisions adopted.

§ 14-2. Definitions.

§ 14-3. Standards of conduct.

§ 14-4. Disclosure.

§ 14-5. Ethics Board.

§ 14-6. Enforcement; penalties for offenses.

CHAPTER 14. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Milton 2-23-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 38, § 38-22.

§ 14-1. Provisions adopted.

The governing body of the Town of Milton does hereby adopt a Code of Ethics for the guidance of its officers and employees, setting forth herein the standards of conduct reasonably expected of them; and, also, the Town of Milton does hereby require that the officers and employees are required to file completed annual statements of financial disclosure containing information as asked for in Form B, entitled "Town of Milton Disclosure Statement." Editor's Note: Form B is on file in the office of the Town Clerk.

§ 14-2. Definitions.

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

INTEREST

A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

A. His or her spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves;

B. A firm, partnership or association of which such officer or employee is a member or employee;

C. A corporation of which such officer or employee is an officer, director or employee; and

D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

OFFICIAL or EMPLOYEE

An officer or employee of a municipality, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal official or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

SPOUSE

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

UNEMANCIPATED CHILD

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

§ 14-3. Standards of conduct.

A. Prohibited activities. It is the policy of the Town Board that all officials and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an official or employee has an interest, direct or indirect, which conflicts with his or her duty to the Town of Milton or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. No official or employee shall:

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

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

(3) Solicit, directly or indirectly, any gifts, or receive or accept any gift having the value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

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

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

(7) Take action on a matter before the Town of Milton or any instrumentality thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

B. Disclosure of interest.

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

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

C. Annual Code of Ethics review.

(1) Every official and employee is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the Town of Milton, and such attestation shall be made on or before the first of February each year.

(2) The penalties for failing to comply with this subdivision will be the same as those provided for in § 14-6. The attestation form shall provide as follows. Editor's Note: Said form is on file in the office of the Town Clerk.

§ 14-4. Disclosure.

A. All officials and employees of the Town of Milton shall file a statement of disclosure (Form B) containing the information as required by the annual statement of disclosure form which follows. Editor's Note: Said form is on file in the office of the Town Clerk. The statement shall be filed in the office of the Town Clerk no later than the first day of February each year and shall cover the preceding calendar year. Newly appointed or elected officials or employees whose duties commence after the first of January will be required to submit a statement of disclosure within 30 days after the commencement of their duties. Such disclosure will cover the 12 months' period prior to the date of filing. Within 30 days of any material change in the information contained in his or her most recently filed statement, the official or employee shall file a signed amendment to the statement reflecting such change. It shall be the duty of the Town Clerk to verify that each official or employee has filed his or her statement, and the Town Clerk shall notify the Ethics Board of any instances of failing to file. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Disclosure statements shall be maintained for a minimum period of seven years from the date of filing.

C. The form of the disclosure statement shall be as follows. Editor's Note: Said form is on file in the office of the Town Clerk. Original Section 5, Public Access, which immediately followed this section, was deleted 3-19-1997 by L.L. No. 5-1997.

§ 14-5. Ethics Board.

A. The Ethics Board of the Town of Milton shall consist of five members, each appointed by a majority vote of the Town Board. Each appointee must be a resident of the County of Saratoga. The Chairman of said Ethics Board shall be selected by the Chairman of the Town Board for a term of one year.

B. Town of Milton's Ethics Board members shall serve a term of four years; however, two of the original appointees shall be appointed to serve an initial term of two years.

C. Three members of the Ethics Board shall constitute a quorum, with a vote of at least three members being required for action by the Board.

D. The members of the Ethics Board shall not be compensated; however, they may be reimbursed for reasonable expenses incurred in the performance of their duties.

E. Responsibilities.

(1) The Ethics Board will meet as necessary. At its meetings, the Ethics Board shall receive and consider complaints of unethical practices or instances of alleged impropriety brought by the Ethics Board.

[Amended 3-19-1997 by L.L. No. 5-1997]

(2) When the Ethics Board determines that a conflict of interest or that other impropriety exists, the Ethics Board will cause and direct that relevant information pertaining to the conflict or impropriety of a particular official or employee be filed with the Town of Milton's Town Board. The filing will constitute a public record to be made available to anyone who makes application to examine such record. The Town Board shall accept such statements and shall maintain separate files for them.

(3) Prior to any disclosure to the Town of Milton's Town Board, the Ethics Board shall set forth its findings of fact and its conclusions and the reasons which justify its decision to make public such information. Prior to the filing of such findings of fact and conclusions, a copy of such shall be mailed to the official or the employee by certified mail, return receipt requested. The official or employee may respond, rebut or otherwise refute the findings of the Ethics Board, either in writing or personally, or both, at a time and place specified by the Board. The failure of the official or employee to respond personally within 21 days from the date of the Ethics Board's letter shall constitute a waiver by the official or the employee. The Ethics Board may, in its discretion, amend, revise or rewrite its findings, or it may rescind its initial decision by a majority vote of its total membership.

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

(5) Pending the response of the official or the employee and the final resolution pursuant to either Subsection E(3) or (4) above, the Ethics Board shall not disclose any information to the Town of Milton's Town Board or to the public.

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

(7) Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Ethics Board which will be available for public inspection are:

- (a) The information set forth in the annual financial disclosure statement filed pursuant to this chapter.
- (b) Notices of reasonable cause pursuant to § 14-6B of this chapter.
- (c) Notices of civil assessments imposed pursuant to this chapter.

§ 14-6. Enforcement; penalties for offenses.

A. If any official or employee refuses or fails, either unknowingly or unintentionally, to file a statement as required by this chapter, the Ethics Board shall notify the Town of Milton's Town Board that said individual has not filed such statement. On such notification, the Town of Milton may suspend the official or employee without pay, if such person is compensated. In addition, the official or employee shall also be notified by certified mail that such required statement is not on file. Once a statement has been filed, the Ethics Board shall promptly notify the Town of Milton's Town Board that the official or the employee has complied with such requirement of this chapter. The official or employee shall be reinstated, and any moneys withheld pursuant to this section shall be released.

B. Notwithstanding any other penalties imposed by this section, if any official or employee does not file a statement within 45 days after having been notified by the Ethics Board that said official or employee has failed to file or if the official or employee files a statement which the Ethics Board determines was filed with intent to deceive or intentionally misrepresent or otherwise fraudulently has answered any questions set forth in the statement or has intentionally withheld any information asked for or demanded in the statement, such action shall be deemed a misconduct of office and shall be grounds for suspension or dismissal by the appropriate authority. The Ethics Board shall send a notice of reasonable cause to the Town of Milton's Town Board of such instances of alleged misconduct. The Town of Milton's Town Board may then take whatever action it deems appropriate to enforce the suspension or dismissal of the offending individual.

CHAPTER 21. INVESTMENT POLICY

§ 21-1. Scope.

§ 21-2. Objectives.

§ 21-3. Delegation of authority.

§ 21-4. Exercise of prudence.

§ 21-5. Diversification.

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§ 21-8. Collateralizing of deposits.

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§ 21-10. Authorized types of investment.

§ 21-11. Authorized financial institutions.

§ 21-12. Purchase of investments.

§ 21-13. Repurchase agreements and certificates of purchase

CHAPTER 21. INVESTMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Milton 11-17-1993. Amendments noted where applicable.]

§ 21-1. 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.

§ 21-2. Objectives.

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

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

§ 21-3. Delegation of authority.

The Town Board's responsibility for administration of the investment program is delegated to the Town Supervisor, who shall provide the Town Board with periodic reports on the status of all investments undertaken in accordance with this policy. Proper accounting and other records required by statute and/or the Office of the State Comptroller shall be maintained and be available for examination.

§ 21-4. Exercise of 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 Milton to govern effectively.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudent discretion and intelligence exercise in the management of their own affairs, considering the safety of the principal as well as probable income to be derived.

C. All persons involved in the investment process shall refrain from personal business activity that could conflict with and/or impair their ability to make impartial investment decisions.

§ 21-5. Diversification.

It is the policy of the Town of Milton to diversify its deposits and investments by financial institution, by investment instrument and by maturity scheduling, as it is deemed appropriate by the Town Supervisor.

§ 21-6. Internal controls.

A. It is the policy of the Town that all moneys collected by any officer or employee of the Town be transferred to the Town Supervisor within the time period specified by law.

B. The Town 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 and that transactions are executed in accordance with the Town Board's authorization, are properly recorded and comply with applicable laws and regulations.

§ 21-7. Designation of official depository.

Ballston Spa National Bank is designated as the official bank for deposit of all moneys received by all Town officers and employees and for the investment of Town funds by the Town Supervisor.

§ 21-8. Collateralizing of deposits.

In accordance with the provisions of § 10 of the General Municipal Law, all deposits of the Town, 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 by a pledge of eligible securities with an aggregate market value or, as provided by General Municipal Law § 10, an amount equal to the aggregate amount of deposits from the categories designated in Appendix A of this policy. Editor's Note: Appendix A is on file in the office of the Town Clerk.

§ 21-9. Safekeeping of collateralization.

A. Eligible securities used for collateralizing deposits shall be held by Manufacturers and Traders Trust subject to security and custodial agreements.

B. The security agreement shall provide that such securities are being pledged to secure the Town's deposits together with agreed-upon interest, if any, and 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 Town to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the Town, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Milton 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 Town 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 a part of the backing for any other deposits 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 Town with a perfected interest in the securities.

§ 21-10. Authorized types of investment.

A. As authorized by § 11 of the General Municipal Law, the Town Board authorizes the Town 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) Interest bearing checking accounts.
- (4) Obligations of the United States of America.
- (5) Obligations of the State of New York.
- (6) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law provisions governing a legally established reserve fund.

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

§ 21-11. Authorized financial institutions.

The Town Board shall stipulate, by Board resolution, the banks that the Town Supervisor is authorized to deposit and invest Town funds within. Banks shall provide their most recent consolidated report of condition (call report) at the request of the Town. The Town Supervisor is responsible for evaluating the financial position and maintaining a list of proposed depositories and custodians. Such listing shall be evaluated at least annually.

§ 21-12. Purchase of investments.

A. The Town Supervisor is authorized to contract directly for the purchase of investments and/or the deposit of Town moneys in interest bearing checking or saving accounts.

B. All passbooks shall be retained in the custody of the Town Supervisor. All other investment obligations, unless registered or inscribed in the name of the Town, 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 individual authorized to make such deposit or investment. All such transactions shall be confirmed in writing to the Town by the bank or trust company.

C. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in § 10 of the General Municipal Law. The agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the Town, will be kept separate and apart from the general assets of the custodial bank or trust company and will not under any circumstances be commingled with or become part of the backing for any other deposits or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities and include all provisions necessary to provide the Town with a perfected interest in all securities.

§ 21-13. Repurchase agreements and certificates of purchase

Under no circumstances is the Town Supervisor authorized to enter an investment in repurchase agreements or the issuance of certificates of purchase without prior approval of the Town Board.

CHAPTER 34. OFFICERS AND EMPLOYEES

ARTICLE I. Terms of Office

§ 34-1. Purpose.

§ 34-2. Highway Superintendent.

§ 34-3. Town Clerk.
§ 34-4. When effective.

CHAPTER 34. OFFICERS AND EMPLOYEES

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

GENERAL REFERENCES

Appearance tickets — See Ch. 3.
Personnel policies — See Ch. 38.
Retirement — See Ch. 46.

ARTICLE I. Terms of Office

[Adopted 9-6-1978 by L.L. No. 1-1978]

§ 34-1. Purpose.

The purpose of this article is to change the terms of office of the Superintendent of Highways and Town Clerk pursuant to statutory authority set forth in § 24 of the Town Law, § 10, Subdivision 2(ii)a(1), of the Municipal Home Rule Law and § 23, Subdivision 2e of the Municipal Home Rule Law.

§ 34-2. Highway Superintendent.

The term of office of the Highway Superintendent shall be increased from two to four years effective with the next general election for that office, November 1979. Editor's Note: This local law was passed at referendum on 11-7-1978.

§ 34-3. Town Clerk.

The term of office of the Town Clerk shall be increased from two to four years effective with the next general election for that office, November 1979.

§ 34-4. When effective.

This article shall be effective immediately upon filing with the Secretary of State after approval thereof by the voters of the Town voting thereon upon a proposition to be submitted at the general election on November 7, 1978. Editor's Note: This local law was passed at referendum on that date.

CHAPTER 38. PERSONNEL POLICIES

ARTICLE I. Introduction

§ 38-1. Welcome message; mission; overview.

§ 38-2. Definitions.

§ 38-3. Purpose; applicability; amendments; conflict with other laws.

ARTICLE II. Employee Classifications

§ 38-4. Full-time employees.

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§ 38-6. Temporary employees.

§ 38-7. Seasonal employees.

§ 38-8. FLSA noncovered employees.

§ 38-9. FLSA exempt employees.

§ 38-10. FLSA nonexempt employees.

ARTICLE III. Civil Service System

§ 38-11. Statutory provisions.

§ 38-12. Unclassified and classified services.

§ 38-13. Civil service appointments to competitive class.

§ 38-14. Examinations and promotions.

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ARTICLE IV. Employment Matters
§ 38-16. Oath of office.
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ARTICLE V. Operational Policies
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§ 38-26. Meal breaks.
§ 38-27. Emergency situations.
§ 38-28. Time records.
§ 38-29. Bonding.
§ 38-30. Expense reimbursement.
§ 38-31. Vehicle usage.
§ 38-32. Driver's license.
§ 38-33. Supplies, tools and equipment, and fuel usage.
§ 38-34. Telephone and cell phone use.
§ 38-35. Computer systems and Internet/on-line service.
§ 38-36. Personal appearance, safety clothing and equipment.
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§ 38-38. Visitors.
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§ 38-64. (Reserved)
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§ 38-67. Short-term disability benefits.
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§ 38-70. Social security.
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ARTICLE IX. Compliance Policies
§ 38-72. Americans with Disabilities Act.
§ 38-73. Equal opportunity employment.
§ 38-74. Fair treatment.

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ARTICLE X. Safety
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§ 38-82. Adverse correspondence.
§ 38-83. Suggestions.
§ 38-84. Public relations.
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Attachments:

38a Employee Acknow

CHAPTER 38. PERSONNEL POLICIES

[Adopted by the Town Board of the Town of Milton 6-16-2004 by L.L. No. 3-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 14.
Officers and employees — See Ch. 34.
Records — See Ch. 43.
Retirement — See Ch. 46.

ARTICLE I. Introduction

§ 38-1. Welcome message; mission; overview.

A. We would like to welcome you and congratulate you on your appointment to a position with the Town of Milton. As a part of our team, you take on an extremely important role, that of serving the members of our community. Together, our mission is to provide cost-effective services that conform to the highest standards of quality.

B. This Employee Handbook is designed to familiarize you with your employment and to help ensure government compliance, foster positive employee relationships, and contribute to the overall success of the Town in delivering services to the public effectively and efficiently.

C. Please keep in mind that this is only an overview of the Town's policies and procedures, employee benefits, and the civil service system. Specific questions concerning employment matters should be addressed to your department head.

D. We trust that you will find service with the Town of Milton rewarding both personally and professionally.

§ 38-2. Definitions.

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

CIVIL SERVICE LAW

The New York State Civil Service Law, including the Saratoga County Civil Service Rules.

DEPARTMENT HEAD

The person in charge of any department, agency, bureau, unit, or subdivision of the Town of Milton. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in the position of department head.

ELECTED OFFICIAL

Any of the following elected officials of the Town of Milton:

- A. Town Supervisor.
- B. Town Board members.
- C. Town Justices.
- D. Town Clerk.
- E. Superintendent of Highways.
- F. Receiver of Taxes.

EMPLOYEE

A person employed by the Town, including, but not limited to, an appointed official, an appointed member of a board or commission, department head, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee, or student intern, but not an independent contractor.

SUPERVISOR

The individual so designated by the department head to direct and inspect the performance of employees.

TOWN BOARD

The Town Board of the Town of Milton.

TOWN OF MILTON

For purposes of this Employee Handbook, the Town of Milton may be referred to as the "Town."

TOWN SUPERVISOR

The Town Supervisor of the Town of Milton.

§ 38-3. Purpose; applicability; amendments; conflict with other laws.

A. Statement of purpose. The purpose of this Employee Handbook is to communicate the Town's personnel policies and practices to all employees and elected officials. It is extremely important that each employee understand the policies that relate to rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits. This Employee Handbook is not a contract of employment, express or implied, and should not be construed as such. That is, employment can be terminated at any time at the will of either the employer or the employee, subject only to such procedural requirements as may be specified pursuant to the New York State Civil Service Law, Town Law, or any other applicable law, rule, or regulation.

B. Unless otherwise required by law, the provisions of this Employee Handbook are for Town use only and do not apply in any criminal or civil proceeding. The Employee Handbook shall not be construed as a creation of a higher legal standard of safety or care. Notwithstanding the above, a violation of a Handbook provision may form the basis for administrative action by the Town and any subsequent judicial proceeding.

C. Changes or modifications. The Town Board reserves the right to interpret, change, modify, or eliminate any provision contained in this Employee Handbook. In addition, this Employee Handbook is subject to alteration by resolutions of the Town Board, changes in Town and/or departmental rules, or changes in federal, state or local statutes, rules, or regulations. (This is not meant to be a comprehensive list.)

D. Statutes, laws and ordinances. In the event a federal or state statute or a Town law or ordinance should conflict with any provision contained in this Employee Handbook, then such statute, law or ordinance will prevail.

E. Questions. Any questions regarding any topic covered in this Employee Handbook should be directed to the appropriate department head.

ARTICLE II. Employee Classifications

§ 38-4. Full-time employees.

For purposes of this Employee Handbook, the term "full-time employee" will mean an employee who is regularly scheduled to work a minimum of 35 hours per week.

§ 38-5. Part-time employees.

For purposes of this Employee Handbook, the term "part-time employee" will mean an employee who is regularly scheduled to work 25 hours or less per week.

§ 38-6. Temporary employees.

For purposes of this Employee Handbook, the term "temporary employee" will mean an employee who is employed on an interim basis or employed to work on a special or emergency basis for a specified period, consistent with the Civil Service Law as applicable.

§ 38-7. Seasonal employees.

For purposes of this Employee Handbook, the term "seasonal employee" will mean an employee who is employed to work for a given season.

§ 38-8. FLSA noncovered employees.

For purposes of this Employee Handbook, the term "FLSA noncovered employee" will mean an employee not covered under the Fair Labor Standards Act (FLSA).

§ 38-9. FLSA exempt employees.

For purposes of this Employee Handbook, the term "FLSA exempt employee" will mean a covered employee who qualifies for an exemption from the minimum wage and overtime provisions of the Fair Labor Standards Act.

§ 38-10. FLSA nonexempt employees.

For purposes of this Employee Handbook, the term "FLSA nonexempt employees" will mean a covered employee who is subject to the minimum wage and overtime provisions of the Fair Labor Standards Act.

ARTICLE III. Civil Service System

§ 38-11. Statutory provisions.

The following is intended as a guide. The Civil Service Law and the Saratoga County Civil Service Rules shall govern regarding the jurisdictional classification of positions and the appointment and promotion of personnel.

§ 38-12. Unclassified and classified services.

A. Unclassified service. In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "unclassified service" will include all individuals who are elected officials and/or members of boards or commissions.

B. Classified service. In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "classified service" as defined by the Civil Service Law and the Saratoga County Civil Service Rules will include all Town employees who are subject to the Saratoga County Civil Service Rules. The classified service is divided into four jurisdictional classes:

(1) Exempt: those positions, other than unskilled labor positions, for which competitive or noncompetitive examinations or other qualification requirements are not practicable (Civil Service Law § 41);

(2) Competitive: those positions for which it is practicable to determine merit and fitness by competitive examination;

(3) Noncompetitive: those positions not in the exempt class or the labor class for which it is not practicable to determine merit and fitness by competitive examination, but rather by a review of training and experience; and

(4) Labor: unskilled labor positions, except those positions which can be examined for competitively.

§ 38-13. Civil service appointments to competitive class.

In accordance with Civil Service Law, the following types of appointments may be made to positions in the competitive class:

A. Permanent: an appointment to a vacant position in the competitive class from an eligible list established as a result of examination, following successful completion of a probationary term;

B. Provisional: an appointment to a vacant position in the competitive class when there is not an appropriate eligible list. A provisional appointee must take an examination whenever it is scheduled. Thereafter, a permanent appointment will be made on the basis of the eligible list resulting from the examination; or

C. Temporary: an appointment to a position in the competitive class for reasons including, but not limited to: emergency work projects; planned termination of the position after a limited time; to replace an employee who is on a leave of absence; to fill a position funded through a temporary grant; or to fill a position vacated by the promotion of another employee until the employee who has been promoted receives permanent status.

§ 38-14. Examinations and promotions.

A. Examinations. In accordance with the Civil Service Law, in the event there is a vacancy in a new or existing position in the competitive class which the Town intends to maintain, the Town will fill the vacancy by selection from the eligible list certified by the Saratoga County Civil Service Department of persons who have taken the appropriate civil service examination. The Saratoga County Civil Service Department will test and rank each candidate according to the individual's performance on the examination. In accordance with Civil Service Law § 61, the Town will select one of the top three available candidates on the list to fill the position. In cases of zone scoring, candidates will be treated equally within the same zone scale.

B. Promotions. The Town will offer opportunities for advancement for those employees who qualify. In the event the position is in the competitive class, a qualified employee must normally take a promotional examination and the above "one-of-three" will apply. An employee who wants to be promoted should become knowledgeable about the employee's present position and be aware of higher level positions for which the employee may be qualified.

§ 38-15. Veteran's credits.

An employee who is a veteran as defined by the Civil Service Law may be eligible to apply for veteran's credits on a civil service examination. An employee who is a veteran should contact the Saratoga County Civil Service Department for details concerning these credits.

ARTICLE IV. Employment Matters

§ 38-16. Oath of office.

A. Requirement. Each Town officer, as defined in the Town Law and the Public Officers Law, must take the oath of office in accordance with Town Law § 25 and Public Officers Law § 10, which must be administered prior to commencing the duties of the office and must be filed in the office of the Town Clerk within 30 calendar days of commencement of the term of office. Each official who is reelected or reappointed to a subsequent term must take the oath of office for each term.

B. Filing of oath. The oath of office must be filed in either the office of the County Clerk or the Town Clerk within 30 days of commencement of the term of office.

§ 38-17. Procedure for filling vacancies.

A. Statement of compliance. The Town of Milton complies with all applicable federal, state and local laws, rules, and regulations throughout the employee selection process, including, but not limited to, the Public Officers Law, Town Law, Civil Service Law, Title VII, and the Americans with Disabilities Act, and is an equal opportunity employer.

B. Notification of vacancies. In the event there is a vacancy in a new or existing position which the Town intends to maintain, the vacancy will be advertised and/or posted and qualified individuals will be interviewed.

C. Residency preference. In the event there is a vacancy in a new or existing position which the Town intends to maintain, the Town will give preference to qualified applicants who are residents of the Town.

D. Employment applications. The Town relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town's exclusion of the individual from further consideration for employment or disqualification if the conduct is discovered after employment commences.

E. Employment reference checks. To ensure that individuals who join the Town are well-qualified and have a strong potential to be productive and successful, it is the policy of the Town to check the employment references of all applicants.

§ 38-18. Probationary period.

A. Purpose of probationary period. The probationary period is for an employee to become familiar with the specific duties and responsibilities of the employee's new position. The probationary period also provides the department head with an opportunity to evaluate the employee's job performance and potential for development in the position.

B. Length of probationary period (competitive class). Except as otherwise provided in the Saratoga County Civil Service Rules, an employee appointed from an open-competitive list must serve a probationary period of not less than eight weeks, nor more than 52 weeks. The length of the probationary period may be extended in accordance with the Saratoga County Civil Service Rules.

C. Length of probationary period (other classes). Except as otherwise provided in the Saratoga County Civil Service Rules, an employee's original appointment to a position in the exempt, noncompetitive, or labor class shall be for a probationary period of not less than eight nor more than 52 weeks. The length of the probationary period may be extended in accordance with the Saratoga County Civil Service Rules.

D. Successful completion of probationary period. An employee's appointment will become permanent upon written notice that the probationary period has been successfully completed following the minimum period of service required. Or, the employee's appointment will become permanent upon the retention of the employee after completion of the maximum period of service required. Except as otherwise provided by law, completion of the probationary period does not necessarily confer rights or privileges in the position.

E. Failure to successfully complete probationary period. In the event the employee's performance or conduct is not satisfactory, the Town may dismiss the employee from employment at any time after the completion of the minimum probationary period and before completion of the maximum probationary period. If the performance or conduct of an employee serving a probationary period who has been promoted or transferred is not satisfactory, the employee shall be returned to the employee's former permanent position at the end of the probationary period.

§ 38-19. Performance appraisals.

A. Statement of purpose. The purpose of a performance appraisal is to evaluate employee performance. The performance appraisal will take into consideration criteria that properly reflect the employee's performance, including, but not limited to, the employee's work quality, job knowledge, initiative, attendance, teamwork, conduct, and communication skills. The employee's performance appraisal may be considered in determining a pay increase and as a factor in promotion and disciplinary action.

B. Frequency. An employee will be formally evaluated at least once each year on a date determined by the employee's department head. Informal evaluations will occur on an as-needed basis throughout the performance cycle.

C. Post-evaluation conference. After an evaluation, the evaluator will meet with the employee to review the employee's performance appraisal report.

D. Deficiencies. Should deficiencies be recorded in the performance of the employee, the employee will receive specific, reasonable, written recommendations for improvement.

E. Employee reply. An employee's written reply, if any, will be attached to the performance appraisal report.

§ 38-20. Corrective discipline; prohibited conduct.

A. Policy statement. It is the policy of the Town of Milton that certain rules and regulations regarding employee behavior are necessary for the benefit and safety of all employees, the efficient operation of the Town, and the delivery of services to residents of the Town. Any conduct that interferes with operations or that discredits the Town will not be tolerated. An employee must conduct oneself in a positive manner so as to promote the best interests of the Town.

B. Forms of discipline. Employees covered by Civil Service Law § 75 shall be disciplined in accordance with the provisions contained therein. (Refer to § 38-21 of this Employee Handbook.) In normal circumstances, the Town endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. It does, however, retain the right to discipline employees in any manner it sees fit. When appropriate, a counseling session will precede disciplinary action. Progressive discipline may include written warnings, suspension without pay, or termination of employment, depending on the circumstances. The Town does not guarantee that one type of discipline will precede another. Furthermore, the Town reserves the right to suspend an employee while an investigation is conducted.

C. Communication. Open and candid communication with all employees is an important aspect of the Town of Milton's ongoing employee relations. When a rule, policy, or procedure is violated, the employee's department head, or other designated supervisor, will review the specific nature of the violation with the employee. The employee's input is extremely important to ensure that all the facts have been considered. After such a review, corrective action is discussed with the employee and the management involved.

D. Corrective action notice. Employees are given the opportunity to agree or disagree with the results and write a brief statement on the corrective action notice, if desired. However, as a condition of employment, employees are required to sign the corrective action notice to indicate that a discussion of the issue has taken place. Failure to comply with this policy could result in further disciplinary action, up to and including termination of employment. Employees receive a copy of any written notice issued by the Town.

E. Prohibited conduct.

(1) Any employee who, after investigation, is found to have violated the policies, procedures, rules, or regulations outlined in this Employee Handbook, or those established by the employee's department, or is found to have engaged in misconduct will be subject to disciplinary action in accordance with this policy or Civil Service Law § 75 as applicable. Employees will be subject to disciplinary action for engaging in misconduct including, but not limited to, the following:

(a) Falsification of any records or reports, employment applications, medical reports, time records, work-related records, absence from work, injuries on the job, claims for benefits provided by the Town;

(b) Intimidation, coercion, threatening, or assault of, or fighting or interfering with, other employees, elected officials, residents of the Town; or any other person;

(c) Engagement in any form of discrimination or harassment, including sexual harassment;

(d) Improper performance of job duties or repeated failure to perform assigned duties and responsibilities;

- (e) Refusal to obey instructions of a department head or supervisor or any other form of insubordination;
- (f) Careless or negligent use or operation of equipment, including vehicles and machinery;
- (g) Willful or deliberate abuse, destruction, defacement, misuse, or theft of Town property or removal of Town property without permission;
- (h) Illegal gambling on Town property;
- (i) Sleeping on the job, unless authorized by a department head or supervisor;
- (j) Violation and/or disregard of safety rules or safety practices, including failure to wear assigned safety clothing or equipment;
- (k) Failure to adhere to the personal appearance/dress code policy;
- (l) Repeated violations of Town policies, procedures or prohibited conduct;
- (m) Leaving work area without permission, as defined by the department head;
- (n) Excessive tardiness and/or absences, except those absences covered by state and/or federal statutes;
- (o) Unauthorized absences or repeated failure to give proper notice;
- (p) Possession or use of controlled substances or alcohol while on Town property or in Town vehicles;
- (q) Possession of illegal or unlicensed firearms or explosives on Town property or in Town vehicles; or
- (r) Acts of sabotage.

(2) The above list is illustrative and is not intended to limit the Town's right to impose discipline in other appropriate cases.

§ 38-21. Disciplinary procedures under Civil Service Law § 75.

A. Summary. New York State Civil Service Law § 75 establishes disciplinary procedures for covered employees. Section 75 affords a covered employee the opportunity for a hearing when charges of incompetence or misconduct have been made against the employee by the Town.

B. Employees not covered by § 75. The following employees are not covered under § 75:

- (1) Any employee in the unclassified service (such as elected officials and members of boards and commissions);
- (2) A newly hired employee serving a required probationary period, even if the employee is a veteran as defined by the Civil Service Law, or exempt volunteer fire fighter, as defined by the General Municipal Law;
- (3) An employee holding a position in the noncompetitive class who has fewer than five years of continuous uninterrupted service, unless the employee is an eligible veteran, as defined by the Civil Service Law, or exempt volunteer fire fighter, as defined by the General Municipal Law, who has successfully completed the required probationary period;
- (4) An employee holding a position in the noncompetitive class designated as management/confidential;

(5) An employee holding a position in the exempt class, unless the employee is an eligible veteran as defined by the Civil Service Law, or exempt volunteer fire fighter, as defined by the General Municipal Law, who has successfully completed the required probationary period;

(6) An employee holding a position in the labor class, unless the employee is an eligible veteran as defined by the Civil Service Law, or exempt volunteer fire fighter, as defined by the General Municipal Law, who has successfully completed the required probationary period;

(7) An employee holding a position by provisional appointment; and

(8) A temporary or seasonal employee.

C. Covered employees. In accordance with the Civil Service Law, the following employees are generally covered under § 75:

(1) An employee holding a position by permanent appointment in the competitive class of the classified civil service;

(2) An employee holding a position in the noncompetitive class who has been employed for at least five years of continuous uninterrupted service in the noncompetitive class, except when such an employee holds a position designated as management/confidential. Even though the employee has completed the required probationary period and has received permanent appointment or employment in the noncompetitive class, the employee is not covered under § 75 until the employee has completed five years of continuous service in the noncompetitive class;

(3) An employee holding a position by permanent appointment or employment in the exempt, competitive, noncompetitive, or labor class who is a qualified veteran as defined by the Civil Service Law, or exempt volunteer fire fighter, as defined by the General Municipal Law, except when such an employee holds the position of private secretary, cashier, or deputy of any official or department. Specifically, the employee must have been honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in § 85 of the New York State Civil Service Law, or the employee must be an exempt volunteer fire fighter as defined in the General Municipal Law.

D. Disciplinary procedure. The following disciplinary procedure shall apply to employees covered by Civil Service Law § 75:

E. Section 75 hearing. An employee who is covered under New York State Civil Service Law § 75 will not be subjected to any disciplinary penalty except for incompetence or misconduct shown after a hearing upon stated charges, pursuant to that law.

(1) Notice of discipline. An employee subject to discipline will be provided with a written notice of discipline (NOD) which will contain all charges and specifications.

(2) Employee answer. The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.

(3) Disciplinary hearing. Unless there is a stipulation of settlement between the Town and the employee, the appointing authority will designate a hearing officer in accordance with Civil Service Law § 75. The designation must be in writing. The hearing officer will set the time and place for the hearing. The hearing officer will make a record of the hearing which will be submitted to the appointing authority, with the hearing officer's recommendations, for review and decision.

(4) Right to representation. The employee may have representation by counsel at the hearing and may summon witnesses on the employee's behalf.

(5) Suspension without pay pending determination of charges. Pending the hearing and determination of charges, the employee may be suspended without pay for a period not to exceed 30 calendar days.

(6) Penalties. In the even the employee is found to be guilty of the charges, the penalty may consist of one of the following:

- (a) Written reprimand;
- (b) Fine not to exceed \$100, which will be deducted from the employee's pay;
- (c) Suspension without pay, not to exceed two months;
- (d) Demotion in grade and title; or
- (e) Termination from Town employment.

(7) Finding of not guilty. In the event the employee is found to be not guilty, the employee will be restored to the employee's position with full pay for the period of suspension less the amount of any unemployment insurance benefits that the employee may have received during such period.

F. Limitations. Notwithstanding any other provision of law, no removal or disciplinary proceeding will be commenced more than 18 months after the occurrence of the alleged incompetence or misconduct complained of and described in the charges. Such limitation will not apply where the incompetence or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

G. Filing requirements. In the event the employee is found to be guilty, a copy of the charges, the employee's written answer, a transcript of the hearing, and the determination will be filed in the office of the department in which the employee is employed. A copy will also be filed with the Saratoga County Civil Service Department.

§ 38-22. Code of Ethics.

Editor's Note: See Ch. 14, Ethics, Code of.

A. Policy statement. Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board recognizes that there are rules of ethical conduct for elected officials and employees which must be observed so as to maintain a high degree of moral conduct and public confidence. Therefore, the Town Board has adopted rules of ethical conduct which are in addition to Article 18 of the General Municipal Law and any other law pertaining to ethical conduct or interest in contracts.

B. Distribution of Code of Ethics. The Town of Milton distributes a copy of the Code of Ethics to all employees and elected officials on an annual basis and requires a signed acknowledgement of its receipt and agreement.

§ 38-23. Personnel file.

A. Policy statement. It is the policy of the Town to balance its need to obtain, use, and retain employment information with a concern for each employee's privacy. To this end, the Town will endeavor to maintain only that personnel information necessary for the conduct of the Town's business or required by federal, state, or local law. Personnel records will be maintained for current and past employees in order to document employment-related decisions and comply with government recordkeeping and reporting requirements.

B. Content. The records maintained by the Town include, but are not limited to, employment applications, report of personnel change forms (MSD-426), copies of job-required licenses and certificates, federal and state withholding tax forms, retirement enrollment/waiver forms, health insurance enrollment/waiver forms, disciplinary and dispute notices, letters of acclamation, and probationary reports.

C. Location of files. All original personnel records for current employees will be kept in the Bookkeeper's office and will be maintained and controlled by the Secretary to the Supervisor.

D. Immigration (I-9) forms. All immigration (I-9) forms will be kept in a separate file apart from the employee's personnel file.

E. Medical records. All employee medical records will be kept in a separate file apart from the employee's personnel file in the Bookkeeper's office and will be maintained and controlled by the Secretary to the Supervisor. For security purposes, these files will be locked at all times.

F. Substance testing records. All employee substance testing records will be kept in a separate file apart from the employee's personnel file in the Highway Department office and will be maintained and controlled by the Highway Superintendent. For security purposes, these files will be locked at all times.

G. Change in status. An employee must immediately notify the Secretary to the Supervisor of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

H. Employee access. An employee may inspect and copy the contents of the employee's own personnel file. Inspections by employees must be requested in writing to the Town Supervisor and will be scheduled at a mutually convenient time. An authorized official must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Supervisor. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

§ 38-24. Notice of resignation; exit interviews; final paycheck.

A. Notice of resignation (employees). An employee who intends to resign from employment must submit a written resignation to the employee's department head at least two weeks before the date of resignation is to be effective. Failure to submit the proper notice shall result in the loss of payment for accruals. This provision may be waived by the Town Board.

B. Notice of resignation (Town officers). A Town officer (as defined by the Public Officers Law) must resign by delivering a written notice to the Town Clerk. If no effective date is specified, the office becomes vacant immediately upon delivery of the notice to the Town Clerk. If a Town officer wishes to resign at some future date, the Town officer may specify a resignation date. However, if the resignation date is more than 30 days after delivery of the notice to the Town Clerk (90 days for Justices), the resignation will become effective 30 days after such delivery (90 days for Justices).

C. Notice of resignation (Town Clerk). The Town Clerk who intends to resign must submit a written resignation to the Secretary of State at least 30 calendar days before the date of resignation is to be effective.

D. Exit interviews. Exit interviews are normally conducted by the Secretary to the Supervisor. The exit interview provides an opportunity to discuss a number of items including employee benefits, COBRA eligibility, changing of computer passwords, and return of Town property. During the exit interview, employees are encouraged to give suggestions, concerns and constructive recommendations.

E. Final paycheck. Employees receive their final paycheck on the next regularly scheduled payday. If applicable, the final paycheck includes payment for accumulated vacation benefits and/or sick leave, as provided for in §§ 38-58 and 38-59 of this Employee Handbook.

ARTICLE V. Operational Policies

§ 38-25. Departmental hours.

A. Normal hours of operation. The normal hours of operation are established by the Town Board at the annual organizational meeting. An employee's department head will establish the employee's work schedule, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department. The Town Board reserves the right to approve all employee work schedules, except where otherwise prohibited by applicable state or Town law.

B. Employee work schedules and overtime. Each employee must adhere to the employee's assigned work schedule to ensure the ability of the Town to deliver appropriate services to the public. A department head may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from the employee's department head or Supervisor before working additional hours.

C. Failure to work assigned hours. An employee who, after investigation, is found to have refused to work the assigned work schedule or additional overtime hours as directed will be subject to appropriate disciplinary action in accordance with the provisions of this Employee Handbook and Civil Service Law § 75 (if applicable).

D. Department head absences. Department heads have duties that may require them to be absent from their offices at certain times during the day. In the event that a department head is absent from the office, basic departmental forms should be readily available for distribution and/or collection. It is the department head's responsibility to determine what services are to be provided and to schedule coverage of these basic services during scheduled business hours.

§ 38-26. Meal breaks.

A. Meal break (Highway Department). An employee in the Highway Department who works more than six hours in a given day will receive an unpaid, duty-free meal break not to exceed 30 minutes.

B. Meal break (other departments). An employee (other than an employee in the Highway Department) who works more than six hours in a given day will receive an unpaid, duty-free meal break not to exceed 60 minutes.

C. Approval of meal breaks. Meal breaks must be approved by the department head in accordance with the needs and requirements of the department. Meal breaks must normally be taken in the middle of the employee's workday. Unless otherwise directed by the department head, an employee may leave the work site during the meal break.

§ 38-27. Emergency situations.

A. Closing procedures. In the event that extraordinary weather conditions or other emergencies develop prior to the beginning of the workday, the Town Supervisor may authorize the closing of nonemergency operations, or, if extraordinary weather conditions or other emergencies develop during a workday, the Town Supervisor may direct that certain employees who perform nonessential services leave work.

B. Closing effect on compensation. Pay for FLSA exempt employees will not be affected by an emergency closing. Pay for FLSA nonexempt employees will be in accordance with the provisions below.

(1) During work. A full-time employee who is directed by the Town Supervisor to leave work due to an emergency closing will be paid for the remainder of the employee's normal workday at the employee's regular rate of pay. Such time will not be included as time worked for the purpose of computing overtime. A part-time employee who is directed to leave work due to an emergency closing will not be paid for the remainder of the employee's normal workday. Such employee may choose to make up the time at a later date if agreed to by the department head. An employee who has previously scheduled a paid leave day must still charge the absence for the day to the appropriate paid leave.

(2) Prior to reporting to work. If a determination is made to close operations prior to the start of a workday, the Town Supervisor will initiate notification to all affected employees. A full-time employee who is directed not to report to work due to an emergency closing will be paid for the employee's normal workday at the employee's regular rate of pay. A part-time employee who is directed not to report to work will not be paid for the workday. Such employee may choose to make up the time at a later date if agreed to by the department head. An employee who has previously scheduled a paid leave day must still charge the absence for the day to the appropriate paid leave.

§ 38-28. Time records.

A. Policy statement. All FLSA nonexempt employees must account for hours and days worked through the use of the Kronos Time Recording System. All full-time FLSA exempt employees must account for time worked and leave time by completing a time sheet.

B. Procedures. An employee must comply with the following procedures:

(1) Employees must swipe their own time card or complete their own time sheet;

(2) A time record will be provided to each department head for verification each week. The time record must be signed by the department head and submitted to the Principal Account Clerk by 10:00 a.m. each Monday, unless Monday is a holiday, in which case the time record must be submitted by 10:00 a.m. Tuesday;

(3) An employee taking any paid or unpaid leaves of absence must complete and sign a leave request form, which shall be given to the department head and for submission along with the weekly time record;

(4) Any hours worked outside of those recorded by the Kronos System must be reported via a separate form which shall be attached to and submitted with the weekly department time record;

C. Correction of errors. An employee must immediately bring errors in time records to the attention of the employee's department head, who will investigate the matter and make and initial the correction once the error has been verified.

D. Unauthorized "flex-time." Unless prior approval has been obtained from the department head, arriving early or leaving late for the employee's own convenience is not to be included in working time, provided that the employee performed no preapproved authorized duties for the Town during such intervals.

E. Falsification of time records. An employee who, after investigation, is found to have falsified or altered a time record, or the time record of another employee, or completed a time record for another employee will be subject to disciplinary action. In extenuating circumstances where an employee is not able to complete the employee's own time record, the department head may complete the time record on behalf of the employee.

F. Overtime. Refer to § 38-53 of this Employee Handbook for provisions related to overtime hours.

§ 38-29. Bonding.

Insurance. The Town will provide bonding insurance for an employee who is required to act in a fiduciary capacity.

§ 38-30. Expense reimbursement.

A. Policy statement. Upon proper authorization of the Town Board, an employee or elected official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training and membership fees. A properly completed voucher, along with all required documentation and corresponding receipts, must be submitted to the Secretary to the Supervisor in order for the reimbursement to be processed.

B. Mileage. An employee who is directed by the appropriate department head or supervisor to use the employee's own vehicle to conduct Town business will be reimbursed at the mileage rate established by the Town Board at the annual organizational meeting.

C. Education and training. Upon proper authorization of the Town Board, an employee will be reimbursed for training courses that are directly related to the employee's present job. Employees must first seek approval from their department head before the request is presented to the Town Board.

D. Required membership fees. Upon proper authorization of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees.

E. Safety clothing and equipment. Refer to § 38-36 of this Employee Handbook for provisions related to safety clothing and equipment expense reimbursement.

F. Association of Towns meeting. Upon proper authorization of the Town Board, an employee or elected official who attends the annual meeting conducted by the Association of Towns will be reimbursed for all reasonable expenses. Delegates to this meeting will be selected by the Town Board.

§ 38-31. Vehicle usage.

A. Policy statement. All vehicles and related equipment of the Town of Milton are owned and maintained for the purpose of conducting official business of the Town. Said vehicles and equipment may not be used for the personal use or private gain of any official or employee, nor for any other purpose which is not in the general public interest.

B. Standards. For the purpose of compliance with this policy, the following standards must be met at all times:

- (1) Town vehicles and related equipment must remain under the general administrative jurisdiction and direction of the department head to which they are assigned;
- (2) Town vehicles must be assigned to specific Town officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non-Town related business. The Highway Superintendent is permitted to use the assigned vehicle for travel between home and work. A determination will be made by the Town Board at the annual organizational meeting as to whether the Code Enforcement Official and Animal Control Officer shall be permitted to use the assigned vehicle for travel between home and work;
- (3) Town vehicles must always be operated in a safe and responsible manner, and in compliance with all applicable motor vehicle and traffic laws in effect. Employees are responsible for any driving infractions or fines that result from their operation of Town vehicles, and must report them to their department head. In the event of an accident, regardless of severity, an accident report must be filed with the Town Supervisor's office, by the applicable department head within 24 hours;
- (4) Town vehicles may not be used to transport persons who are not officials or employees of the Town of Milton, nor material not related to the conduct of official Town business, without direct authorization by the appropriate department head or the Town Board;
- (5) Town vehicles must always be maintained in a safe and secure condition when not in use, including being locked and/or under direct observation, and all keys maintained under controlled and authorized jurisdiction of the appropriate department head;
- (6) In the event a Town vehicle must travel beyond a fifty-mile radius of the Town of Milton to conduct Town business, the department head or employee must receive prior approval from the Town Supervisor or department head, either on a case-by-case basis or as a comprehensive approval for specified purposes;
- (7) No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Town vehicles at any time except those of a limited community service nature which have been authorized by the Town Board.

§ 38-32. Driver's license.

A. Requirement. An employee who is required to drive either a Town-owned vehicle or the employee's own personal vehicle to conduct business on behalf of the Town must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license.

B. Commercial drivers. An employee who operates a vehicle which requires a commercial driver's license (CDL) must maintain such license throughout employment. In accordance with the Federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Town within 30 days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving.

C. Loss of driver's license. An employee who is required to possess a driver's license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate department head in the event the license is suspended or revoked. The loss or suspension of the driver's license or CDL license may affect the employee's employment with the Town.

§ 38-33. Supplies, tools and equipment, and fuel usage.

A. Supplies. All Town-owned supplies must be used efficiently and not wasted. An employee may not use any Town supplies, such as postage, paper, or office supplies, for personal use.

B. Tools and equipment. The employee must repair or replace any Town-owned tool or piece of equipment lost or damaged by the employee as a result of negligence or intentional misuse. An employee may not use any Town-owned tool or piece of equipment, including, but not limited to, fax machines, copiers and computer equipment, for personal use. An employee may not use Town facilities, Town-owned tools or equipment to work on vehicles or trailers not owned by the Town.

C. Fuel. An employee may not use gasoline, fuel oil, or motor oil purchased by the Town for personal use.

§ 38-34. Telephone and cell phone use.

Telephone and cell phone usage must adhere to the following guidelines:

A. An employee must answer promptly and speak in a clear, friendly and courteous tone;

B. An employee must give the name of the department or office and one's own name. If the call is not for the employee who answers, the employee must transfer the caller to the correct party or take a message recording all pertinent information;

C. If the call must be placed on hold, the employee who answered the call must return to the line frequently to confirm that the call is being transferred;

D. During office hours, each employee is responsible for there being at least one employee in the department or office to answer telephones. If the department or office has a limited staff, arrangements must be made with another department or office for telephone coverage or an answering device must be in operation;

E. Collect calls may not be accepted without the approval of the department head or supervisor;

F. An employee may not make or receive personal telephone or cell phone calls during work hours, except in an emergency or to check briefly on family matters;

G. An employee may not make personal calls on a Town provided telephone or cell phone that will result in additional charges to the Town, except in an emergency and/or with prior approval from the department head. The employee must reimburse the Town for the cost of the call; and

H. Use of a cell phone while driving must be in compliance with any applicable laws or regulations.

§ 38-35. Computer systems and Internet/on-line service.

Policy statement. The purpose of this policy is to provide guidance for the use of Town-owned computer systems and Internet/on-line service.

A. Computer systems.

(1) Property. All computer systems, hardware, software, and files are the property of the Town of Milton.

(2) Authority. Department heads have the authority to inspect the contents of any computer equipment, data/files, or electronic mail ("e-mail") of their subordinates in the normal course of their supervisory responsibilities. In addition, the data/files of department heads and supervisors may be inspected by the Town Supervisor in the normal course of duty.

(3) Usage. All computer systems, hardware, and software provided to an employee are provided for the purpose of aiding that employee in the performance of the employee's job functions. All hardware and software used is to be supplied by the Town of Milton. No unauthorized or unlicensed hardware or software may be used or installed on any Town-owned computer. Any hardware or software necessary to perform job duties should be requested of the employee's department head.

(4) Prohibited uses. In addition to the guidelines set forth above, the following uses of Town-owned computers and equipment are prohibited. This list is meant to be illustrative, and not exhaustive.

- (a) Any illegal activity;
- (b) Threats or harassment;
- (c) Slander or defamation;
- (d) Transferring of obscene or suggestive messages or graphical images;
- (e) Any unauthorized commercial activity; commercial activity is limited to designated terminals. If a user is unsure whether a terminal is available for commercial use, the employee should ask the department head;
- (f) Accessing or attempting to access the data/files of another person;
- (g) Using or aiding in the unauthorized use of another person's password;
- (h) Harming or destroying data/files (other than editing or deleting information in the normal course of one's job duties);
- (i) Use of non-business software;
- (j) Use of entertainment software, such as games and puzzles;
- (k) Installation or use of any hardware or software, not owned by the Town;
- (l) Installation or use of Town-owned hardware or software for any use that is not Town-related business;
- (m) Installation or use of any unauthorized or unlicensed hardware or software; and
- (n) Installation of any software containing viruses.

B. Internet/on-line service.

- (1) Eligibility. Internet/on-line service may be provided to employees who can demonstrate a work-related reason to have access. Approval must be given by the employee's department head or supervisor.
- (2) "Netiquette" (Internet etiquette). Employees are expected to communicate in a manner that will reflect positively on both themselves and the Town of Milton.
- (3) Prohibited uses. In addition to the prohibitions set forth in the above subsections, any activities prohibited for any other general computer user are also prohibited with respect to Internet/on-line service usage.
- (4) Reliability. The Town of Milton is not responsible for loss or damage to a user's data or for the reliability of information that is obtained via the Internet/on-line service. Also, this information must be used in accordance with applicable copyright laws.
- (5) Security. There is no guarantee of privacy of data/files, including e-mail, on Town-owned computers. As stated herein, all files are subject to inspection by department heads and supervisors. Any employee who is required to have a password must submit that password to the employee's department head in a sealed envelope.
- (6) Procedure. Anyone with information as to a violation of this policy is to report said information to the employee's department head. Once the employee's department head is informed of the violation, a formal process, consistent with this Employee Handbook and/or applicable law, will begin.

§ 38-36. Personal appearance, safety clothing and equipment.

A. Policy statement. It is the policy of the Town that each employee's dress, grooming and personal hygiene should be appropriate to the work situation.

B. Standards. An employee must maintain a personal appearance in a manner that reflects a good image to the public. Acceptable personal appearance is an ongoing requirement of employment with the Town. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted. Employees should not wear suggestive attire, athletic clothing, novelty buttons, and similar items of casual attire since this clothing does not present a businesslike appearance.

C. Uniforms. Employees of the Highway Department are required to wear uniforms, which are provided by the Town. The Town will also provide for the cleaning of these uniforms. Certain other employees, as determined by the Town Board, will be issued a shirt and jacket to be worn while conducting official business. A clothing allotment for these designated employees will be set by the Town Board each year at its organizational meeting.

[Amended 11-22-2006 by L.L. No. 4-2006]

D. Safety clothing and equipment. An employee may be required to wear safety clothing and equipment as directed by the department head. If such is the case, the employee must comply with all safety requirements. The Code Enforcement Official, Deputy Code Enforcement Official, Code Enforcement Officer, Animal Control Officer and full-time employees of the Highway and Building and Grounds Departments will be provided, by the Town, with one pair of safety steel-toed shoes each year; that is, either one regular pair for summer use or one insulated pair for winter use. The shoes provided will meet Labor Standard ANSI Z41 PT91. The Town will provide safety glasses, which shall meet current OSHA regulations, to each employee who is required to wear safety glasses. An allotment for safety steel-toed shoes and safety glasses will be set by the Town Board each year at its organizational meeting.

[Amended 11-22-2006 by L.L. No. 4-2006]

§ 38-37. Solicitation and distribution regulations.

A. Policy statement. It is the policy of the Town to prohibit solicitation and distribution on its premises by nonemployees and to permit solicitation and distribution by employees only as outlined below.

B. During working hours. An employee may not distribute literature or solicit other employees during working hours without approval from the appropriate department head.

C. During meal and rest breaks. With permission from the department head, an employee may distribute literature and solicit other employees during meal and rest breaks, provided it does not interfere with the normal operations of the department, reduce employee efficiency, annoy fellow employees, or pose a threat to the Town's security.

§ 38-38. Visitors.

It is the policy of the Town not to allow personal visitors during working hours, except for emergency situations. Visitors are allowed for brief visits during an employee's meal break as long as such visit does not interfere with Town operations or interrupt other employees who are still working.

§ 38-39. Purchasing.

Editor's Note: See also Ch. 40, Procurement Policy. It is the policy of the Town to authorize certain individuals to make purchases on behalf of the Town. No employee shall make purchases for the Town, or use the Town's name to make purchases, unless so authorized by the Town Board.

§ 38-40. Maintenance of work area.

A. Policy statement. It is the policy of the Town that work areas must be kept safe, clean and orderly at all times.

B. Employee responsibility. Employees are responsible for maintaining their work areas in a safe and orderly fashion. As such, each employee should, at a minimum, do the following:

- (1) Place coats, boots, umbrellas and other items of clothing in designated areas so that work areas are not unnecessarily cluttered;
- (2) Consume food or beverages only in designated areas so that work areas are kept free of food and related litter;
- (3) Report any existing or potential workplace hazards and safety violations to the department head;
- (4) Abide by the smoking restrictions established by Town policy and outlined in this Employee Handbook; and
- (5) Clean and store all tools and equipment and properly store any items, papers or confidential information in a manner prescribed by the department head.

C. Supervisory responsibility. Supervisors are responsible for having their employees maintain their work areas according to the requirements of this policy. Each supervisor should:

- (1) Make sure that aisles, floors and walls are free from debris and other unnecessary items;
- (2) Monitor the facilities and equipment and issue maintenance requests where appropriate;
- (3) Arrange for the removal of any items from the workplace that are not needed for the flow of business or the enhancement of employee comfort;
- (4) Abide by and enforce the Town's smoking policy; Editor's Note: See also § 38-78, Smoking restrictions, and Ch. 146, Smoking in Town Facilities. and
- (5) Ensure the proper disposal of all trash and waste.

§ 38-41. Personal property.

A. Policy statement. It is the policy of the Town to ask each employee to refrain from bringing unnecessary or inappropriate personal property to work. The Town recognizes that an employee may need to bring certain items to work. However, employees should take care to ensure that personal property brought to the workplace does not disrupt work or pose a safety risk to other employees.

B. Personal liability. An employee is expected to exercise reasonable care to safeguard personal items brought to work. The Town will not repair, replace, or reimburse an employee for the damage or loss of the employee's personal property. An employee bringing personal property to the workplace does so at one's own risk.

C. Security inspections. Desks, lockers and other storage devices may be provided for the convenience of employees but remain the sole property of the Town. Accordingly, such storage devices, as well as any articles found within them, can be inspected by any agent or representative of the Town at any time, either with or without proper notice. The inspection may be made in the presence of the employee. The Town is not responsible for loss or damage to personal property placed in such storage devices.

§ 38-42. Town property.

A. Employee responsibility. Each employee agrees to sign a statement setting forth all items and equipment in his or her possession. An employee will be responsible for items issued by the Town which are in the employee's possession and/or control, such as, but not limited to, the following:

- (1) Equipment, including protective equipment;
- (2) Identification badges;

- (3) Keys;
- (4) Uniforms;
- (5) Books and other reference materials, including this Employee Handbook; and
- (6) All other Town-owned items.

B. Return of property. All Town property must be returned to the Town before the employee's last day of work.

§ 38-43. Unauthorized work.

An employee may not perform work for any entity other than the Town during the employee's tour of duty, or claim that Town work was done when such is not the case.

§ 38-44. Outside employment.

A. Policy statement. It is the policy of the Town that an employee may engage in outside work as long as such outside work does not interfere with the employee's performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Town.

B. Guidelines. The following guidelines have been established for an employee who engages in outside work.

- (1) An employee will be judged by the same performance standards and will be subject to the Town's scheduling demands, regardless of any existing outside work requirements;
- (2) If the Town determines that an employee's outside work interferes with the performance or the ability to meet the requirements of the Town as they are modified from time to time, the employee may be required to terminate the outside employment if the employee wishes to remain employed by the Town;
- (3) No Town equipment, supplies, or other material may be used by an employee on other than Town work for monetary gain;
- (4) Outside employment that does or may constitute a conflict of interest is prohibited. An employee may not receive any income or material gain from individuals outside of the Town for materials produced or services rendered while performing the employee's Town job;
- (5) A Town employee who engages in outside work must notify the person for whom the work is being performed that such work is being done on the employee's own time and that the employee is not representing the Town while performing such work.

C. Notification of outside employment. Disclosure of outside employment shall be in accordance with the provisions of the Town of Milton's Code of Ethics. Editor's Note: See Ch. 14, Code of Ethics.

ARTICLE VI. Absence Policies

§ 38-45. Tardiness.

Notification of tardiness. An employee must be ready and able to work at the time the employee is scheduled to begin work. In the event an employee is unable to report to work at the scheduled time, the employee must notify the employee's department head prior to the employee's scheduled starting time.

§ 38-46. Notification of absence.

A. Daily notification. In the event an employee is unable to report to work, the employee must notify the employee's department head each day of the absence and state the reason for the absence. In the event the absence was preauthorized, this requirement will be waived.

B. Notification of sick leave. In the event an employee must take sick leave, the employee must notify the employee's department head prior to the employee's scheduled starting time.

C. Early departure. In the event an employee must leave work during the workday, the employee must notify the employee's supervisor prior to leaving.

§ 38-47. Jury duty leave.

A. Jury leave. In the event a full-time employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive paid jury duty leave. Such leave will not be subtracted from any of the employee's leave credits. A part-time, temporary or seasonal employee shall receive paid jury duty leave if the employee is scheduled to work for the Town on the day the jury duty is served. An employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee's full pay during jury duty. An employee can collect and keep any mileage expense reimbursement that may be issued by the court system for performing jury duty.

B. Notification of jury duty. When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the employee's department head.

C. Return to duty. In the event the employee is released from jury duty on a given day and there are two or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

D. Accrual of benefits. The Town will continue to provide health insurance benefits for an eligible employee during the jury leave. Vacation leave, sick leave and holiday benefits will continue to accrue during jury duty leave.

§ 38-48. Bereavement leave.

A. Eligibility. In the event of a death of a full-time employee's immediate family member, the employee may take a paid leave of absence for up to three consecutive days from the employee's regularly scheduled work. Such leave will not be subtracted from any of the employee's leave credits. A part-time, temporary, or seasonal employee is not eligible for paid bereavement leave but may be allowed to take time off without pay, provided the employee has prior approval from the department head.

B. Definition of immediate family. For purpose of bereavement leave, "immediate family member" will mean the following:

- (1) Spouse;
- (2) Parent;
- (3) Mother-in-law;
- (4) Daughter-in-law;
- (5) Grandparent;
- (6) Child;
- (7) Sibling;
- (8) Father-in-law;
- (9) Son-in-law; and
- (10) Grandparent-in-law.

C. Extended bereavement leave. With authorization from the employee's department head, an employee may use vacation leave credits and/or personal leave credits to extend a bereavement leave. The department head will have total discretion in the approval of an employee's extended bereavement leave, based on the needs of the department.

D. Funeral leave (extended family). In the event of a death of a full-time employee's family member who is a relative not included in the definition of immediate family, the employee may take a paid leave of absence for one day from the employee's regularly scheduled work to attend the funeral. Such leave will not be subtracted from any of the employee's leave credits.

§ 38-49. Military leave and military leave of absence.

A. Military leave (New York State law). This section refers only to a paid leave for military service under New York State law and does not affect an employee's entitlement to leave needed for military service under federal statute. The Town of Milton recognizes the importance of the Military Reserve and National Guard, and will permit any employee the use of military leave to perform ordered military duty or required training. The Town will grant such leave with pay for up to 22 workdays or 30 calendar days in a calendar year, whichever is greater. Such military leave beyond the 22 workdays or 30 calendar days in a calendar year will be unpaid; however, accumulated vacation leave may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.

B. Military leave of absence (federal law). An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the Armed Forces of the United States. The employee's accumulated vacation leave may, at the employee's option, be used at any time during such leave of absence.

§ 38-50. Family and Medical Leave Act.

A. Statement of compliance. The Town of Milton complies with the provisions of the Family and Medical Leave Act (FMLA). The Town of Milton currently does not employ 50 or more employees who work 20 or more calendar workweeks per year. Therefore, Town employees are not presently eligible for leave under FMLA. If at some point the Town of Milton should employ 50 or more employees for 20 or more calendar workweeks in the current or preceding year, eligible employees will be afforded leave in compliance with FMLA.

B. Summary. FMLA entitles an eligible employee to a maximum of 12 workweeks (defined by the employee's normal workweek) of job-protected, unpaid leave in any twelve-month period for certain family and medical reasons. The twelve-month period is a rolling period measured backward from the date an employee uses any FMLA leave. At the conclusion of a leave of absence under the FMLA, the employee will be restored to the position the employee held when the leave began or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, provided the employee returns to work immediately following such leave.

C. Eligibility. To be eligible for an unpaid leave under FMLA, an employee must meet the following requirements:

- (1) The employee must have worked for the Town for at least 12 months before the leave request (these need not be consecutive);
- (2) The employee must have worked for the Town for at least 1,250 hours during the previous 12 months prior to the date the leave commences; and
- (3) The employee must work at or report to a work site which has 50 or more employees or is within 75 miles of work sites that taken together have a total of 50 or more employees.

D. Eligible employees will be afforded leave under FMLA under the following circumstances:

- (1) Upon the birth of the employee's child and to care for the newborn child;
- (2) Upon the placement of a child with the employee for adoption or foster care and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter or parent who has a serious health condition; and

(4) Because of the employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job.

E. Return to work. At the conclusion of the leave, the employee, provided that the employee returns to work immediately following such leave, will be restored to the position he or she held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions.

§ 38-51. Family and medical leave policy.

A. Policy statement. It is the policy of the Town of Milton to grant a full-time employee a leave of absence without pay for a period of up to 12 weeks, under certain circumstances. If and when any employee meets the eligibility requirements under the Family and Medical Leave Act, the provisions of that Act will then take precedence over this policy.

B. Granting of leave of absence. The granting and duration of each leave of absence will be determined by the Town Board in conjunction with applicable federal and state laws, including Civil Service Law §§ 71, 72 and 73, and the Saratoga County Civil Service Rules.

C. Types of leave. The following types of leaves of absence will be considered:

(1) Sick leave of absence. Employees who are unable to work because of a serious health condition or disability may be granted a sick leave of absence. This type of leave covers disabilities caused by pregnancy, childbirth, or other related medical conditions. The Town requires certification of an employee's need for sick leave, both before the leave begins and on a periodic basis thereafter, by the employee's health care provider. In addition to leave provided under this policy, employees may be eligible for a leave of absence pursuant to Civil Service Law § 71. Section 71 provides that covered employees shall be entitled to a leave of absence for at least one cumulative year (unless found to be permanently disabled) when disabled due to an occupational injury or disease as defined in the Workers' Compensation Law. This leave runs concurrently with the designated family and medical leave. The employee should consult with his or her department head for further details regarding this provision.

(2) Parental leave of absence. Female employees, when not disabled by pregnancy or childbirth (see above), and male employees may be granted a parental leave of absence to care for a child upon birth or upon placement for adoption or foster care.

(3) Family care leave of absence. Employees may be granted a family care leave of absence for the purpose of caring for a child, spouse or parent who has a serious health condition. The Town requires certification of the family member's serious health condition, both before the leave begins and on a periodic basis, by the family member's health care provider.

D. Eligibility. To be eligible, an employee must meet the following requirements:

(1) The employee must have completed at least one year of full-time, continuous service during the previous 12 months prior to the date leave commences.

(2) Spouses who both work for the Town of Milton are allowed a combined maximum of 12 workweeks of leave for the birth or care of a newborn child, adoption or foster-care of a child and to care for such newly placed child, or the serious health condition of a child, spouse or parent, during any twelve-month period.

E. Definitions. For the purpose of this policy, the following definitions will apply:

FAMILY MEMBER Includes:

(1) **SPOUSE** — A husband or wife as defined or recognized under state law for purpose of marriage;

(2) **PARENT** — A biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter as defined directly below. This term does not include an employee's parents-in-law;

(3) **CHILD** — A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability. Persons who are in loco parentis include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

HEALTH CARE PROVIDER

A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or any other person defined in the FMLA regulations capable of providing health care services.

SERIOUS HEALTH CONDITION

An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care; or continuing treatment by a health care provider, including, but not limited to:

- (1) A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity that also involves continuing treatment by a health care provider;
- (2) A period of incapacity due to pregnancy or prenatal care;
- (3) A period of incapacity or treatment for such incapacity due to a chronic serious health condition;
- (4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
- (5) A period of absence to receive multiple treatments, including any period of recovery, by a health care provider, or by a provider of health care services under orders of or on referral by a health care provider, for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

F. Notification requirements. If the need for leave is foreseeable, the employee must give notice, in writing, to the department head at least 30 calendar days prior to the commencement date of the unpaid leave. The employee and department head must complete the leave of absence request form and forward the completed form to the Secretary to the Supervisor for review. The failure of an employee to give 30 days' notice of foreseeable leave with no reasonable excuse for the delay may result in the delay of the employee taking the leave until 30 days from the date of notice. When the need for leave is unforeseeable, verbal notice to the employer will be sufficient.

G. Status reports. The employee must periodically update the department head as to the employee's status and intent to return to work.

H. Medical certification.

(1) The employee must produce a medical certification issued by a health care provider which supports the need for a leave under this policy. When required, the employee must provide a copy before the leave begins, or if the leave was unforeseeable, 15 calendar days from the date the certification was requested. Failure to submit medical certification may jeopardize the employee's eligibility for an unpaid leave of absence and/or the ability to return to work. The medical certification must include:

- (a) The date the medical condition began;
- (b) The probable duration of the medical condition;
- (c) Pertinent medical facts; and

(d) An assertion that the employee is unable to perform the employee's essential job functions or that the employee is needed to care for a family member for a specified period of time.

(2) The Town of Milton reserves the right to request a second opinion by another health care provider. The Town will pay for the second opinion. In the event a conflict occurs between the first and second opinion, the Town may, again at its own expense, obtain a third opinion from a health care provider approved jointly by the Town and the employee. This third opinion will be final and binding.

I. Leave for the birth, adoption or foster-care placement of a child. Leave for the birth of a child or the placement of a child for adoption or foster care must be taken within 12 months from the date of the birth or placement.

J. Certification for adoption/foster care. An employee must produce proper certification from the appropriate agency for an unpaid leave for the adoption or foster care of a child.

K. Employment restrictions during leave of absence. While on an approved unpaid leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town of Milton.

L. Benefits during a leave of absence. For the purpose of this policy, the following will apply:

(1) Use of accrued paid leave credits.

(a) An employee taking leave for the birth, adoption or foster-care placement of a child or to care for a spouse, child or parent with a serious health condition must first use all vacation leave credits, which will be included in the maximum 12 weeks of leave. The substitution of paid leave for unpaid leave for these types of leave does not extend the twelve-week period.

(b) For leaves taken due to the employee's own serious health condition, the employee must first use all sick leave and vacation leave credits and short-term disability benefits (if applicable), which will be included in the maximum 12 weeks of leave. However, in the event that the paid leave credits available are greater than the maximum twelve-week period, an employee may use paid leave credits to extend the leave of absence beyond the twelve-week period, up to a maximum of one year. If, after the completion of the one-year leave of absence, the employee is medically unable to return to work (as determined by a health care provider) and the employee has leave credits and/or short-term disability benefits remaining, the Town Board may authorize an extension of the employee's leave of absence until such benefits are exhausted. However, job reinstatement beyond the one-year leave of absence is not automatic and will be dependent upon job availability, in accordance with Civil Service Law §§ 71, 72 and 73, as applicable, and the Saratoga County Civil Service Rules.

(2) Accrual of paid leave credits. An employee will continue to accrue vacation and sick leave and receive holiday pay during the portion of the leave that is paid. Paid leave is defined as leave during which the employee continues to use accumulated paid vacation and sick leave. After all such paid leave is exhausted, the remaining leave of absence is unpaid. An employee will not earn paid vacation or sick leave or receive holiday pay for any holidays that may occur during an unpaid leave of absence.

(3) Medical insurance. During the period of authorized paid or unpaid leave of absence, an employee's eligibility status for medical insurance coverage will not change. All employee contributions (if any) must be paid on a timely basis in order to maintain the continuous coverage of benefits. Contributions will be at the same level as if the employee was working. Coverage will cease if payments are not made within a thirty-calendar day grace period of the due date. Premium payments or policy coverage are subject to change. In the event the employee fails to return to work after the authorized leave of absence period has expired, the Town may recover the premium that it paid for maintaining the coverage during any period of the unpaid leave except for the following circumstances:

(a) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's eligible family member with proper medical certification; or

(b) Circumstances beyond the employee's control, such as: parent chooses to stay home with a newborn child who has a serious health condition; employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's work site; or the employee is laid off while on leave.

M. Return to work. The following conditions for returning to work will apply:

(1) Job restoration. At the conclusion of the leave of absence (except for leaves beyond a one-year period), the employee, provided that the employee returns to work immediately following such leave, will be restored to the position the employee held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions. For an authorized leave of absence beyond the one-year period, job restoration will be dependent upon job availability, in accordance with Civil Service Law §§ 71, 72 and 73 as applicable, and the Saratoga County Civil Service Rules.

(2) Medical statement. Before resuming employment, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work either with or without restrictions. Failure to return to work when required may be considered a voluntary termination.

(3) Early return. An employee who intends to return to work earlier than anticipated must notify the department head at least five business days prior to the date the employee is able to return. The department head shall in turn notify the Town Supervisor.

(4) Extension of unpaid leave of absence. An employee who wants an extension of the leave previously requested must notify the employee's department head at least two business days from the date the change occurred which necessitates the change in leave time. The Town Board reserves the right to approve all leave extensions.

ARTICLE VII. Compensation

§ 38-52. Wage and salary.

A. Rate of pay. An employee's rate of pay will be established by the Town Board.

B. Merit increases. An employee may receive a pay increase based upon the employee's past performance. The merit increase will be granted at the discretion of the Town Board.

C. Longevity/step increments. After a full-time or part-time employee has completed the number of years of service listed below, the employee may receive an increase to his or her current pay rate as shown below. The increase will establish a new current pay rate that will be the basis for any future pay rate adjustments. The increase will be at the discretion of the Town Board and assumes the employee has not received an unsatisfactory evaluation. Years of service for a full-time employee will be based on the anniversary date of the employee's initial appointment to a full-time position.

(1) Full-time employees.

Years of Service	Increase to Current Pay Rate
1	1.5%
2	1.5%
3	2.0%
4	2.0%
5	2.0%
7	2.5%
11	2.5%
15	2.5%

Years of Service	Increase to Current Pay Rate
20	3.0%
25	3.0%

(2) Part-time employees.

Years of Service	Increase to Current Pay Rate
2	\$0.15/hour
4	\$0.15/hour
6	\$0.15/hour
8	\$0.25/hour
10	\$0.25/hour
15	\$0.50/hour
20	\$0.50/hour
25	\$0.50/hour

§ 38-53. Overtime/compensatory time.

A. Authorization. A department head may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from the employee's department head or supervisor before working additional hours, except in an emergency situation. An employee is not entitled to overtime pay or compensatory time for additional hours worked without proper authorization.

B. FLSA noncovered and exempt employees. In accordance with the Fair Labor Standards Act, FLSA noncovered and exempt employees will not be paid for overtime nor receive compensatory time for any hours worked in excess of the employee's normal workday or workweek.

C. FLSA nonexempt employees. In accordance with the Fair Labor Standards Act, a FLSA nonexempt employee will be paid 1 1/2 times the employee's regular hourly rate of pay for all authorized time worked over 40 hours in a given workweek.

D. Compensatory time. With pre-authorization from the department head, a nonexempt employee will have the option of receiving compensatory time in lieu of paid overtime. When a nonexempt employee chooses to receive compensatory time, the employee will be credited with the equivalent of 1 1/2 hours for all authorized time worked over 40 hours in a given workweek. An employee may accumulate up to 40 hours in compensatory time credits. In the event an employee accrues more than 40 hours of compensatory time credits, the employee must either use the excess compensatory leave credits within the pay-period in which it is earned or take paid overtime. An employee must use all compensatory leave credits within the calendar year in which they are earned or receive cash payment at the end of the calendar year at the employee's then-current rate of pay.

E. Credit for paid leave. Personal leave, sick leave, vacation leave, bereavement leave, jury duty leave, military leave and holidays will be included as time worked for the purpose of computing overtime/compensatory time.

§ 38-54. Pay period and check distribution.

A. Payroll period. Normally, employees are paid on a weekly basis. An employee's paycheck will be based on the amount earned during the preceding payroll period. Certain employees and elected officials may be paid on a different schedule as established by the Town Board.

B. Payday. Under normal circumstances, paychecks will be issued on a Friday. In the event the payday is a designated holiday, paychecks will be distributed on the previous workday.

C. Distribution. The Secretary to the Supervisor will deliver paychecks to the department heads for further distribution to employees.

D. Direct deposit. The Town provides a direct deposit option for employees. If elected, the paycheck will be deposited directly into the employee's account at the designated financial institution. The employee must submit a signed, written authorization for direct deposit to the Secretary to the Supervisor.

E. Authorized check release. The department head will not release a paycheck to anyone other than the employee unless the employee has submitted a signed, written authorization with the Secretary to the Supervisor.

§ 38-55. Payroll deductions.

A. Statutory deductions. The required portion of an employee's pay for federal and state taxes, and any other deduction required by law, will be deducted from the employee's paycheck. Such deductions will be noted on the paycheck.

B. Voluntary deductions. Payroll deductions provided through the Town's payroll system will be made from an employee's paycheck when authorized by the employee. Such deductions will be noted on the paycheck.

§ 38-56. Deferred Compensation Plan.

The Town of Milton has established a Deferred Compensation Plan whereby a portion of an employee's salary may be voluntarily withheld and invested. The money saved is paid out to the employee at a later date, generally during retirement years. Neither the deferred amount nor earnings on investments are subject to current federal and state income taxes. Taxes become payable when the deferred income plus earnings are distributed to the employee, presumably at retirement when the tax bracket may be lower. A description of the plan may be obtained from the Secretary to the Supervisor.

ARTICLE VIII. Employee Benefits

§ 38-57. Holidays.

A. Designated holidays.

(1) The Town of Milton will observe the following holidays:

(a) New Year's Day.

(b) Martin Luther King Day.

(c) Lincoln's Birthday.

(d) Presidents Day.

(e) Memorial Day.

(f) Fourth of July.

(g) Labor Day.

(h) Columbus Day.

(i) Election Day.

(j) Veterans' Day.

(k) Thanksgiving Day.

(l) Day after Thanksgiving.

(m) Christmas Day.

(2) Employees will be dismissed at 12:00 noon on the day preceding Christmas Day.

B. Eligibility. A full-time employee is eligible for holiday pay at the employee's regular rate of pay. A part-time, temporary, or seasonal employee is not eligible for holiday pay.

C. Holiday observance. In the event a designated holiday occurs on a Saturday, the holiday will be observed on the preceding Friday. In the event a designated holiday occurs on a Sunday, the holiday will be observed on the following Monday.

D. Holiday pay requirement. Unless otherwise authorized, an FLSA nonexempt employee must work the employee's scheduled workday before and the employee's scheduled workday after a designated holiday in order to receive holiday pay. For employees working flex hours, if a holiday falls on their regularly scheduled day off, they will not receive pay for the holiday.

[Amended 11-22-2006 by L.L. No. 4-2006]

E. Assigned to work on a holiday. A full-time FLSA nonexempt employee who is required to work on a designated holiday will receive holiday pay plus wages at 1 1/2 times the employee's regular rate of pay. A part-time, temporary, or seasonal employee who works on a designated holiday will be paid at the employee's regular rate of pay.

§ 38-58. Vacation leave.

A. Eligibility. A full-time employee is eligible for paid vacation leave in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid vacation leave but may be allowed to take time off without pay, provided the employee has prior approval from the department head.

B. Allowance. A full-time employee will be credited with paid vacation leave in accordance with the vacation schedule below. Vacation leave is based on the average number of hours an employee is normally scheduled to work each week. An employee may take vacation leave only after it has been credited. The employee will be credited on the employee's anniversary date of hire for the vacation leave earned during the previous year.

After Completion of Years of Continuous Service	Vacation Leave (weeks)
1	2
7	3
11	4

C. Continuous service. Continuous service shall mean uninterrupted service. An authorized leave of absence without pay, or a resignation followed by reinstatement within one year following such resignation, shall not constitute an interruption of continuous service. Vacation is earned only for monthly pay periods during which an employee is in full pay status for at least 15 working days during such monthly pay period.

D. Scheduling. An employee must provide a one-week notice and receive prior approval from the employee's department head to take vacation leave. Vacation leave credits may not be used in increments of less than one hour. The department head will have total discretion in the approval of vacation leave.

E. Vacation carry-over. An employee may carry over unused vacation leave credits to a maximum of five days. Any vacation leave credits in excess of five days that remain unused at the end of the year shall be cancelled. However, the Town Board may authorize additional carry-over depending upon individual circumstances.

F. Vacation buy-back. An employee may, at the discretion of the department head and Town Board, receive cash payment for any unused vacation leave credits up to a maximum of five days to which the employee is properly entitled at the employee's then-current rate of pay. To be eligible for the vacation buy-back, the employee must have used, or be scheduled to use, at least one week of vacation in that year (anniversary year, not calendar year).

[Amended 11-22-2006 by L.L. No. 4-2006]

G. Holiday during scheduled vacation. In the event a designated holiday occurs on an employee's normal workday and the employee is on paid vacation, the employee will receive holiday pay for the day and the employee's vacation leave credits will not be charged for that day.

H. Separation of employment. An employee who resigns, retires or is laid off will receive cash payment for unused vacation leave to which the employee is properly entitled at the employee's then-current rate of pay. To be eligible to receive this payment, an employee who is to resign or retire must give written notice at least two weeks in advance of the last day of employment. In the event an employee leaves employment due to disciplinary action, the employee will not receive a settlement for unused vacation leave. In cases of death of an employee, the Town will pay the employee's designated beneficiary for any unused vacation leave.

§ 38-59. Sick leave.

A. Eligibility. A full-time employee is eligible for paid sick leave in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid sick leave.

B. Allowance. A full-time employee will be credited with one day of paid sick leave for each full month worked, subject to the maximum accumulation specified below. Sick leave will be credited on the last day of the month in which it has been earned. An employee may take sick leave only after it has been credited.

C. Accrual during leaves of absence. An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence.

D. Proper use of sick leave. Sick leave is provided to protect an employee against financial hardship during an illness or injury. An employee may use sick leave credits for personal illness or injury that inhibits the employee's work, or for an appointment with a health care professional. Sick leave credits may not be used in increments of less than one hour.

E. Accumulation. An employee may accumulate sick leave credits to a maximum of 150 days.

F. Medical verification. The Town may require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave, or has used an excess amount of sick leave, or when an employee is absent for more than three consecutive workdays due to an illness or injury. If an employee is on an authorized leave of absence, the provisions of the Family and Medical Leave Policy in this Employee Handbook shall apply.

G. Abuse of sick leave. An employee who, after investigation, is found to have abused the use of sick leave or falsifies supporting documentation, will be subject to disciplinary action.

H. Separation of employment. An employee whose employment with the Town is terminated due to a resignation, layoff, or disciplinary discharge will not receive cash payment for unused sick leave. An employee who retires from the Town (i.e., has applied for and been granted a bona-fide retirement benefit from the New York State Retirement System) will receive cash payment for 1/3 of accumulated sick leave. In cases of the

death of an employee, the Town will pay the employee's designated beneficiary for any unused sick leave, up to a maximum of 1/3 of accumulated sick leave.

§ 38-60. Personal leave.

A. Eligibility. A full-time employee is eligible for paid personal leave in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid personal leave.

B. Allowance. A full-time employee will be credited with three days of paid personal leave on an annual basis. The employee will be credited on January 1 of each year. An employee may take personal leave only after it has been credited.

C. New employee. A new employee hired prior to July 1 will be credited with two days of paid personal leave. A new employee hired July 1 or later will receive one day of paid personal leave.

D. Scheduling. An employee must receive prior approval from the employee's department head to take personal leave. The department head will have total discretion in the approval of personal leave.

E. Accumulation. An employee may not accumulate personal leave credits. Any personal leave credits remaining unused at close of business on the last day of the calendar year will be canceled.

F. Separation of employment. An employee whose employment with the Town is terminated for any reason, including retirement, will not receive cash payment for unused personal leave.

§ 38-61. Disclosure of insurance benefits.

A. Summary. The following is a brief description of the insurance benefits offered by the Town to eligible employees. Eligibility for benefits is dependent upon a variety of factors, including employment classification and length of service. The description of the benefits provided is only an overview. The plan documents or specific government regulation provides a full description of the specific benefit.

B. Plan administrator. The Town contracts with an outside consultant to serve as the administrator of the Town's benefits plans. The administrator is responsible for all communications and disclosures concerning Town benefits and is available to answer questions concerning the benefit plans. A description of each of the plans may be obtained from the Secretary to the Supervisor.

C. Plan documents. Benefits are administered according to applicable government regulation, benefit plan documents, insurance carrier master policy, or Town policy. Should there be a discrepancy between the information presented in this Employee Handbook and the benefit plan document, the Town Board has the discretionary authority to determine eligibility for benefits and to interpret the plan's terms. The Town Board is responsible for compliance with all applicable laws and regulations. The Town Board may, at its discretion, change carriers, and/or offer alternative insurance plans.

D. Changes in benefits. Any benefit offered by the Town to employees or elected officials is subject to change by resolution of the Town Board.

E. Waiver of benefits. An employee who is eligible to participate in any of the available insurance plans but who elects not to participate must sign an appropriate waiver of enrollment form.

F. Enrollment information. The Secretary to the Supervisor will provide the employee with the enrollment forms and assist with the administrative and operational aspects of the various insurance plans. Enrollment in a benefit plan is not automatic. Employees must complete the appropriate enrollment forms and applicable payroll deduction authorizations in order to receive benefits.

G. Changes in status. Employees whose status changes from full-time to part-time are notified of the changes to their Town benefits. This notification contains all legally mandated information regarding applicable benefits, including COBRA health insurance continuation. An employee must immediately notify the Secretary to the Supervisor in the event that the employee has a change in marital or family status that may affect coverage,

such as marriage, divorce, legal separation, death of a spouse or dependent, acquiring or losing a dependent, or changes in address.

H. Beneficiary. Under some of the Town's benefit plans, each employee must designate a beneficiary for the employee's death benefits. This designation must be made in writing and on the form provided by the plan administrator.

§ 38-62. Medical insurance.

A. Eligibility. The Town will make available medical insurance coverage to each elected or appointed official, full-time employee and their eligible family members. All part-time, temporary, and seasonal employees and all appointed board or committee member(s) are not eligible for such medical insurance coverage.

[Amended 11-22-2006 by L.L. No. 4-2006]

B. When coverage begins. Coverage will begin on the employee's first day of employment or, for elected officials, the first day of office, provided all eligibility requirements of the insurance plan are met.

C. Premium payment (full-time employees). The Town will pay the full premium for individual or family medical insurance coverage, as the case may be, for each eligible full-time employee who was hired prior to January 1, 2003. The Town will pay 90% of the premium for individual or family medical insurance coverage, as the case may be, for those employees hired on or after January 1, 2003.

D. Premium payment (elected or appointed officials). The Town will pay the full premium for individual or family medical insurance coverage, as the case may be, for each eligible elected or appointed official whose first term of office commenced prior to January 1, 2003. The Town will pay 90% of the premium for individual or family medical insurance coverage, as the case may be, for those elected or appointed officials whose first term of office commenced on or after January 1, 2003.

[Amended 11-22-2006 by L.L. No. 4-2006]

E. Changes in premium contributions. The amount of the insurance premium an employee or elected or appointed official is required to contribute is subject to change from time to time by resolution of the Town Board. The Town Board will provide a minimum two-month written notice of such change.

[Amended 11-22-2006 by L.L. No. 4-2006]

§ 38-63. Dental plan.

A. Eligibility. The Town will make available a dental plan to each elected and appointed official and full-time employees. All part-time, temporary, and seasonal employees, and all appointed board or committee members are not eligible for this plan.

[Amended 11-22-2006 by L.L. No. 4-2006]

B. When coverage begins. Coverage will begin on the employee's first day of employment or, for elected or appointed officials, the first day of office, provided all eligibility requirements of the insurance plan are met.

[Amended 11-22-2006 by L.L. No. 4-2006]

C. Premium payment (full-time employees). The Town will pay the full premium for individual or family dental plan coverage, as the case may be, for each eligible full-time employee who was hired prior to January 1, 2003. The Town will pay 90% of the premium for individual or family dental plan coverage, as the case may be, for those employees hired on or after January 1, 2003.

D. Premium payment (elected or appointed officials). The Town will pay the full premium for individual or family dental plan coverage, as the case may be, for each eligible elected or appointed official whose first term of office commenced prior to January 1, 2003. The Town will pay 90% of the premium for individual or family

dental plan coverage, as the case may be, for those elected or appointed officials whose first term of office commenced on or after January 1, 2003.

[Amended 11-22-2006 by L.L. No. 4-2006]

E. Changes in premium contributions. The amount of the dental insurance premium an employee or elected or appointed official is required to contribute is subject to change from time to time by resolution of the Town Board. The Town Board will provide a minimum two-month written notice of such change.

[Amended 11-22-2006 by L.L. No. 4-2006]

§ 38-64. (Reserved)

Editor's Note: Original § 38-64, Medical insurance buy-out, was repealed 11-22-2006 by L.L. No. 4-2006.

§ 38-65. Medical and dental insurance for retirees.

A. Coverage. The Town will make available medical and dental insurance coverage to an eligible full-time employee or elected or appointed official who retires from the Town. Family coverage is available for an eligible spouse and/or dependents if the spouse and/or dependents were covered under the Town's medical and dental insurance plan at the employee's date of retirement. In the event the retiree predeceases the spouse and/or dependents, the spouse and/or dependents may continue medical coverage until such time that the spouse remarries, dies, or becomes otherwise ineligible under the plan documents. Coverage of a spouse at the time of divorce or legal separation is in accordance with plan documents and COBRA requirements.

[Amended 11-22-2006 by L.L. No. 4-2006]

B. Eligibility. To be eligible for coverage, the retiree must be age 55 or older at the time he or she retires from the Town, and must have at least 10 years of continuous, uninterrupted service with the Town. In addition, the employee or elected or appointed official must meet all the requirements for retirement benefits from the New York State Employees Retirement System.

[Amended 11-22-2006 by L.L. No. 4-2006]

C. Plan. The Town Board may, at its discretion, change the medical and dental insurance plan at any time, including, but not limited to, type and scope of coverage, retiree contributions, and name of carrier.

[Amended 11-22-2006 by L.L. No. 4-2006]

D. Premium payment. The Town will pay the full premium for individual or family medical and dental insurance coverage, as the case may be, for each eligible retiree whose hire date or first term of office was prior to January 1, 2003. The Town will pay 90% of the premium for individual or family medical and dental coverage, as the case may be, for each eligible retiree whose hire date or first term of office was after January 1, 2003. Upon death of the retiree, the Town will continue to pay the premium, as previously described, for coverage of the surviving spouse and/or dependents. Such payment for a surviving spouse will cease upon remarriage or if the spouse otherwise becomes ineligible under the plan documents. Payment for surviving dependents will cease upon death of the surviving spouse or in accordance with the plan documents.

[Amended 11-22-2006 by L.L. No. 4-2006]

E. Changes in premium contributions. The amount of the insurance premium a retiree or retiree's spouse is required to contribute is subject to change by resolution of the Town Board. The Town Board will provide a two-month written notice of such change.

F. Medicare Part B reimbursement. The Town will reimburse an eligible retiree and the retiree's spouse for the cost of the Medicare Part B premium. Reimbursement will cease for a spouse upon legal separation or divorce. The Town Board may, through resolution of the Town Board and in compliance with applicable insurance plan documents, modify or eliminate this reimbursement for any retiree or retiree's spouse. The Town Board will provide a two-month written notice of such change.

§ 38-66. Continuation of health insurance benefits (COBRA).

A. Summary. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) offers qualified beneficiaries the right to continue existing health insurance coverage, completely at their own expense, under certain qualifying conditions. All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue.

B. Eligibility. An individual is a qualified beneficiary if the individual is covered under a group health plan on the day before a qualifying event as either a covered employee or elected official, the spouse of a covered employee or elected official, or a dependent child of a covered employee or elected official. A child who is either born to or who is placed for adoption with the covered employee or elected official during a period of COBRA coverage is also a qualified beneficiary entitled to COBRA coverage.

C. Qualifying events. If a qualified beneficiary loses coverage under a group health plan as a result of a qualifying event, the qualified beneficiary is entitled by COBRA to the continuation of group health insurance coverage at the qualified beneficiary's own expense and for a limited time as described below. The COBRA requirements do not put any limit on the number of times a qualified beneficiary may be entitled to COBRA continuation coverage. COBRA coverage is in effect for a period of up to 18, 29, or 36 months, depending upon any of the following qualifying events:

(1) An eighteen-month continuation will be available to a qualified beneficiary in the event of the covered employee's (or elected official's) termination of employment for any reason except gross misconduct, or the covered employee's loss of eligibility to participate due to reduced work hours.

(2) A twenty-nine-month continuation will be available to a qualified beneficiary in the event that the qualified beneficiary is disabled, per a determination under the Social Security Act, or becomes disabled within the first 60 days of COBRA coverage. The qualified beneficiary must provide the plan administrator with notice of the disability within 60 days of the determination of the disability by social security and before the end of the original eighteen-month COBRA coverage period. The qualified beneficiary must notify the plan administrator of a determination by social security that the individual is no longer disabled within 30 calendar days of such determination.

(3) A thirty-six-month continuation will be available to a qualified beneficiary in the event of any one of the following:

(a) Death of a covered employee or elected official;

(b) Divorce or legal separation from a covered employee or elected official;

(c) A covered dependent child's loss of eligibility to participate in the insurance plan due to the covered employee or elected official becoming covered by Medicare as a result of total disability or choosing Medicare in place of the insurance plan at age 65; or

(d) A covered dependent ceases to be a dependent child under the health insurance plan.

D. Limitations. In the event an employee or elected official becomes covered by Medicare, but no loss of coverage results for the employee or elected official or the covered dependents, and a subsequent qualifying event occurs, the duration of coverage for all qualified beneficiaries will be 36 months from the date of the termination or reduction in hours. A qualified beneficiary may be covered under multiple qualifying events, but in no case will coverage be continued for more than 36 months.

E. Change in beneficiary status. An employee or elected official must notify the Town within 60 calendar days of a legal separation or divorce or when a dependent is no longer eligible for insurance due to the age limitations or educational status requirements established by the insurance plan. The Town will not be responsible for any loss of coverage resulting from failure by the employee or elected official to give notification of such an event.

F. Enrollment information. The Secretary to the Supervisor will provide the employee or elected official with the enrollment forms and assist with the administrative and operational aspects of COBRA. Enrollment is not automatic. The employee or elected official must complete the necessary enrollment forms and return all

COBRA forms to the Secretary to the Supervisor within the time indicated. If the required forms or premium payments are not received at the time specified, medical insurance coverage will cease.

§ 38-67. Short-term disability benefits.

A. Eligibility. A full-time employee is provided with short-term disability coverage in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid short-term disability coverage. This benefit is to supplement loss of time from work due to a qualified non-job-related illness or injury.

B. When coverage begins. Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements.

C. Disability payments. Disability payments will be in accordance with the terms of the policy. The duration of disability benefits is dependent upon a physician's certification and consistent with the terms of the policy. There may be a waiting period before an employee can become eligible for disability payments. Full details regarding the policy currently in effect are available from the Secretary to the Supervisor.

D. Premium payment. Employees contribute a small amount towards NYS Disability Insurance. The remaining portion is paid by the Town.

E. Reporting of illness or injury. The employee or legal designee must submit a written report of the illness or injury on the proper application form to the employee's department head and the Secretary to the Supervisor within 24 hours of the occurrence. The Secretary to the Supervisor will provide the employee with the necessary forms. Proper medical certification will be required and must be submitted with the application form.

F. Use of sick leave credits. An employee may draw from the employee's sick leave credits in conjunction with disability payments to equal, but not exceed, the employee's regular daily rate of pay.

G. Medical insurance coverage. The Town will continue medical insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

§ 38-68. Workers' compensation benefits.

A. Coverage. The Town will make available workers' compensation benefits, including payment of medical costs and replacement of lost wages up to the regulated maximum, to each eligible employee who suffers an accidental injury arising out of and in the course of employment, as determined by the Workers' Compensation Board. Eligibility for coverage is determined by applicable workers' compensation regulations.

B. When coverage begins. Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements.

C. Premium payment. The Town will pay the full premium for workers' compensation coverage for each eligible employee.

D. Reporting of injury. The employee must report any accidental injury arising out of and in the course of employment to the department head immediately after the occurrence of the injury. The department head will notify the Secretary to the Supervisor, who will complete and submit the required forms. For a Highway Department employee, the Highway Superintendent will complete and submit the required forms. Any employee who refuses medical attention shall sign a required waiver of medical attention form.

E. Use of sick leave credits. An employee may draw from the employee's sick leave credits in conjunction with workers' compensation payments to equal, but not exceed, the employee's regular daily rate of pay.

F. Medical insurance coverage. The Town will continue medical insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

§ 38-69. Unemployment benefits.

Coverage. The Town will make available unemployment benefits to each eligible employee ruled eligible for benefits under New York State Labor Law.

§ 38-70. Social security.

Social security benefits are available for retirement, survivor's benefits, and medical costs under qualifying conditions, as determined by the Federal Social Security Administration Office. Employee contributions to social security (FICA) are matched by the Town.

§ 38-71. New York State Employees' Retirement System.

A. Summary. The Town will make available the New York State Employees' Retirement System pension plan to each eligible employee. An employee is eligible for service retirement benefits after five years of creditable public sector service. In the event an employee leaves after five years of service but prior to retirement age, such employee may receive a benefit at retirement age related to those years as a public sector employee.

B. Mandatory membership. A full-time employee who began employment with the State of New York or with a participating employer, on or after July 27, 1976, must join the retirement system. An employee who is appointed to a permanent, full-time position on a probationary basis must join the retirement system on the effective date of the probationary appointment. Employment is considered full-time unless:

- (1) The employee works fewer than 30 hours per week; or
- (2) The annual compensation for the position is less than the state's minimum wage multiplied by 2,000 hours; or
- (3) Duration of employment for less than one year or employment on less than a twelve-month-per-year basis; or
- (4) The position is either provisional or temporary under Civil Service Law.

C. Optional membership. An employee who is not mandated to join may join the retirement system. Such employee will be informed, in writing, that the employee may join the retirement system and will acknowledge receipt of such notice by signing a copy thereof and returning it to the Secretary to the Supervisor. If the employee elects to join the retirement system, the employee must complete the application form and return it to the Secretary to the Supervisor.

D. Waiver of enrollment. An employee who is not mandated to join the retirement system, and who chooses not to join, must complete a waiver of enrollment form.

ARTICLE IX. Compliance Policies

§ 38-72. Americans with Disabilities Act.

A. Policy statement. It is the policy of the Town of Milton to fully comply with the provisions and spirit of the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities. All employment practices, such as recruitment, hiring, promotion, demotion, layoff and return from layoff, compensation, job assignments, job classifications, paid or unpaid leave, fringe benefits, training, and employer-sponsored activities, including recreational or social programs, will be conducted so as not to discriminate unlawfully against persons with disabilities. This also extends to prohibit discrimination based on a person's relationship or association with a disabled individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) along with work assignments, classifications, seniority, leave, and all other forms of employment compensation or advantage.

B. Reasonable accommodation. Reasonable accommodation is available to all qualified employees and applicants with disabilities, unless it imposes an undue hardship on the Town and/or operations of a program.

C. Preemployment inquiries. Preemployment inquiries are made only regarding an applicant's ability to perform the duties of the position and not any disabling condition. Preemployment physical exams will only be

requested when in compliance with the law. The Town of Milton intends to base employment decisions on principles of equal employment opportunity and nondiscrimination, as defined by law.

D. Notification of policy violations. An employee should immediately report any perceived violation of this policy to the employee's department head. In the event the employee is unable to discuss this matter with the department head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint. This procedure is not intended to restrict an individual's rights to make a complaint to a federal or state agency.

E. Application of policy. This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third-party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

§ 38-73. Equal opportunity employment.

A. Policy statement. The Town of Milton is an equal opportunity employer. The Town does not discriminate on the basis of race, religion, color, sex, age, national origin, disability, marital status, military or veteran status, arrest/criminal record, genetic predisposition or carrier status, or sexual orientation. Discrimination based on any of the above is strictly prohibited. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence, and termination.

B. Notification of policy violations. An employee should immediately report any perceived violation of this policy to the employee's department head. In the event the employee is unable to discuss this matter with the department head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.

C. Application of policy. This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of a higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

§ 38-74. Fair treatment.

A. Policy statement. It is the policy of the Town to promote a productive work environment in which all employees are treated with fairness, respect, and dignity. The Town will not tolerate harassment or discrimination of any kind in the workplace.

B. Notification of policy violations. An employee should immediately report any kind of harassment or discrimination in the workplace to the employee's department head. In the event the employee is unable to discuss this matter with the department head, the complaint should be reported, in writing, to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports harassment or discrimination in the workplace will not suffer adverse employment consequences as a result of making the complaint.

§ 38-75. Sexual harassment.

A. Policy statement. It is the policy of the Town of Milton to promote a productive work environment. As with discrimination involving race, color, national origin, religion, disability, age, marital status, or military status, the Town of Milton prohibits sex discrimination, including sexual harassment of its employees in any form. No form of harassment will be tolerated. The Town will take all steps necessary to prevent and stop the occurrence of sexual harassment in the workplace. The accompanying complaint procedure is intended to provide an effective mechanism for reporting, and resolving promptly, complaints of sexual harassment without any risk of repercussion to a complaining employee for filing a complaint of sexual harassment in good faith.

B. Applicability of policy. This policy applies to all Town employees and officials regardless of supervisory level, whether employed full- or part-time, temporary or seasonal, whether elected or appointed and regardless of compensation level, and all personnel in a contractual relationship with the Town. Depending on the extent of

the Town's exercise of control, this policy may be applied to the conduct of non-Town employees with respect to sexual harassment of Town employees in the workplace.

C. Supervisory responsibility. Department heads and supervisory personnel are responsible for ensuring a work environment free from unsolicited, unwelcome and intimidating sexual overtures. Supervisors must take immediate and appropriate corrective action, when instances of sexual harassment come to their attention, to assure compliance with this policy.

D. Definition of sexual harassment.

(1) Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, such as promotion, transfer, or termination, affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(2) Sexual harassment refers to behavior that is not welcome, that is personally and objectively offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with an employee's work performance and/or effectiveness or creates an intimidating, hostile or offensive working environment. Exposure to such conduct that serves to alter the terms and conditions of employment is prohibited by this policy and state and federal law.

E. Forms of sexual harassment. Specific forms of behavior that the Town of Milton considers sexual harassment and which are prohibited include, but are not limited to, the following:

(1) Verbal harassment of a sexual nature related to an employee's gender, including sexual innuendoes, slurs, sexual slurs, suggestive, derogatory, insulting or lewd comments or sounds, whistling, jokes of a sexual nature, sexual propositions and/or threats.

(2) Sexually oriented comments about an employee's body that are unwelcome and/or unreasonably interfere with an employee's work performance or create an intimidating, hostile, or offensive working environment.

(3) Any sexual advance that is unwelcome or any demand for sexual favors.

(4) Sexually suggestive written, recorded or electronically transmitted material, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment.

(5) Physical contact of any kind, which is not welcome, including touching, grabbing, hugging, fondling, jostling, petting, pinching, coerced sexual intercourse or sexual relations, assault or intentional brushing up against a person's body.

F. Reporting of sexual harassment. Employees are encouraged to report incidents of sexual harassment to their immediate supervisor as soon as possible after their occurrence. If the employee's immediate supervisor is believed to be involved in the incident, the report should be made directly to the employee's department head. If the employee's department head is believed to be involved in the incident, the report should be made directly to the Town Supervisor or any member of the Town Board. Employees who believe they have been sexually harassed and would like to obtain guidance as to how to proceed in filing a complaint should contact their immediate supervisor, department head, the Town Supervisor or any member of the Town Board.

G. Confidentiality. Complaints of harassment will be handled and investigated promptly and in as impartial and confidential a manner as possible. In no event will information concerning a complaint be released by the Town to third parties or to anyone within Town employment who is not directly involved in the investigation of the complaint unless otherwise required by law.

H. Investigation of complaint. Generally, investigation of a complaint will be conducted by the complainant's department head or immediate supervisor and will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident(s) occurred. In those instances when a department head or supervisor requests or requires assistance, or when the department head or supervisor is named in the complaint or involved in the incident, the Town Board will appoint an individual to conduct the investigation.

I. Employee defense. Any employee charged with sexual harassment will be afforded a full and fair opportunity to offer and present information in the employee's defense. Such information will be confidential to the extent possible.

J. Employee rights. Nothing in this policy should be construed as in any way limiting employees' rights to use the dispute resolution procedure as described in this Employee Handbook.

K. Disciplinary action. Any employee or official who is found to have committed an act of sexual harassment will be subject to disciplinary action, up to and including termination of employment, as provided by Town operating procedures.

L. Prohibition against retaliation. Intimidation, coercion, threats, reprisal or discrimination against any employee who in good faith brings a written or verbal sexual harassment complaint or who assists or aids in the investigation of such a complaint is prohibited. Any employee who participates in the procedure may do so without fear of retaliation. Retaliation against any employee who has filed a sex discrimination or sexual harassment complaint is illegal and may result in disciplinary action.

§ 38-76. Drug-free workplace.

A. Statement of compliance. The Federal Drug-Free Workplace Act of 1988 is applicable to all recipients of federal grants. In order to receive federal funds, the Town must certify to the granting federal agency that it will provide a drug-free workplace in accordance with the legislation. As a recipient of federal grants, the Town hereby complies with the requirements of the Drug-Free Workplace Act by adopting the following policy and drug-free awareness program:

B. Policy statement. It is the policy of the Town of Milton that the unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance, as defined in the federal act, is prohibited on the job or at the workplace.

C. Implementation of policy. This policy will be distributed to all employees and officials of the Town.

D. Sanctions. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is strictly prohibited in all workplaces and work sites. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to criminal, civil and disciplinary penalties, up to and including dismissal from employment.

E. Employee responsibilities. As a condition of the Town receiving federal grant monies, each employee must abide by this policy and notify the department head of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction.

F. Town responsibilities. The Town will notify the granting federal agency within 10 days after receiving notice from an employee of such a conviction or otherwise receiving actual notice of such conviction. In addition, within 30 calendar days of receiving notice of a conviction, the Town will take disciplinary action against the employee and/or require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program pursuant to Sections 702 and 703 of the Drug-Free Workplace Act.

G. Drug-free awareness program. It is the policy of the Town of Milton to maintain a drug-free workplace. In accordance with that policy, the Town is providing the following drug-free awareness information to raise employee awareness of the dangers associated with the drug abuse in the workplace.

H. Dangers of drug abuse in the workplace. Employees with chemical dependence problems have a major negative impact on productivity, staff morale, and labor/management relations. Their hidden illness is responsible for:

(1) Declining performance:

- (a) Poor concentration.
- (b) Confusion in following directions.
- (c) Noticeable change in the quality of work.
- (d) Inability to meet deadlines.
- (e) Errors in judgment affecting the health and safety of others.
- (f) Customer complaints and injuries.

(2) Increased costs:

- (a) Five times the average sick and accident benefits.
- (b) Higher job turnover, replacement and training costs.
- (c) Greater workers' compensation and health insurance payments.
- (d) Three to five times more on-the-job accidents.
- (e) Unemployment claims.

(3) Absenteeism and tardiness:

- (a) Double the normal rate.
- (b) Repeatedly being late for work and often leaving early.
- (c) Extended lunch hours.
- (d) Frequent illness and accidents both on and off the job.

(4) Damaged relationships: emotional outbursts, over-reaction to criticism, mood swings, complaints from co-workers, associates and the public often leading to damaged relations.

§ 38-77. Controlled substance and alcohol testing.

A. Statement of compliance. The Town Board has adopted a Controlled Substance and Alcohol Testing Policy that is in compliance with the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The purpose of this policy is to reduce accidents resulting from an employee's use of controlled substances and alcohol, thus reducing fatalities, injuries and property damage.

B. Covered employees. The Town's Controlled Substance and Alcohol Testing Policy applies to all covered drivers as defined by the federal regulations, which includes all employees who drive commercial motor vehicles (as defined in Section 382.107 of the OTETA) requiring a commercial driver's license to operate.

C. Acknowledgment form. A covered employee will receive a written copy of the Controlled Substance and Alcohol Testing Policy and must sign an Employee Acknowledgment Form. This form will be placed in the employee's personnel file. Editor's Note: A copy of the Employee Handbook Acknowledgment Form is included at the end of this chapter.

§ 38-78. Smoking restrictions.

Smoking is prohibited in all Town buildings and all Town vehicles.

ARTICLE X. Safety

§ 38-79. Workplace safety.

A. Policy statement. Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Town to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.

B. Employee responsibility. In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, it is the responsibility of the employee to fully understand the correct operation and possible hazards involved, safety procedures, and necessary safety equipment required to perform the job.

C. Safety program. The Town's safety program includes, but is not limited to, the following:

- (1) Providing mechanical and physical safeguards to the maximum extent possible;
- (2) Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards, and comply with the safety and health standards for every job;
- (3) Training all employees in safety and health practices;
- (4) Providing necessary personal protective equipment and instructions for its use and care;
- (5) Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment;
- (6) Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences;
- (7) Providing first-aid kits and fire extinguishers throughout buildings and facilities.

D. Accident plan. In the event of an accident, an employee must immediately stop work and take the following steps:

- (1) Eliminate the immediate cause of the accident;
- (2) Provide aid to the injured person and summon for assistance;
- (3) Call the department head immediately;
- (4) If the accident appears serious, call an ambulance; and

- (5) Take steps to prevent additional accidents.

E. Accident reporting procedures. In the event an accident occurs in the workplace or in the course of employment, the following procedures will apply:

- (1) When an accident occurs which results either in the loss of an employee's work time, or in the provision of medical care to an employee, the employee must immediately notify the department head. For Highway Department employees, the Highway Superintendent will complete and submit an employer's report of injury form (C-2) according to operating procedures. For all other employees, the Secretary to the Supervisor will complete and submit an employer's report of injury form (C-2) according to operating procedures.
- (2) When an accident occurs which does not result in the loss of an employee's work time, or in the provision of medical care to the employee, the employee must immediately notify the department head. For Highway Department employees, the Highway Superintendent will complete and submit a supervisor's report of incident form. For all other employees, the Secretary to the Supervisor will complete and submit a supervisor's report of incident form.
- (3) The Highway Superintendent will keep a log of the injury or illness for five years following the end of the calendar year to which it relates. A copy of this log, which includes totals and information for the year, must be posted in each department or areas where notices to employees are customarily posted.

§ 38-80. Hazard communication program.

A. Statement of compliance. The Town of Milton is committed to providing a safe and healthy work environment and complies with all federal, state and local laws regarding hazard recognition, accident prevention, and working conditions. The Town considers hazard communication and the prevention of workplace injuries and illnesses to be of prime importance.

B. Guidelines. The following guidelines for the identification of chemical hazards and the preparation and proper use of containers, labels, placards, and other types of warning devices must be adhered to:

- (1) Chemical inventory. The Highway Department and Buildings Department maintain an inventory of all known chemicals in use. An employee may obtain the chemical inventory from the employee's supervisor or department head.
- (2) Container labels. All chemicals on a work site must be stored in the original or approved containers with the proper label attached. The department head must ensure that each container is labeled with the identity of the hazardous chemical contained and any appropriate hazard warnings. The Town will rely on manufacturer applied labels whenever possible. A container not properly labeled must be given to the department head for labeling or proper disposal.
- (3) Dispensing chemicals. An employee may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical leftover must be returned to the original container or to the employee's department head for proper handling. No unmarked containers of any size are to be left in the work area unattended.

C. Material safety data sheets (MSDS). An employee working with a hazardous chemical shall obtain a copy of the material safety data sheet (MSDS) and a standard chemical reference from the employee's department head.

D. Employee training. An employee must be trained to work safely with hazardous chemicals. This training program must cover the following areas:

- (1) Methods used to detect the release of hazardous chemicals in the workplace;
- (2) Physical and health hazards of chemicals and the measures used to protect employees;
- (3) Safe work practices;

- (4) Emergency responses to the exposure of hazardous chemicals;
- (5) Proper use of personal protective equipment; and
- (6) Hazard communication standards, including labeling and warning systems, and an explanation of the use of material safety data sheets.

E. Personal protective equipment (PPE). Depending on job duties, an employee must routinely wear protective devices, such as gloves and safety glasses, as directed by the supervisor. An employee who is required to wear special safety equipment as directed by the supervisor must comply with such request.

F. Emergency response. Any incident of overexposure or spill of a hazardous chemical/substance must immediately be reported to the employee's supervisor. The supervisor must insure that proper emergency response actions are taken.

G. Hazards of nonroutine tasks. The department head must inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals. Review of safe work procedures and use of required PPE must be conducted prior to the start of these tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

ARTICLE XI. Communication Procedures

§ 38-81. Bulletin board.

A. Summary. Bulletin boards are located throughout Town buildings for communicating information to employees. An employee should check the bulletin boards frequently to keep informed on changes in employment matters and other items of interest.

B. Posting of material. All material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate department head.

§ 38-82. Adverse correspondence.

A. Written communication. An employee who receives a memo, fax message, letter, telegram, e-mail, legal notice, summons, or other form of communication of a negative nature must immediately forward the document to the appropriate department head.

B. Verbal communication. An employee who receives a verbal complaint from a Town resident of unfair treatment or expressions of anger or dissatisfaction must immediately notify the appropriate department head.

§ 38-83. Suggestions.

Giving and receiving feedback is encouraged in order to promote a positive, productive, and cooperative atmosphere. Employees should notify their supervisor or department head of any suggestions which may be valuable to the Town's productivity and success. All suggestions will be carefully reviewed and implemented if feasible.

§ 38-84. Public relations.

The courteous, professional treatment of members of the public by all employees helps to build confidence among the taxpayers we serve. We ask that all employees make every effort to represent the Town in a polite and professional manner.

§ 38-85. Media relations.

For those issues identified by the Town Board as requiring special attention, the Town Board will designate an individual to act as Media Relations Officer. With respect to such issues, all requests for information from the media (e.g., television, radio, and newspaper) must be referred to the Media Relations Officer. All press releases,

publications, articles, and any other documents for release to the media must be approved in advance by the Media Relations Officer.

ARTICLE XII. Dispute Resolution

§ 38-86. Dispute resolution procedure.

A. Policy statement. The Town Board has established a set of procedures to provide for the orderly resolution of differences at the earliest possible stage and to promote a harmonious and cooperative relationship between employees, department heads and members of the Town Board which will enhance the overall operation of the Town. The Town will attempt to resolve all work-related complaints that are appropriate for handling under this policy.

B. Definition of dispute. For the purpose of this Employee Handbook, a "dispute" will mean a claimed violation, misinterpretation or inequitable application of any of the provisions of this Employee Handbook. In addition, the term "dispute" shall not apply to any matter as to which the Town is without authority to act. Examples of matters that may be considered appropriate disputes under this policy include:

- (1) A belief that Town policies, practices, rules, regulations, or procedures have been applied in a manner detrimental to an employee;
- (2) Treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation;
- (3) Alleged discrimination because of race, color, sex, age, religion, national origin, marital status, or disability; and
- (4) Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, salary, or seniority.

C. Step One.

(1) An employee who claims to have a dispute may present the dispute to the employee's immediate supervisor. The dispute must be submitted, in writing, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. The dispute will specify the date of submission, the name of the aggrieved employee, the date the dispute arose, the nature of the dispute, the provision of the Employee Handbook that was allegedly violated and a statement of facts, times, dates, and the remedy sought.

(2) Within seven working days after receiving the dispute, the employee's immediate supervisor will meet with the employee to discuss and attempt to resolve the matter.

D. Step Two.

(1) In the event the informal dispute is not resolved at Step One, or the employee reasonably believes that the employee cannot present the dispute to the employee's immediate supervisor, the employee may submit the matter to the employee's department head. The dispute must be submitted, in writing, within seven working days from receiving the Step One response, or when the response should have been received or if Step One is not utilized for the above reason, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. The department head will forward a copy of the dispute to the Town Supervisor.

(2) Within seven working days after receiving the dispute, the department head will meet with the employee to discuss and attempt to resolve the matter. Within seven working days from the meeting, the department head will issue a written response which will be given to the Town Supervisor and the employee.

E. Step Three.

(1) In the event the employee is not satisfied with the response at Step Two, the employee may submit the matter to the Town Supervisor. The dispute must be submitted, in writing, within seven working days from receiving the Step Two response, or when the response should have been received.

(2) Within seven working days after receiving the dispute, the Town Supervisor will investigate the matter and issue a written response which will be given to the employee.

F. Step Four.

(1) In the event the employee is not satisfied with the response at Step Three, the employee may submit the matter to the Town Board by filing a request for hearing with the Town Clerk. The request for hearing must be submitted, in writing, within seven working days from receiving the Step Three response, or when the response should have been received. The request for hearing will include a written statement of the dispute as outlined in Step One of this procedure.

(2) The Town Board will set the time and place for the hearing. All decisions rendered by the Town Board will be final and binding.

G. Time limits. The employee must adhere to the time limits set forth in this dispute procedure. In the event the employee does not advance the dispute to the next step within the established time limit, the dispute will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement, provided the extension is in writing, dated and signed by the employee and the person who is to receive the dispute.

H. Final decisions. Final decisions on disputes will not be precedent-setting or binding on future disputes unless they are stated as official Town policy.

I. Proper use of dispute resolution procedure. Employees will not be penalized for proper use of the dispute resolution procedure. However, it is not considered proper use if an employee raises a dispute in bad faith or solely for the purposes of delay or harassment, or repeatedly raises meritless disputes. Implementation of the dispute procedure by an employee does not limit the right of the Town to proceed with any disciplinary action that is not in retaliation for the use of this procedure.

J. Refusal to proceed with dispute. The Town Board may, at its discretion, refuse to proceed with any dispute it determines is improper or baseless under this policy.

Attachments:

38a Employee Acknow

CHAPTER 40. PROCUREMENT POLICY

§ 40-1. Evaluation of prospective purchases.

§ 40-2. Purchases requiring formal bid.

§ 40-3. Purchases requiring written or oral quotes or proposals.

§ 40-4. Lowest responsible proposal to be awarded contract.

§ 40-5. Obtaining required number of proposals.

§ 40-6. Exceptions.

§ 40-7. Responsibility of purchasing agent.

§ 40-8. Annual review of policy.

CHAPTER 40. PROCUREMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Milton 1-6-1992. Amendments noted where applicable.]

§ 40-1. Evaluation of prospective purchases.

Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law § 103. Every Town officer, board department head or other personnel with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment

needed in a given fiscal year. That estimate shall include the canvass of other 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.

§ 40-2. Purchases requiring formal bid.

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 § 103 of the General Municipal Law.

§ 40-3. Purchases requiring written or oral quotes or proposals.

A. All estimated purchases of:

(1) Less than \$10,000 but greater than \$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 \$50 require an oral request for the goods and oral/fax quotes from two vendors.

B. All estimated public works contracts of:

(1) Less than \$20,000 but greater than \$10,000 require a written RFP and fax/proposals from three contractors.

(2) Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from two contractors.

(3) Less than \$3,000 are left to the discretion of the purchaser.

C. Any written RFP shall describe the desired goods and quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax oral quotes offered.

D. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

§ 40-4. Lowest responsible proposal to be awarded contract.

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 lowest bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 40-5. Obtaining required number of proposals.

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.

§ 40-6. 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.

§ 40-7. Responsibility of purchasing agent.

The central purchasing agent will be responsible for all quotes and documentations of purchases.

§ 40-8. Annual review of policy.

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

CHAPTER 43. RECORDS

ARTICLE I. Disposition and Retention

§ 43-1. Adoption of schedule.

§ 43-2. Disposition of records.

ARTICLE II. Public Access

§ 43-3. Purpose and scope.

§ 43-4. Records access officer.

§ 43-5. Location of records.

§ 43-6. Hours for inspection.

§ 43-7. Requests for access.

§ 43-8. Subject matter list.

§ 43-9. Denial of access; appeals.

§ 43-10. Fees.

§ 43-11. Public notice.

CHAPTER 43. RECORDS

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

ARTICLE I. Disposition and Retention

[Adopted 2-15-1989]

§ 43-1. Adoption of schedule.

The 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 government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 43-2. Disposition 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. Public Access

[Adopted 3-19-1997 by L.L. No. 5-1997]

§ 43-3. 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.

§ 43-4. Records access officer.

A. The Town Board of the Town of Milton 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) Maintain an up-to-date subject matter list.

(2) Assist the requester in identifying requested records, if necessary.

(3) Upon locating the records, take one 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.

(4) Upon request for copies of records:

(a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 43-10; or

(b) Permit the requester to copy those records.

(5) Upon request, certify that a record is a true copy.

(6) Upon failure to locate records, certify that:

(a) The Town of Milton is not the custodian for such records; or

(b) The records of which the Town of Milton is a custodian cannot be found after diligent search.

§ 43-5. Location of records.

Records shall be available for public inspection and copying at the office of the Town Clerk, 503 Geyser Road, Ballston Spa, New York.

§ 43-6. Hours for inspection.

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

§ 43-7. Requests for access.

A. A written request may be required, but oral requests may be accepted. Requests and responses to such request may be made via electronic mail, as set forth in Public Officers Law § 89, Subdivision 3(b). Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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.

§ 43-8. Subject matter list.

A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.

B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 43-9. 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 § 43-7D 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 § 43-7D.

(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.

§ 43-10. 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).

§ 43-11. Public notice.

A notice containing the title or name and business address of the records access officer and appeals body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in the official newspaper of the Town.

CHAPTER 44. RECREATION COMMITTEE

§ 44-1. Committee established.

CHAPTER 44. RECREATION COMMITTEE

[HISTORY: Adopted by the Town Board of the Town of Milton 12-20-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation — See Ch. 127.

§ 44-1. Committee established.

[Amended 1-17-1990]

The formation of a Town of Milton Recreation Committee to consist of seven members and a Secretary is hereby authorized.

CHAPTER 46. RETIREMENT

ARTICLE I. Additional Benefits

§ 46-1. Additional benefits elected.

§ 46-2. When effective.

ARTICLE II. Health Insurance

§ 46-3. Payment of premiums; eligibility criteria; family coverage.

CHAPTER 46. RETIREMENT

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

GENERAL REFERENCES

Personnel policies — See Ch. 38.

ARTICLE I. Additional Benefits

[Adopted 3-21-1990]

§ 46-1. Additional benefits elected.

The Town Board of the Town of Milton does hereby elect to provide the additional pension benefits of §§ 75-e, 75-g and 75-i of the Retirement and Social Security Law, as presently or hereafter amended.

§ 46-2. When effective.

This election shall become effective on the 22nd day of March 1990. The chief fiscal officer and the Town Clerk are authorized to sign the necessary papers with the New York State and local retirement systems.

ARTICLE II. Health Insurance

[Adopted 10-17-1990; amended in its entirety 11-22-2006 by L.L. No. 4-2006]

§ 46-3. Payment of premiums; eligibility criteria; family coverage.

Upon retirement from the Town of Milton, the Town will pay the medical and dental insurance premiums, as set forth in Chapter 38, Article VIII, § 38-65, for all elected and appointed Town of Milton officials and full-time employees who have reached the age of 55 years and have completed 10 or more years of continuous service for the Town of Milton. In any event, the premium paid will cover the retiree and the retiree's family as set forth in said section.

CHAPTER 63. ANIMALS

ARTICLE I. Dog Control

§ 63-1. Running at large prohibited.

§ 63-2. When muzzle required.

§ 63-3. Enforcement and impoundment.

§ 63-4. Exclusions.

§ 63-5. Nuisances.

§ 63-6. Investigation.

§ 63-7. Filing of complaints.

§ 63-8. Summons and warrant for arrest.

§ 63-9. Penalties for offenses.

ARTICLE II. Dog License Fees

§ 63-10. Annual fee established.

§ 63-11. Exclusions.

§ 63-12. Filing of provisions.

ARTICLE III. Prohibition and Curbing of Dogs in Certain Areas

§ 63-13. Prohibition of dogs in Burgess-Kimball Town Park.

§ 63-13.1. Prohibition of dogs running at large in Woods Hollow Nature Preserve.

§ 63-14. Dog waste.

§ 63-15. (Reserved)

§ 63-16. (Reserved)

§ 63-17. Penalties for offenses.

CHAPTER 63. ANIMALS

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

GENERAL REFERENCES

Parks and recreation — See Ch. 127.

ARTICLE I. Dog Control

[Adopted 12-19-1990]

§ 63-1. Running at large prohibited.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It shall be unlawful for any person owning, boarding, harboring or otherwise keeping in his custody a dog or dogs to permit such dog or dogs to run at large within the Town of Milton, excluding the Village of Ballston Spa, New York, at any time elsewhere than upon the premises of the owner or custodian, unless said dog or dogs is on a leash or accompanied by a competent person having control of such dog or dogs or unless it is upon the premises of another person with the knowledge and assent of such person. This section shall be construed and enforced in conjunction with the provisions of Article III, Prohibition and Curbing of Dogs in Certain Areas, of this chapter; and in the case of any conflict between this section and said Article III, the most restrictive provision or that imposing the highest standards shall govern.

§ 63-2. When muzzle required.

If any dog has bitten a person at any time off the premises of the owner, the owner thereof or person harboring or having custody of the same shall keep such dog properly muzzled at all times thereafter.

§ 63-3. Enforcement and impoundment.

Any peace officer can and it is his duty to pick up any dog running at large in violation of any of the terms of this article and confine said dog in any place provided by the Town Board of the Town of Milton. The owner or harbored of said dog may call for and obtain said dog at any time within a period of five days after its seizure and confinement by paying for the keeping of said dog at the fees required by Saratoga County Animal Shelter and, if unlicensed, purchase a license for said dog. Any dog not called for and redeemed as aforesaid may be sold and delivered to any person paying for the keeping of said dog and purchasing a dog license for said dog, if unlicensed.

§ 63-4. Exclusions.

[Amended 3-19-1997 by L.L. No. 5-1997 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]

This article shall not apply to guide dogs, service dogs and working dogs enumerated in Agriculture and Markets Law § 110 when such dog is actually engaged in such service activity and shall not apply to a dog or dogs harbored for farm purposes, except that § 63-1 prohibiting running at large shall apply to such farm dogs.

§ 63-5. Nuisances.

It shall be unlawful for any owner of or any person harboring any dogs outside the boundaries of any incorporated village in the Town of Milton to permit or allow such dog to:

A. Engage in habitual loud howling or barking or to conduct itself in a manner so as to habitually annoy any person other than the owner or person harboring such dog. Barking, howling and whining of a dog for a period in excess of 15 minutes and loud enough to be heard by a person other than the owner or harboring of said dog shall be presumptive evidence of violation of this subsection. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

C. Chase or otherwise harass any person peacefully conducting himself in any place where such person may lawfully be in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

§ 63-6. Investigation.

[Amended 3-19-1997 by L.L. No. 5-1997]

A Dog/Animal Control Officer to be designated by the Town Board of the Town of Milton, as provided in § 114 of the Agriculture and Markets Law, may enforce supervision of this article and may also investigate and report to a Town Justice of the Town of Milton any dangerous dog and see that the orders of the Town Justice in such case are carried out.

§ 63-7. Filing of complaints.

[Amended 3-19-1997 by L.L. No. 5-1997]

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

§ 63-8. Summons and warrant for arrest.

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

§ 63-9. Penalties for offenses.

[Amended 3-19-1997 by L.L. No. 5-1997; 11-17-1999]

Any person convicted for violating any provision of this article shall be liable to a fine of \$50 for the first offense. Any subsequent violation will result in a fine of \$100.

ARTICLE II. Dog License Fees

[Adopted 1-19-1991 by L.L. No. 1-1991]

§ 63-10. Annual fee established.

[Amended 3-19-1997 by L.L. No. 5-1997]

Pursuant to the authority of the New York State Agriculture and Markets Law Article 7, the Town of Milton does hereby set the annual local fee for each dog licensed in said Town in the amount of \$10, except for group licenses. This fee shall be in addition to the statutory fee required by the Agriculture and Markets Law.

§ 63-11. Exclusions.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Said license fee herein enacted shall not apply to any guide dog, service dog or working dog exempted from licensing fees pursuant to Agriculture and Markets Law § 110, during any license period when such dog is engaged in such service activity.

§ 63-12. Filing of provisions.

The Town Clerk is hereby instructed to file a certified copy of this article in the principal office of the New York State Department of Agriculture and Markets, Albany, New York.

ARTICLE III. Prohibition and Curbing of Dogs in Certain Areas

[Adopted 12-17-1997 by L.L. No. 9-1997; amended in its entirety 12-18-2002 by L.L. No. 3-2002]

§ 63-13. Prohibition of dogs in Burgess-Kimball Town Park.

No dog or dogs shall be permitted at any time in or on the premises known as the "Burgess-Kimball Town Park." This section shall not apply to Seeing Eye dogs during such time such dog or dogs are performing the functions for which they were trained, nor for dogs aiding or assisting disabled persons, nor to dogs actively engaged in police work.

§ 63-13.1. Prohibition of dogs running at large in Woods Hollow Nature Preserve.

No dog or dogs shall be permitted to run at large at any time, and a dog or dogs must be leashed and accompanied by a competent person having control of such dog or dogs, when within the Woods Hollow Nature Preserve.

§ 63-14. Dog waste.

A. Prohibition of dogs defecating on property owned or maintained by Town. No dog or dogs shall be allowed to defecate on property owned or maintained by the Town of Milton, and any person who owns or is in charge of any dog which defecates upon property owned or maintained by the Town of Milton shall immediately remove said waste product and dispose of it in a sealed, leakproof container.

B. Prohibition of dogs on private property in Town. This provision shall also apply to private property in the Town of Milton unless the owner of said property gives permission for the deposit of said waste on said property.

C. Exemption of dogs with disabled persons. This section shall not apply to a blind person with a guide dog or otherwise disabled person with a dog trained to assist him or her, nor shall this section apply to dogs actively engaged in police work.

§ 63-15. (Reserved)

Editor's Note: Original §§ 63-14, 63-15 and 63-16 were reorganized as subsections under current § 63-14 with the 2008 recodification.

§ 63-16. (Reserved)

Editor's Note: Original §§ 63-14, 63-15 and 63-16 were reorganized as subsections under current § 63-14 with the 2008 recodification.

§ 63-17. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Unless otherwise provided by § 119 of the Agriculture and Markets Law, the owner or harbinger of a dog violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$250 or to imprisonment for not more than 15 days, or both, for each offense.

CHAPTER 66. ASSEMBLIES, MASS PUBLIC

- § 66-1. Title.
- § 66-2. Purpose.
- § 66-3. Definitions.
- § 66-4. Permit required.
- § 66-5. Application for permit.
- § 66-6. Grant or denial of permit; hearing.
- § 66-7. Additional permit requirements.
- § 66-8. Requirements for issuance of nonminimal permit.
- § 66-9. Additional provisions applicable to all permits.
- § 66-10. Notice of denial.
- § 66-11. Permits not transferable.
- § 66-12. Revocation of permit.
- § 66-13. Exclusions.
- § 66-14. Penalties for offenses.

CHAPTER 66. ASSEMBLIES, MASS PUBLIC

[HISTORY: Adopted by the Town Board of the Town of Milton 3-19-1997 by L.L. No. 5-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 180.

§ 66-1. Title.

This chapter shall be known and cited as the "Public Assemblage Law of the Town of Milton."

§ 66-2. Purpose.

This chapter is enacted for the purpose of protecting, preserving and assuring the health, welfare, safety and morals of the residents and inhabitants of the Town of Milton and sojourners therein, as well as preventing riots, disorderly crowds and/or assemblages therein, unsafe, unsanitary or other conditions leading to, creating, causing, inciting or making possible a threat to the health, welfare and safety of the Town, its orderly administration and control by duly elected, acting or authorized officers, agents and/or employees and the prevention of spread of disease and the creation of unhealthy conditions, the violation of sanitary requirements, the elimination of excessive crowds, traffic congestion and/or other such hazards to the public safety and welfare and the preservation of the peace in said Town, its residents, inhabitants, property owners, both public and private, and sojourners therein, together with the protection of public property in said Town and the general health, welfare, safety and morals of the Towns surrounding, adjacent or near to the Town of Milton in the County of Saratoga and state, county and Town roads and/or highways leading thereto and therefrom.

§ 66-3. Definitions.

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

MINIMAL EFFECT

The type of assemblage which shall not:

- A. Unreasonably impede traffic; or
- B. Cause unreasonable noise, litter or risk of safety to the inhabitants of the Town.

PUBLIC ASSEMBLAGE

A. Any gathering of people at a carnival, circus, music festival, concert, sporting or recreational event or other festival or public amusement, except as otherwise sponsored or licensed by the Town of Milton; or

B. Any gathering of more than 25 persons.

§ 66-4. Permit required.

No person, firm, corporation (public or private) or company may sponsor, conduct, operate or allow or permit the use of his property or premises, whether improved or not and whether contiguous or not, for the conduct of a public assemblage unless a permit authorizing said assemblage has been obtained from the Town Board, except as hereinafter provided. The permit fee shall be in an amount as set forth from time to time by resolution of the Town Board and shall be on file in the Town offices.

§ 66-5. Application for permit.

A. A preliminary application for such permit shall be in writing, addressed to the Town Board and filed with the Town Clerk at least 60 days prior to the date upon which such public assemblage shall occur. The Town Board shall act upon the application within 30 days after its submission.

B. Application shall be made by the owner of record of real estate situate in the Town of Milton upon which said proposed public assemblage is to take place or lessee thereof or duly authorized agent or attorney of the owner or lessee.

C. Such application shall include the following information:

(1) A statement of the name, age and residence address of the applicant.

(2) If the applicant is a corporation, the name of the corporation and the names and addresses of its directors.

(3) If the applicant does not reside within the Town of Milton, the name and address of an agent who shall be a natural person and who shall reside in or have a place of business in the County of Saratoga and who shall be authorized to and shall agree by acknowledged statement to accept notices or summons issued with respect to the application or the conduct of the public assemblage in any manner involving it or arising out of the application, construction or application of this chapter.

(4) A statement containing the name, address and record owner(s) of the property(ies) where the public assemblage shall occur and the nature and interest of the applicant therein.

(5) The proposed dates and hours of such public assemblage.

(6) The expected minimum number of persons intended to use the property(ies) at one time and collectively.

(7) The number of automobiles, motorcycles and other vehicles intended to use the property(ies) at one time and collectively.

(8) A general explanation of the activity to be carried on and the admission fee to be charged, if any.

§ 66-6. Grant or denial of permit; hearing.

A. If the Town Board is satisfied from the information supplied with the preliminary application that the potential effect of the proposed public assemblage will have minimal affect upon the public health, safety and welfare of the people and property of the Town of Milton, a permit may be granted for such public assemblage.

B. If the Town Board is not satisfied that the effect of the proposed public assemblage will be minimal as in Subsection A above, a detailed application for permit as is set forth in §§ 66-7 and 66-8 shall be required, and, after the submission and review thereof to the Town Board, a public hearing shall be held upon said application.

§ 66-7. Additional permit requirements.

Requirements for nonminimal permit applications shall include the following:

- A. A map prepared by a licensed land surveyor or licensed public engineer showing the size of the property(ies); the zoning district in which it is located; the names and record owners of the adjoining properties; the street or highways abutting said property(ies); and the size and location of any existing building and buildings or structures to be erected for the purpose of the public assemblage and use.
- B. A plan or drawing to scale prepared by a licensed public engineer or licensed land surveyor showing the method and manner in which sanitary facilities are to be provided for the disposal of human waste, garbage and other debris and the method and manner in which water will be supplied, stored and distributed to those people attending.
- C. A plan drawn to scale showing the layout of any parking area for motor vehicles, including the means of ingress and egress to such parking area.
- D. A statement containing the type, number and location of any radio device, sound amplifier or loudspeaker or sound truck or other similar sound equipment or device to be used in connection with such public assemblage and the manner and purpose of its proposed use.
- E. A statement specifying whether food or beverages are intended to be prepared, served or distributed; if food or beverages are intended to be prepared, sold or distributed, a statement specifying the method of preparation and distribution of such food or beverages and the method of disposing of garbage, trash, rubbish or any other refuse arising therefrom. If food or beverages are to be prepared, sold or distributed, a plan or drawing to scale must be attached to the application showing the buildings or other structure from which the food or beverages shall be prepared, sold or distributed.
- F. A statement specifying whether any private security guard or police will be engaged and, if so, the numbers of and duties to be performed by such persons, including the hours to be worked and areas of responsibility.
- G. A statement specifying the precautions to be utilized for fire protection, including a plan or drawing to scale specifying the location of fire lanes and water supply for fire control.
- H. A statement specifying whether any outdoor lights or signs are to be utilized and, if so, a map showing the number, location, size, type and illuminating power of such lights and signs.
- I. A statement specifying the facilities to be available for emergency treatment of any person who may require medical or nursing attention.
- J. A statement specifying whether any camping or housing facilities are to be available and, if so, a plan drawn to scale showing the intended number and location of the same.
- K. A statement specifying the contemplated duration of the public assemblage.
- L. If the assemblage and use is to continue from one day into another, a statement specifying the camping and housing facilities available or to be made available on the premises and, if such facilities available on the premises are insufficient for camping and housing the contemplated number of people in attendance, such facilities available off the premises or to be made available to persons attending such public assemblage.

§ 66-8. Requirements for issuance of nonminimal permit.

No permit requiring a public hearing shall be acted upon and issued unless it is clearly shown that the following are provided for:

- A. Drinking water adequate in quantity and quality satisfactory to the Town Board as meeting the State Sanitary Code. Drinking water shall be readily available to all persons attending the public assemblage. A well or spring used as a source of drinking water and the structure used for storage of drinking water shall be so constructed and located as to protect the contents against pollution. There shall be no physical connection between a pipe

carrying drinking water and a pipe carrying water not of a quality satisfactory to meet the State Sanitary Code for public consumption. Where a water treatment process is employed, an accurate and complete report of the process and operation thereof shall be maintained daily, and no change of the source of or in the method of treatment of a drinking water supply shall be made without first notifying the Town Board and securing its written approval to do so.

B. Toilet facilities adequate for the capacity of the public assemblage. These facilities shall be so located as to be conveniently available and shall be so constructed and maintained that they will satisfy the Town Board and comply with the State Sanitary Code. Toilet facilities for groups of people consisting of both sexes shall be arranged so that the facilities shall be separate to each sex. No sanitary facility shall be located or constructed so that it will by leakage or seepage possibly pollute a water supply, surface water or adjacent ground surface, and all shall be constructed in accordance with the requirements of the State Department of Health.

C. Adequate facilities for the satisfactory disposal or treatment and disposal of sewage shall be maintained. Such facilities shall meet with the standards and requirements of the New York State Department of Health.

D. Adequate supply of food including provisions for sanitary storage, handling and protection of food and beverages until served or used. A showing must be made that, where food is to be prepared or consumed, there are facilities for washing, disinfecting and storing dishes and food utensils or that a sufficient quantity of disposable dishes, cups and utensils will be provided.

E. Adequate off-street and off-road facilities for the contemplated number of people attending the public assemblage. Parking space shall be provided for at least one car for every four persons in attendance.

F. Adequate camping or housing facilities for the contemplated number of people in attendance, if it is contemplated that the assemblage shall extend from one day to another.

G. An adequate number of access roads to and from the site of public assemblage.

H. Adequate medical facilities, including a first aid station. It must be shown that at least one doctor shall be on duty at all times and that at least one registered nurse for each 500 people in attendance will be on duty at all times.

I. If any external fires are to be started or maintained for any purpose and for which a permit is required, such permit shall be obtained from the Fire District having jurisdiction.

J. The applicant shall furnish the Town with a comprehensive liability insurance policy, issued by an insurance company licensed to do business within the State of New York, insuring the Town, its officers and employees against liability for damage to person or property within limits of not less than \$500,000 for bodily injury or death of one person and \$1,000,000 for bodily injury or death of more than one person arising out of negligence or any tort liability for which the Town, its officers and employees might be liable and limits of not less than \$500,000 for property damage, or as determined by the Town Board and approved by the Town Attorney, arising out of negligence or any other tort liability for which the Town, its officers and employees might be liable which might arise by reason of the granting of the permit or the existence of such assembly of persons, which said policy of insurance shall contain a provision that it shall not be cancelable without 10 days' prior written notice to the Town.

K. The applicant shall deposit with the Town Clerk cash or good surety company bond, approved by the Town Board, in the minimum sum of \$100,000 and conditioned that no damage will be done to any public or private property and that the applicant will not permit any litter, debris or other refuse to remain upon any public or private property after 72 hours after the termination date of the permit, which cash shall be refunded or surety company bond canceled upon certification to the Town Board by the Code Enforcement Officer that all conditions of this chapter have been complied with.

§ 66-9. Additional provisions applicable to all permits.

A. Any person holding a permit under this chapter and every place of public assemblage shall comply with the following provisions. Violation of any of these provisions shall be unlawful.

B. No light on any part of premises licensed hereunder or on any place of public assemblage shall be permitted to shine beyond the property line of the premises with an intensity sufficient to disturb the peace, health, safety or comfort of any adjacent residents or the general public.

C. No soot, cinders, smoke, fumes, gases or disagreeable or unusual odors shall be permitted to emanate from the premises so as to be detrimental to any person or to the public or which either annoys, disturbs, injures, endangers or which may disturb, injure or endanger the health, safety and welfare of any person or the public.

D. At no time shall music be played by mechanical device or live performance which annoys, disturbs, injures, endangers or which might annoy, disturb or endanger any person or the public in their health, comfort, safety, repose and peace.

E. No loud, unnecessary or unusual noise shall be permitted to be made or caused to be made or continued at any time which either annoys, disturbs, injures or endangers the comfort, repose, health, peace and safety of other persons or the public.

§ 66-10. Notice of denial.

If the Town Board of the Town of Milton shall deny an application for a permit under this chapter, it or the Town Clerk of the Town of Milton shall notify said applicant of the disapproval of said application and shall include therewith a statement for the reasons for disapproval. The notice of denial shall be sent by first-class mail.

§ 66-11. Permits not transferable.

No permit issued under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the person to whom it was issued, nor shall such permit be used on any location other than the location stated in such permit.

§ 66-12. Revocation of permit.

If, after the permit is issued, the Town Board determines that any of the items set forth in § 66-8 or 66-9 of this chapter is not adhered to and accomplished within a reasonable time prior to the date or dates of such public assemblage or if the Town Board determines that any of the provisions of any section of this chapter has been or is being violated, then such permit shall become null and void.

§ 66-13. Exclusions.

Nothing herein shall require any duly established municipal, educational, historical, fire-fighting, recognized fraternal or civic or political party qualified for a line on the ballot in a general election (i.e., one receiving at least 5% of the vote in the last gubernatorial election) or religious organization or institution located in the Town of Milton to apply for or obtain a permit with regard to any of its operations or its affairs.

§ 66-14. Penalties for offenses.

A. Any person who shall violate any provision of this chapter shall be guilty of an offense punishable by fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

B. In addition to the above provided penalties, the Town Board may also maintain any 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 chapter.

CHAPTER 72. BURNING, OUTDOOR

§ 72-1. Prohibited acts and exceptions.

§ 72-2. Penalties for offenses.

§ 72-3. Definitions.

CHAPTER 72. BURNING, OUTDOOR

[HISTORY: Adopted by the Town Board of the Town of Milton 5-12-2003 by L.L. No. 1-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 132.

Solid waste and littering — See Ch. 149.

§ 72-1. Prohibited acts and exceptions.

A. No person shall set, or cause to be set, an open fire, except small fires (less than three feet in diameter) for cooking, warmth or smudge, and open fires for the purpose of on-site disposal of rubbish or other debris generated by residential activities, without having first obtained from the Department of Environmental Conservation [NOTE: Environmental Conservation Law § 9-1105 and 6 NYCRR 191.1] a written permit to do so. A copy of such permit obtained shall be sent to the Town Code Enforcement Officer and Fire Chief of the district within which such fires shall be conducted.

B. No person shall set an open fire for rubbish or other debris generated by residential activities unless such material is burned in a closed receptacle such as a metal drum or metal or masonry fireplace with a mesh cover with openings not more than one-half-inch square.

C. Open fires may be prohibited in the event a determination of a serious fire hazard has been declared by the Town of Milton, Saratoga County or the Department of Environmental Conservation.

D. Any permitted burning must also comply with § 180-24, General performance standards, of the Town Code, and with the New York State Uniform Fire Prevention and Building Code, specifically Section 307, Open Burning and Recreational Fires, of the Fire Code of New York State. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 72-2. Penalties for offenses.

Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

§ 72-3. Definitions.

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

OPEN FIRE

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

RUBBISH or OTHER DEBRIS

Solid waste material, including but not limited to paper and paper products; rags; trees or leaves, needles and branches therefrom; vines, lawn and garden debris; cartons; wood; sawdust and demolition debris. Rubbish or other debris shall not include garbage; incinerator residue; street sweepings; dead animals; offal; liquid waste material; furniture; cans; crockery; plastics; chemicals; paint; petroleum products; tires; vehicles or parts thereof.

CHAPTER 81. FARMING

ARTICLE I. Right to Farm

§ 81-1. Legislative intent and purpose.

§ 81-2. Definitions.

§ 81-3. Right to undertake agricultural practices.

§ 81-4. Notice to prospective builders and subdividers.

CHAPTER 81. FARMING

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

GENERAL REFERENCES

Farm dogs — See Ch. 63, Art. I.

Zoning — See Ch. 180.

ARTICLE I. Right to Farm

[Adopted 6-19-1996 by L.L. No. 1-1996]

§ 81-1. Legislative intent and purpose.

A. The Town Board of Town of Milton find that farming is an essential activity within Town of Milton.

B. Farming, as defined herein, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of open space and generates economic benefits and social well-being within the community. Therefore, the Town of Milton emphasizes to newcomers that this Town encourages its agriculture and requests newcomers to be understanding of the necessary day to day operations.

C. It is the general purpose and intent of this article to maintain and preserve the rural tradition and character of Town of Milton to permit the continuation of agricultural practices, to protect the existence and operation of farms and to encourage the initiation and expansion of farms and agricultural businesses.

D. For the purpose of reducing future conflicts between farmers and nonfarmers, it is necessary for notice to be given to future neighbors about the nature of agricultural practices.

§ 81-2. Definitions.

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

AGRICULTURAL PRACTICES

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

FARM

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

§ 81-3. Right to undertake agricultural practices.

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

§ 81-4. Notice to prospective builders and subdividers.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The following notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law § 276: "This property may border a farm, as defined in Town Law. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibration."

CHAPTER 85. FIRE PREVENTION AND BUILDING CONSTRUCTION

§ 85-1. Purpose.

§ 85-2. Definitions.

§ 85-3. Code Enforcement Officer; inspectors.
§ 85-4. Building permits.
§ 85-5. Construction inspections.
§ 85-6. Stop-work orders.
§ 85-7. Certificates of occupancy and certificates of compliance.
§ 85-8. Notification regarding fire or explosion.
§ 85-9. Unsafe buildings and structures.
§ 85-10. Operating permits.
§ 85-11. Firesafety and property maintenance inspections.
§ 85-12. Complaints.
§ 85-13. Recordkeeping.
§ 85-14. Program review and reporting.
§ 85-15. Enforcement; penalties for offenses.
§ 85-16. Fees.
§ 85-17. Intermunicipal agreements.

CHAPTER 85. FIRE PREVENTION AND BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Board of the Town of Milton 11-22-2006 by L.L. No. 3-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning — See Ch. 72.
Property maintenance — See Ch. 132.
Subdivision of land — See Ch. 154.
Zoning — See Ch. 180.

§ 85-1. Purpose.

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

§ 85-2. Definitions.

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

BUILDING PERMIT

A permit issued pursuant to § 85-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY and CERTIFICATE OF COMPLIANCE

A certificate issued pursuant to § 85-7B of this chapter.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer(s) appointed pursuant to § 85-3B of this chapter. More than one person may be appointed a Code Enforcement Officer. Reference to "the Code Enforcement Officer" shall include any Code Enforcement Officer appointed by the Town Board of the Town of Milton.

CODE ENFORCEMENT PERSONNEL

The Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER

An order issued by the Code Enforcement Officer pursuant to § 85-15A of this chapter.

ENERGY CODE

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

ENERGY INSPECTOR

An inspector appointed pursuant to § 85-3D of this chapter.

OPERATING PERMIT

A permit issued pursuant to § 85-10 of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

PERMIT HOLDER

The person to whom a building permit has been issued.

PERSON

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

STOP-WORK ORDER

An order issued pursuant to § 85-6 of this chapter.

STRUCTURE

That which is built or constructed.

TEMPORARY CERTIFICATE

A certificate issued pursuant to § 85-7D of this chapter.

TOWN

The Town of Milton.

UNIFORM CODE

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

§ 85-3. Code Enforcement Officer; inspectors.

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

- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
- (2) Upon approval of such applications, to issue building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
- (4) To issue stop-work orders;
- (5) To review and investigate complaints;
- (6) To issue orders pursuant to § 85-15A, Compliance orders, of this chapter;
- (7) To maintain records;
- (8) To collect fees as set by the Town Board of the Town of Milton;
- (9) To pursue administrative enforcement actions and proceedings;
- (10) In consultation with the Town of Milton's Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
- (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.

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

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

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

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

§ 85-4. Building permits.

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

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

(1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area is less than 144 square feet (13.38 square meters);

(2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

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

(4) Installation of fences which are not part of an enclosure surrounding a swimming pool, and which are within setback limitations and, if otherwise within setback limitations, are located two feet or more from the property line;

(5) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) Construction of temporary motion-picture, television and theater stage sets and scenery;

(7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) Installation of partitions or movable cases less than five feet nine inches in height;

(9) Painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) Repairs, provided that such repairs do not involve:

- (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
- (b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;
- (c) The enlargement, alteration, replacement or relocation of any building system; or
- (d) The removal from service of all or part of a fire protection system for any period of time.

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

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

- (1) A description of the proposed work;
- (2) The Tax Map number and the street address of the premises where the work is to be performed;
- (3) The occupancy classification of any affected building or structure;
- (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

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

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

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

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

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

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

K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 85-16, Fees, of this chapter must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 85-5. Construction inspections.

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

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

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Fire-resistant construction;
- (7) Fire-resistant penetrations;
- (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;

(9) Energy Code compliance; and

(10) A final inspection after all work authorized by the building permit has been completed.

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

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 85-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 85-6. Stop-work orders.

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

(1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

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

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally, by certified mail, or by affixing a copy of the order to the premises or project under construction or repair in a visible location and by mailing a copy to the person holding the permit at the address given in the permit application (or such new address as such person shall have provided to the Town Building Department in writing) by regular US mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

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

E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 85-15, Enforcement; penalties for offenses, of this chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 85-7. Certificates of occupancy and certificates of compliance.

A. Certificates of occupancy or certificates of compliance required. A certificate of occupancy or a certificate of compliance shall be required for any work which is the subject of a building permit and for all structures,

buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

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

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

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

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

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

shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

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

F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 85-16, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy or a certificate of compliance or for a temporary certificate.

§ 85-8. Notification regarding fire or explosion.

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

§ 85-9. Unsafe buildings and structures.

Unsafe structures and equipment in the Town of Milton shall be identified and addressed in accordance with the procedures established in Local Law Section ____, of the Town of Milton, as now in effect or as hereafter amended from time to time. Editor's Note: So in original.

§ 85-10. Operating permits.

A. Operating permits required.

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

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

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

(c) Use of pyrotechnic devices in assembly occupancies;

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

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

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

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

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

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

E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

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

G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 85-16, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 85-11. Firesafety and property maintenance inspections.

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

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

B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon: the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

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

- (1) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;

(2) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;

(3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and

(4) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A(3) of this section.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 85-16, Fees, of this chapter must be paid prior to or at the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 85-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate; however, nothing herein shall be construed to prevent the Code Enforcement Officer from exercising his authority and discretion in deciding whether or not to prosecute or enforce an alleged or actual code violation:

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

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 85-15, Enforcement; penalties for offenses, of this chapter;

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

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

§ 85-13. Recordkeeping.

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

(1) All applications received, reviewed and approved or denied;

(2) All plans, specifications and construction documents approved;

(3) All building permits, certificates of occupancy, certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;

(4) All inspections and tests performed;

(5) All statements and reports issued;

(6) All complaints received;

(7) All investigations conducted;

(8) All other features and activities specified in or contemplated by §§ 85-4 through 85-12, inclusive, of this chapter; and

(9) All fees charged and collected.

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

§ 85-14. Program review and reporting.

A. The Code Enforcement Officer shall annually submit to the Town Board of the Town of Milton a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 85-13, Recordkeeping, of this chapter and a report and summary of all appeals or litigation pending or concluded.

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

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

§ 85-15. Enforcement; penalties for offenses.

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

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

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

D. Injunctive relief. An action or proceeding may be instituted in the name of the Town of Milton, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, compliance

order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of the Town of Milton, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Supervisor, Deputy Town Supervisor or Town Board of the Town of Milton.

E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 85-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 85-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 85-16. Fees.

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

§ 85-17. Intermunicipal agreements.

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

CHAPTER 88. FLOOD DAMAGE PREVENTION

§ 88-1. Findings.

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§ 88-10. Designation of local administrator.

§ 88-11. Purpose of floodplain development permit; fees.

§ 88-12. Permit application.

§ 88-13. Powers and duties of local administrator.

§ 88-14. General standards.

§ 88-15. Standards for all structures.

§ 88-16. Residential structures.

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§ 88-18. Manufactured homes and recreational vehicles.

§ 88-19. Appeals Board.

§ 88-20. Conditions for variances.

CHAPTER 88. FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Milton 5-17-1995 by L.L. No. 1-1995. Editor's Note: The sample floodplain development permit application and the sample certificate of compliance which were attached to the end of L.L. No. 1-1995 are on file in the Town offices. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 85.
Mobile homes and mobile home parks — See Ch. 114.
Subdivision of land — See Ch. 154.
Zoning — See Ch. 180.

§ 88-1. Findings.

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

§ 88-2. 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.

§ 88-3. 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.

§ 88-4. 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, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 through A30, A99, V, VO, VE or V1 through V30. 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.

BUILDING

See "structure."

CELLAR

See "basement."

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING

(1) A nonbasement building:

(a) Built, in the case of a building in Zones A1 through A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones V1 through V30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of Zones A1 through A30, AE, A, A99, AO, AH, B, C, X or D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

(3) In the case of Zones V1 through V30, VE or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

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

FLOOD ELEVATION STUDY

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

FLOOD or FLOODING

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

(a) The overflow of inland or tidal waters.

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

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

FLOOD HAZARD BOUNDARY MAP (FHBM)

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

FLOOD INSURANCE RATE MAP (FIRM)

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

FLOOD INSURANCE STUDY

See "flood elevation study."

FLOODPLAIN OR FLOOD-PRONE AREA

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

FLOODPROOFING

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

FLOODWAY

See "regulatory floodway."

FUNCTIONALLY DEPENDENT USE

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

HIGHEST ADJACENT GRADE

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

HISTORIC STRUCTURE

Any structure that is:

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

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

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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR

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

LOWEST FLOOR

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

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION

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

MEAN SEA LEVEL

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

MOBILE HOME

See "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

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

NEW CONSTRUCTION

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION

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

ONE-HUNDRED-YEAR FLOOD OR 100-YEAR FLOOD

See "base flood."

PRINCIPALLY ABOVE GROUND

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

RECREATIONAL VEHICLE

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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

REGULATORY FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 88-13B of this chapter.

START OF CONSTRUCTION

Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; or 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, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE

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

SUBSTANTIAL IMPROVEMENT

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

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

VARIANCE

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

§ 88-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Milton, Saratoga County, New York.

§ 88-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard for the Town of Milton, Community No. 360722, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) A scientific and engineering report entitled "Flood Insurance Study, Saratoga County, New York (all jurisdictions)," dated August 16, 1995.
- (2) Flood Insurance Rate Map for Saratoga County, New York (all jurisdictions), as shown on Index No. 36091C0000, and panels 0404, 0408, 0409, 0412, 0414, 0416, 0417, 0418, 0428, 0436, 0437, 0438, 0439, 0530, 0531, 0532, 0551, whose effective date is August 16, 1995.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Town Hall, Town of Milton, 503 Geyser Road, Ballston Spa, New York 12020, Building Department.

§ 88-7. Interpretation and conflict with other laws.

A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

§ 88-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Milton 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 §§ 88-19 and 88-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 88-9. 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 Milton, 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.

§ 88-10. Designation of local administrator.

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

§ 88-11. Purpose of floodplain development permit; fees.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 88-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

B. Fees.

(1) All applications for a floodplain development permit shall be accompanied by an application fee of \$100. In addition, the applicant shall be responsible for reimbursing the Town of Milton for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of not more than \$500 to cover these additional costs.

(2) The Code Enforcement Official, by resolution, may increase or decrease any of the above fees.

§ 88-12. Permit application.

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

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

B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 88-15C, Utilities.

D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 88-17, Nonresidential structures, (except coastal high-hazard areas).

E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 88-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 88-13. Powers and duties of local administrator.

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

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

(1) Review all applications for completeness, particularly with the requirements of § 88-12, Permit application, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 88-14 through 88-18 and, in particular, § 88-14A, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 88-14 through 88-18, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 88-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

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

C. Alteration of watercourses. The local administrator shall:

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

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

D. Construction stage. The local administrator shall:

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

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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

F. Stop-work orders.

(1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 88-8 of this chapter.

(2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 88-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 88-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

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

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

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

(1) Floodplain development permits and certificates of compliance.

(2) Certificates of as-built lowest floor elevations of structures, required pursuant to Subsection D(1) and (2), and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to Subsection D(1) and whether or not the structures contain a basement.

(4) Variances issued pursuant to §§ 88-19 and 88-20.

(5) Notices required under § 88-13C, Alteration of watercourses.

§ 88-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 88-6:

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

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

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

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

B. Encroachments.

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

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location; or

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

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 88-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

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

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

§ 88-15. Standards for all structures.

A. Anchoring.

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

B. Construction materials and methods.

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

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

(3) Enclosed areas.

(a) For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] 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; and

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

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

C. Utilities.

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

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

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

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

§ 88-16. Residential structures.

The following standards, in addition to the standards in § 88-14A, Subdivision proposals, and § 88-14B, Encroachments, and § 88-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

A. Within Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.

B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 88-6 (at least two feet if no depth number is specified).

D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 88-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 88-14A, Subdivision proposals, and § 88-14B, Encroachments, and § 88-15, Standards for all structures.

A. Within Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

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

(2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

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

§ 88-18. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 88-14, General standards, and § 88-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1 through A30, AE and AH shall either:

- (a) Be on site fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements for manufactured homes in Subsections B, D and E.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

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

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

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

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

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 88-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

§ 88-19. Appeals Board.

A. The Zoning Board of Appeals as established by the Town of Milton 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 purpose 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.

§ 88-20. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 88-19D(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 repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

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

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

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

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

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

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

(1) A showing of good and sufficient cause;

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

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

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

CHAPTER 91. GAMES OF CHANCE

§ 91-1. Authority; title.

§ 91-2. Definitions.

§ 91-3. Supervision and enforcement.

§ 91-4. Conduct of games; compliance with rules and regulations.

§ 91-5. Sunday games.

CHAPTER 91. GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Milton 12-29-1976. Amendments noted where applicable.]

§ 91-1. 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 Milton."

§ 91-2. Definitions.

A. The words and terms used in this chapter shall have the same meaning as such words and terms are used in Article 9-A of the General Municipal Law, unless otherwise provided herein or the context requires a different meaning.

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

OFFICER

The Enforcement Officer of the Town of Milton.

TOWN

The Town of Milton.

§ 91-3. Supervision and enforcement.

[Added 3-19-1997 by L.L. No. 5-1997]

The Code Enforcement Officer of the Town of Milton shall exercise control over and supervision of all games of chance.

§ 91-4. Conduct of games; compliance with rules and regulations.

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

§ 91-5. Sunday games.

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

CHAPTER 103. JUNK AND JUNK DEALERS

§ 103-1. Legislative intent.

§ 103-2. Definitions.

§ 103-3. License required.

§ 103-4. Application for license.

§ 103-5. License fee; display; nontransferability; revocation.

§ 103-6. Operating requirements.

§ 103-7. Penalties for offenses.

CHAPTER 103. JUNK AND JUNK DEALERS

[HISTORY: Adopted by the Town Board of the Town of Milton 1-4-1961. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned mobile homes — See Ch. 114.

Property maintenance — See Ch. 132.

Solid waste and littering — See Ch. 149.

Abandoned vehicles — See Ch. 167.

Zoning — See Ch. 180.

§ 103-1. Legislative intent.

A. By the adoption of this chapter, the Town Board of the Town of Milton declares its intent in so doing to be to regulate, control and license the activities or businesses known as "auto graveyards," "junkyards" and "secondhand parts collection areas" and the processing of used metals for resale and the dumping, storage and disposal of waste, secondhand or used materials of whatever composition.

B. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly inflammable and sometimes explosive. Gasoline tanks on old autos often contain, in some quantity, combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which are also flammable. The tires, plastic seats, tops and other elements of such autos are also flammable. Batteries and other elements of such autos are also flammable, and batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junkyards, even in areas zoned for business or industry, is unsightly and tends to detract from value of surrounding land and property unless such areas are properly maintained and operated.

§ 103-2. Definitions.

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

AUTO

Passenger auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

PERSON

An individual, an association, a partnership and/or a corporation.

§ 103-3. License required.

No person shall engage in or conduct on real property within the Town of Milton either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise any activity or business either for profit or otherwise, at wholesale or retail, which involves the collection, storage, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of bodies, engines or parts of autos or of any other secondhand or used property of whatever material it is composed or any waste material, whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise, without first obtaining a license therefor as hereinafter provided.

§ 103-4. Application for license.

A. Each applicant for a license hereunder shall execute under oath an application therefor to be supplied to him by the Town Clerk which shall contain the following information:

- (1) That the applicant is over 21 years of age.
- (2) That he is a citizen of the United States.
- (3) Whether he has ever been convicted of a felony or misdemeanor and such other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.
- (4) A description of the exact type of business he intends to conduct.
- (5) The nature of the materials he intends to handle.
- (6) The approximate number of employees he intends to engage.
- (7) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.

B. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder, with the area of such real property which it is proposed to use for such purpose, the location of the fence required hereunder indicated thereon as well as the location of any buildings on such land and the location of any streets or highways abutting or passing through such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.

C. In the application, the applicant shall agree that, if granted the license applied for, he will conduct the activity of business pursuant to the regulations hereinafter set forth and that, upon his failure to do so, such license may be revoked forthwith.

D. A person presently engaged in or conducting an activity or business such as described herein on real property within the Town of Milton must apply for a license therefor within 30 days of the adoption of this chapter. If the place where he conducts such activity or business presently complies with the requirements a person must meet to secure a license in the first instance, he shall be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements a person must meet to secure a license in the first instance, he may be granted a temporary license for one year during which year he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person has not so arranged his place of such activity or business, he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

E. If the person conducting such activity or business is not the sole owner thereof, he shall state such fact at the time he applies for his temporary license, and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license, together with a copy of this chapter.

§ 103-5. License fee; display; nontransferability; revocation.

A. The fee for the license is fixed in an amount as shall be set from time to time by resolution of the Town Board and shall be on file in the Town offices, which sum covers not only the cost of issuing the license itself but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business for which it is issued.

C. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, after which, new application for license must be made yearly if the licensee desires to continue such activity or business.

D. Such license is personal with the licensee. It does not go with the title of the land nor may it be sold, assigned, transferred or disposed of.

E. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license, the Town Board may require the removal of autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

F. In the event that an applicant for a license as provided herein shall have previously been duly issued a valid and effective junk dealer's license by the Supervisor of this Town, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be entitled to and allowed a credit against the above-provided license fee in the amount actually paid by such applicant; otherwise, this chapter shall be fully binding upon and applicable to the holder of any such junk dealer's license.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 103-6. Operating requirements.

A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

B. The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.

C. The licensee must erect and maintain on the highway side of the premises a six-foot wire fence of close mesh or one made of wood or of other material or must plant hedges or trees in close proximity so that the same shall be adequate to screen said premises and shall contain behind such fence the materials dealt in by the licensee, and if such area abuts a public street or highway such fence shall be 40 feet from the center line of the pavement thereof. All the materials dealt in by the licensee shall be kept behind such fence at all times.

D. The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by usual and ordinary means. They shall be piled or arranged in neat rows so as to permit easy and clear passage through the area.

[Amended 3-19-1997 by L.L. No. 5-1997]

E. There shall be maintained at each place of activity or business for which a license is issued at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.

F. Suitable sanitary facilities shall be available, connected to approved public sewers or septic tanks, for the use and convenience of the employees of the licensee as well as the general public visiting the area.

G. The area of the licensee's activity or business shall not be used as a dump area nor as a place for disposal of junk or trash.

H. The Town police, the Town Clerk or the Town Board or any of its representatives shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith.

I. Storage of oils and fluids.

[Added 1-17-1990]

(1) The owner or operator must store all oils and fluids of every type and kind from all junk vehicles, and said storage must be in secure containers.

(2) The owner or operator must provide a map or sketch clearly designating location of storage containers.

(3) The owner or operator must keep an accurate account of the name and address and license or permit number of transporter of such oils and fluids.

(4) Dumping or spilling of oils or fluids of any type or kind is prohibited.

(5) The owner or operator shall keep accurate written records of all vehicles brought on premises which are dismantled, crushed or sold as used vehicles.

§ 103-7. Penalties for offenses.

A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

B. Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

[Amended 1-17-1990; 3-19-1997 by L.L. No. 5-1997]

C. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.

D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of not more than \$250 for each such offense. Such penalty shall be collectible by and in the name of the Town for each day that such violation shall continue.

[Amended 3-19-1997 by L.L. No. 5-1997]

E. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

CHAPTER 114. MOBILE HOMES

ARTICLE I. Abandoned and Unoccupied Mobile Homes and Trailers

§ 114-1. Legislative intent.

§ 114-2. Definitions.

§ 114-3. Prohibited acts.

§ 114-4. Exclusions.

§ 114-5. Penalties for offenses.

CHAPTER 114. MOBILE HOMES

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

GENERAL REFERENCES

Flood damage prevention — See Ch. 88.
Abandoned and/or unregistered vehicles — See Ch. 167.
Zoning — See Ch. 180.

ARTICLE I. Abandoned and Unoccupied Mobile Homes and Trailers

[Adopted 11-15-1990]

§ 114-1. Legislative intent.

[Amended 3-19-1997 by L.L. No. 5-1997]

By adoption of this article, the Town Board of the Town of Milton declares its intent in so doing to be to regulate and control the presence of abandoned and unoccupied mobile homes and trailers within the limits of the Town of Milton, exclusive of the Village of Ballston Spa. Said Town Board hereby declares that the presence of abandoned and unoccupied mobile homes and trailers can constitute a hazard to property and persons and a public nuisance. Such mobile homes and trailers, their components and contents may be highly flammable. These mobile homes and trailers frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These abandoned mobile homes and trailers can constitute an attractive nuisance to children and certain adults. Abandoned and unoccupied mobile homes, due to the nature of their construction, rapidly deteriorate and become unsafe and attract vermin, insects and rodents. The presence of such abandoned mobile homes and trailers is unsightly and tends to detract from the value of surrounding land and property.

§ 114-2. Definitions.

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

ABANDONED

The relinquishment of all right, title, claim and possession with the intention of not reclaiming it or resuming its ownership, possession or enjoyment.

MOBILE HOME

A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities, and shall include any addition to such mobile home. "Mobile home" shall not, however, refer to a camper trailer or a recreational vehicle.

PERSON

An individual, an association, a partnership or a corporation.

TRAILER

A vehicle with or without motor power designed for carrying persons or property and for being drawn by a motor vehicle, and shall include such vehicles from which tires and/or wheels have been removed.

UNOCCUPIED

That the subject mobile home shall have been not used for a residence for a period of eight months prior to a violation hereunder; the eight-month period may be extended an additional six months with proof of intent that subject mobile home will be used for human occupancy.

§ 114-3. Prohibited acts.

A. It shall be unlawful for any person to park, store, place or otherwise deposit abandoned or unoccupied mobile homes or trailers in, on or upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston Spa.

B. It shall be unlawful for any person to suffer or permit the parking, storage, placing or otherwise depositing of any abandoned or unoccupied mobile home or trailer in, on or upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston, unless permitted by Chapter 180, Zoning.

§ 114-4. Exclusions.

This article shall not apply to persons who are dealers in new or used mobile homes, provided that such persons are authorized by the State of New York to conduct such activity; and provided, further, that the presence of mobile homes is limited to the principal place of business of such dealer.

§ 114-5. Penalties for offenses.

A. Any person who commits or permits any acts in violation of this article shall be deemed to have committed an offense against such article and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

B. For every violation of any provision of this article, the person violating the same shall be subject to fine of not more than \$250 or imprisonment not exceeding 15 days, or by both such fine and imprisonment.

[Amended 3-19-1997 by L.L. No. 5-1997]

C. Any person violating this article shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$100 for each offense. Such penalty shall be collectible by and in the name of the Town for each day that such violation shall continue.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such article.

CHAPTER 119. NOTIFICATION OF DEFECTS**§ 119-1. Highway notice requirements.**

§ 119-2. Sidewalk notice requirements.

§ 119-3. Transmittal of notice.

§ 119-4. Records.

§ 119-5. Effect on other provisions.

CHAPTER 119. NOTIFICATION OF DEFECTS

[HISTORY: Adopted by the Town Board of the Town of Milton 4-2-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Street and highway specifications — See Ch. 152.

§ 119-1. Highway notice requirements.

No civil action shall be maintained against the Town of Milton, located in the County of Saratoga, State of New York (hereinafter referred to as "the Town"), or the Town Superintendent of Highways of the Town or against any improvement district in the Town for damages or injuries to person or property (including those arising from the operation of snowmobiles) sustained by reason of any highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town and unless there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 119-2. Sidewalk notice requirements.

No civil action will be maintained against the Town and/or the Town Superintendent of Highways of the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to 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 of the Town or to the Town Superintendent of Highways of the Town and there was a failure or neglect to cause such defect to be remedied or 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.

§ 119-3. Transmittal of notice.

The Town Superintendent of Highways of the Town shall transmit, in writing, to the Town Clerk of the Town within five days after receipt thereof all written notices received by him pursuant to this chapter, and he shall take any and all corrective action with respect thereto as soon as practicable.

§ 119-4. Records.

[Amended 3-19-1997 by L.L. No. 5-1997]

The Town Clerk of the Town shall keep an index record in a separate book of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice and snow upon any Town highway, bridge, culvert or sidewalk or any other property owned by the Town or by an improvement district, which record shall state the date of the receipt of the notice, the nature

and location of the condition stated to exist and the name and address of the person from whom the notice is received. All written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition or the location of accumulated snow or ice. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the Town of the receipt of such notice.

§ 119-5. Effect on other provisions.

Nothing contained in this chapter shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the Town, its officers and employees and/or any of its improvement districts any greater duty or obligation than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

CHAPTER 127. PARKS AND RECREATION

§ 127-1. Statement of intent.

§ 127-2. Permits.

§ 127-3. Lost and found property.

§ 127-4. Prohibited activities.

§ 127-5. Restricted activities.

§ 127-6. Regulated activities.

§ 127-7. Use of motor vehicles.

§ 127-8. Penalties for offenses.

CHAPTER 127. PARKS AND RECREATION

[HISTORY: Adopted by the Town Board of the Town of Milton 7-16-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Prohibition and curbing of dogs in certain parks — See Ch. 63, Art. III.

Mass public assemblies — See Ch. 66.

Prohibition of vehicles in Woods Hollow Nature Preserve and Burgess-Kimball Town Park — See Ch. 169, Art. I.

§ 127-1. Statement of intent.

The Town of Milton Recreational Park, administered by the Town Board, encourages and facilitates the use and enjoyment by the public and enhances the well-being of each individual. Parks, however, contain slopes and other natural features which, by their nature, may constitute hazards and present dangers to persons approaching them. To enhance and promote safety, well-being and enjoyment of each individual in the use of the Town park system and to assure each individual equality of opportunity in the use and enjoyment of such system, the rules and regulations set forth herein are hereby established to govern the conduct of the public with respect thereto.

§ 127-2. Permits.

[Amended 3-19-1997 by L.L. No. 5-1997]

A written permit issued by the Town office to do any act shall authorize the same only insofar as it may be performed in the strict accordance with the terms and conditions thereof. A fee may be set from time to time by resolution of the Town Board, which fee shall be on file in the Town offices. Any act authorized pursuant to a permit may be performed only by the person named therein, and any such authorization may not be assigned or delegated unless and except as provided in such permit. Any permit may be revoked at the option of the park custodian, Town Board or Enforcement Officer whose action shall be deemed final. In case of such revocation, all moneys paid for or on account thereof shall, at the option of the Town, be forfeited to and retained by the Town office. In any case where the holder of a permit or his agent or employee shall have been found to have violated a term or condition, they shall be jointly and severally liable to the Town of Milton for any damages or loss suffered by it in excess of money forfeited and retained by the office. Neither the forfeiture and the retention of such money

by the office nor the recovery or collection of any damages, or both, shall preclude the prosecution of any person for a violation of a rule or regulation of the office or the violation thereof.

§ 127-3. Lost and found property.

[Amended 3-19-1997 by L.L. No. 5-1997]

Lost property shall be handled as set forth in Article 7-B of the New York State Personal Property Law.

§ 127-4. Prohibited activities.

The activities and uses enumerated in this section shall be absolutely prohibited on property under the jurisdiction, custody and control of the Town Board.

A. Littering. No person shall in any manner cause any rubbish, garbage, refuse, organic or inorganic waste, diseased or dead animal or other offensive matter or any abandoned property or material to be placed on or left in or on the property, except in receptacles provided for that purpose.

B. Injury to property. No person shall make an excavation on or injure, destroy, deface, remove, fill in, tamper with or cut any or real or personal property, tree or other plant life.

C. Disorderly conduct. No person shall do any of the following:

(1) Disobey a lawful order of any officer or employee of the Town or the direction of any sign erected by or at the direction of the Town.

(2) Use abusive or obscene language or make an obscene gesture.

(3) Throw stones or other objects or missiles which may inflict bodily injury or damage to property.

(4) Obstruct vehicular or pedestrian traffic.

(5) Climb upon any wall, fence, structure or monument.

(6) Engage in or encourage fighting or violent or threatening behavior.

(7) Spit upon grounds or other surfaces.

(8) Throw away or discard any lighted match, cigar, cigarette, charcoal or other burning object other than in a receptacle provided for that purpose.

(9) Make any unreasonable noise.

(10) Operate any wheeled vehicle, snowmobile or other equipment in such a manner as to endanger other persons or property or in such a manner so as to create an unreasonable noise or disturbance.

(11) Without lawful authority, disturb any lawful assembly or meeting of persons.

(12) Congregate with other persons and refuse to comply with a lawful order to disburse.

D. Property closed to the public. No person shall enter or remain upon any property or within any structure during such hours and seasonal or indefinite periods that such property or structure has been designated as closed by a sign or by an employee of the Town.

E. Minors. No person having custody or control of a minor shall permit such minor to do any act in violation of a rule or regulation of the Town of Milton. Minors under 10 years of age shall at all times be under the supervision

and control of a parent, guardian or responsible custodian. Notwithstanding this or any other subsection of this section, minors under the age of six shall at all times be under the supervision and control of a parent, guardian or responsible custodian.

F. Gambling. Gambling, lotteries, games of chance and fortune-telling are prohibited.

G. Implements. No person shall introduce, possess or use any machete or cutting tool other than an ax, hatchet or sheath knife for the purpose of preparing wood for a cooking fire.

H. All-terrain vehicles. No person shall use or operate an all-terrain vehicle or other similar wheeled or air-cushioned vehicle designed or equipped to operate outside of highways.

I. Firearms and weapons. No firearms or weapons are permitted other than by a member of a local or state law enforcement agency.

§ 127-5. Restricted activities.

A. No camping shall be permitted unless authorized by permit issued from the Town of Milton offices.

B. No person shall wash dishes, clothes or his person at a water fountain or other outlet provided in the Town park.

C. There shall not be the conducting of any picnic or outing by a group or organization in an excess of 25 persons. Application for permit shall be made to the Town Clerk of the Town of Milton during normal business hours, which application may be in a form prepared by the applicant indicating the reason for the permit, the duration of the permitted use and that insurance has been provided for the Town.

§ 127-6. Regulated activities.

The following activities are prohibited on property under the jurisdiction, custody and control of the Town of Milton, except in areas specifically designated therefor, during such hour or seasonal periods specifically authorized and subject to such conditions as may be contained herein:

A. The throwing, striking, kicking or catching of any ball horseshoe or other object or the conduct of any game or athletic activity or the use of any device or equipment used in any such game or athletic activity.

B. The building, kindling, lighting or maintaining of any fire. Fires may be built and maintained only in fireplaces, grills or stoves suitable for cooking purposes, and no fire shall be started or maintained unless under the constant supervision of a responsible person.

C. The use of alcohol will be prohibited at all times unless regulated by the Town of Milton or specifically authorized by a permit issued to an applicant.

§ 127-7. Use of motor vehicles.

Editor's Note: See also Ch. 169, Vehicles, Prohibition of, Art. I, Woods Hollow Nature Preserve and Burgess-Kimball Town Park. No person shall cause or permit a motor vehicle to enter or leave property under the jurisdiction of the Town of Milton except by designated routes. With the exception of emergency vehicles, no person shall cause or permit a motor vehicle to be stopped or parked other than within an authorized parking area provided by and designated by the Town of Milton.

§ 127-8. Penalties for offenses.

[Added 3-19-1997 by L.L. No. 5-1997]

Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 129. PEDDLING AND SOLICITING

§ 129-1. Definitions.

§ 129-2. Exempted activities.

§ 129-3. License required.

§ 129-4. Application for license; bond required.

§ 129-5. Issuance of license; expiration; restrictions.

§ 129-6. License fees.

§ 129-7. Vehicle to be marked with name and address.

§ 129-8. Revocation of license.

§ 129-9. Restrictions on activities.

§ 129-10. Penalties for offenses.

CHAPTER 129. PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Milton 6-6-1984. Amendments noted where applicable.]

§ 129-1. Definitions.

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

PERSON

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

SOLICITOR

Includes any person who goes from place to place or house to house or who stands in any street or public place or place generally accessible to the public taking or offering to take orders for goods, wares or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article of thing whatsoever for future delivery.

VENDOR, HAWKER AND PEDDLER

Includes, except as hereinafter expressly provided, any person, either principal or agent, who, from any boat or car or on a railroad tract or in any public street or public place or place generally accessible to the public or by going from house to house or place of business to place of business on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk or newspapers.

§ 129-2. Exempted activities.

A. Nothing in this chapter shall apply to sales conducted pursuant to statute or by order of any court or to any person selling personal property at wholesale to dealers in such articles or to any persons selling personal property from their home if these sales do not exceed more than six days per year.

B. The licensing provisions of this chapter shall not apply to merchants having an established place of business within the Town of Milton or their employees conducting the business of their employer; to resident farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens; to party plans; to calls in response to a prior invitation; or to established religious, charitable or civic organizations established in the Town.

C. This chapter shall not be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit a request for future periodic route deliveries.

D. This chapter shall not apply to children under the age of 14, nor to children selling or soliciting for school functions.

E. This chapter shall not apply to any veteran of any military service who resides in the Town of Milton, provided that said party registers with the Town Clerk of the Town of Milton prior to any effort to vend, hawk or peddle in said Town and further provided that no such registry shall result in the payment of any fee by said person.

[Added 10-15-1986]

§ 129-3. License required.

[Amended 3-19-1997 by L.L. No. 5-1997]

It shall be unlawful for any person within the corporate limits of the Town of Milton to act as a vendor, hawker, peddler or solicitor as herein defined without first having obtained and paid for and having in force and effect a license therefor. The fee for said license shall be as set from time to time by resolution of the Town Board and shall be on file in the Town offices.

§ 129-4. Application for license; bond required.

A. Any person desiring to procure a license as herein provided shall file with the Town Clerk a written application upon a form furnished by the Town Clerk. Such application shall give the number and kind and registration of vehicle to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise he desires to sell or the kind of service he desires to perform, the method of distribution, the name, address and age of the applicant, the name and address of the person, firm or corporation he represents, the length of time the applicant desires the license and such other information as may be required by the Town Clerk.

B. Such application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

C. An application for a license as a solicitor who demands, accepts or receives payment of deposit of money in advance of final delivery shall also be accompanied by a bond to the Town of Milton, approved as to form and surety by the Attorney employed by the Town Board, in the minimum sum of \$1,000, with a sufficient surety or sureties, or sufficient collateral security, conditioned for making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order or, failing therein, that the advance payment on such order be refunded. If advanced payments will commonly be larger than \$1,000, the Town Board will determine the amount of the bond, to be approved by Town Attorney. Any person aggrieved by the action of any licensed solicitor shall have right by action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the Town of Milton for a period 90 days after the expiration of any such license, unless sooner released by the Town Board.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 129-5. Issuance of license; expiration; restrictions.

A. Upon filing of the application, bond and certificate as provided in § 129-4, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided in § 129-3 and signed by said Clerk. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of the public safety, health, morals or general welfare.

B. A license shall not be assignable. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this chapter.

C. Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and bond, may be issued by the Town Clerk upon the filing with him by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery. The fee for such replacement license may be set from time to time by resolution of the Town Board and shall be on file in the Town offices.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued and state clearly the kind of vehicle to be used, the kind of

goods, wares and merchandise to be sold or service to be rendered, the number of his license, the date of issuance and expiration of the license, the fee paid and the name and address of the licensee.

E. Such licenses shall automatically expire on January 1 following the date of issuance of such licenses, but such licenses may specifically state and provide for an earlier expiration date. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed.

F. No license shall be granted to a person under 14 years of age.

G. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection no longer exists. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§ 129-6. License fees.

[Amended 3-19-1997 by L.L. No. 5-1997]

The license fees shall be as set from time to time by resolution of the Town Board and shall be on file in the Town offices. If the licensee shall have more than one person to whom or vehicle for which he desires a license issued, there shall be an additional fee for each license so issued as set from time to time by resolution of the Town Board and shall be on file in the Town offices. An application for license for the calendar year must be received by the Town Clerk by January 1 of that year. No license shall be issued for less than a calendar-year fee.

§ 129-7. Vehicle to be marked with name and address.

Every vehicle used by a licensed vendor, hawker, peddler or solicitor in or about his business shall have the name and address of the licensee plainly, distinctly and legibly displayed in letters and figures at least two inches in length in a conspicuous place on the outside of the left and right side of every such vehicle, and such name shall be kept so displayed plainly and distinctly as all times while such vehicle is in use during the continuance of the license.

§ 129-8. Revocation of license.

The Town Board may, at any time, for a violation of this chapter or any other ordinance or any law, revoke any license. When a license shall be revoked, no refund or any unearned portion of the license fee shall be made. Notice of such revocation and the reason or reasons therefor, in writing, shall be served by the Town Board upon the person named in the application or by mailing the same to the address given in the application.

§ 129-9. Restrictions on activities.

A licensed vendor, hawker, peddler or solicitor shall:

A. Not falsely or fraudulently misrepresent the quantity, character or quality or any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions of merchandise.

B. Not use the license provided by the Town after the expiration or revocation of the license represented by him.

C. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.

D. Not blow a horn, ring a bell or use any other noisy devise to attract public attention to his wares or shout or cry out his wares.

E. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner of or lessee of the ground floor thereof objects.

F. Not sell any wares within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

G. Not permit any vehicle used by him to stop or remain on any crosswalk.

H. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

I. Not stand in any public street to hawk his wares.

J. Not state or imply that the issuance of the license in any way represents approval, endorsement or guaranty by any part of the government of the Town of Milton.

§ 129-10. Penalties for offenses.

[Amended 3-19-1997 by L.L. No. 5-1997]

Any person who himself or by his clerk, agent or employee shall act as a vendor, hawker, peddler or solicitor, as herein defined, without a license or shall violate any of the provisions of this chapter or who, having had his license revoked, shall continue to act as a vendor, hawker, peddler or solicitor shall be liable to a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both, for each offense.

CHAPTER 132. PROPERTY MAINTENANCE

§ 132-1. Purpose.

§ 132-2. Construction standards.

§ 132-3. Occupancy standards.

§ 132-4. Common areas.

§ 132-5. Maintenance of private areas.

§ 132-6. Rubbish disposal; burning prohibited.

§ 132-7. Garbage disposal.

§ 132-8. Refuse containers.

§ 132-9. Pest control.

§ 132-10. Penalties for offenses.

CHAPTER 132. PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town Board of the Town of Milton 10-15-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning — See Ch. 72.

Uniform codes — See Ch. 85.

Junk and junk dealers — See Ch. 103.

Abandoned mobile homes and trailers — See Ch. 114, Art. I.

Sewers and water — See Ch. 143.

Solid waste and littering — See Ch. 149.

Abandoned and unregistered vehicles — See Ch. 167.

§ 132-1. Purpose.

The purpose of the regulations in this chapter is to protect, preserve and promote the physical and mental health and social well-being of the people, to minimize the incidents of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, to promote the safety of the people and to promote the general welfare by regulations which shall be applicable to all dwellings now in existence or hereafter constructed.

§ 132-2. Construction standards.

No person shall undertake to construct any new building or structure in the Town of Milton without first meeting the requirements for a system or facilities for the separate disposal of waterborne sewage and domestic or trade wastes in accordance with applicable regulations of the Town of Milton and the New York State Department of Health.

§ 132-3. Occupancy standards.

No owner or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary and fit for human occupancy and comply with the requirements of this chapter and all applicable laws.

§ 132-4. Common areas.

Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

§ 132-5. Maintenance of private areas.

Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he/she occupies and controls.

§ 132-6. Rubbish disposal; burning prohibited.

Every occupant of a dwelling or dwelling unit shall dispose of all his/her rubbish in a clean, sanitary and safe manner. The burning of rubbish is unlawful.

§ 132-7. Garbage disposal.

Every occupant of a dwelling or dwelling unit shall dispose of all his garbage or any other organic waste which might provide food for insects or rodents in a clean, sanitary and safe manner; and if a container is used for storage pending collection, it shall be rodentproof, insectproof and watertight.

§ 132-8. Refuse containers.

Every owner of a dwelling containing three or more dwelling units shall supply facilities or containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In a single- or two-family dwelling it shall be the responsibility of the occupant to furnish such facilities or containers.

§ 132-9. Pest control.

The occupants of a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. Occupants of a building containing more than one dwelling unit shall be responsible for such extermination whenever their dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units of any dwelling or in the shared public part of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner. Editor's Note: Original Section 14.11, which immediately followed this section, regarding unfit dwellings, was deleted 3-19-1997 by L.L. No. 5-1997.

§ 132-10. Penalties for offenses.

[Added 3-19-1997 by L.L. No. 5-1997]

Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 143. SEWERS AND WATER

ARTICLE I. General

§ 143-1. Applicability and jurisdiction.

§ 143-2. Use of public systems required.

§ 143-3. Prohibited discharge.

§ 143-4. Fees and permits.

§ 143-5. Registration of contractors; insurance bond.

ARTICLE II. Sanitary Sewerage System

§ 143-6. Owner to maintain full service.

§ 143-7. Sewer laterals.

§ 143-8. Infiltration testing.

§ 143-9. Building sewers.

§ 143-10. Materials specifications.

ARTICLE III. Potable Water

§ 143-11. Potable water materials specifications.

§ 143-12. Gate valves and valve boxes.

§ 143-13. Backwater valve.

§ 143-14. Fire hydrants.

§ 143-15. Water services.

§ 143-16. Copper service pipe and fittings.

§ 143-17. Corporation stops.

§ 143-18. Branch connections.

§ 143-19. Curb stops and boxes.

§ 143-20. Water meters.

§ 143-21. Installation of water systems.

§ 143-22. Thrust blocking and restraint.

§ 143-23. Connection to existing system.

§ 143-24. Temporary plugging.

§ 143-25. Cleaning lines.

§ 143-26. Hydrostatic testing.

§ 143-27. Sterilization.

§ 143-28. Winter construction prohibited.

§ 143-29. Record maps and certification.

§ 143-30. Water system supervision.

§ 143-31. Minimum working pressure.

ARTICLE IV. Installation

§ 143-32. Construction specifications.

§ 143-33. Time of inspection and testing.

§ 143-34. Excavation specifications.

§ 143-35. Rock excavation; blasting.

§ 143-36. Lines and grades.

§ 143-37. Bedding.

§ 143-38. Pipelaying.

§ 143-39. Backfilling.

§ 143-40. Tunnels.

§ 143-41. Jacking and boring.

§ 143-42. Manholes and catch basins.

§ 143-43. Connections.

CHAPTER 143. SEWERS AND WATER

[HISTORY: Adopted by the Town Board of the Town of Milton 7-19-1989 by L.L. No. 4-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Storm sewers — See Ch. 150.

Stormwater management — See Ch. 151.

Street and highway specifications — See Ch. 152.

Subdivision of land — See Ch. 154.

ARTICLE I. General

§ 143-1. Applicability and jurisdiction.

A. The following specifications apply to residential, commercial and industrial sanitary sewer and potable water connections within the Town of Milton. Special connections will be handled on a case-by-case basis.

B. All installation of sanitary sewer and potable water connections shall be subject to the control and approval of the Code Enforcement Officer.

[Amended 3-19-1997 by L.L. No. 5-1997]

C. Standard Detail Sheets 1 and 2 of the Town of Milton supplement these specifications and shall be considered an integral part hereof. Editor's Note: Said detail sheets are on file in the Town offices.

D. Authority for Milton Highway Department control is derived from this chapter. This chapter regulates the use of all public and private sewers and water distribution and supply systems.

§ 143-2. Use of public systems required.

A. The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the Town of Milton and abutting on any street, alley or right-of-way in which there is now, or may be in the future, located a public sanitary sewer and/or a central water supply, may be required to install, at his (or her) expense, suitable mains or plumbing facilities therein and to connect such facilities directly to the nearest facility, in accordance with these specifications.

B. Under normal circumstances, such connection shall be made within 120 days after the date of official notice to do so, provided that the public sewer is within 100 feet of the property line. However, additional time may be allowed, in writing, by the Town of Milton in specific cases if the one-hundred-twenty-day period proves insufficient. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 143-3. Prohibited discharge.

A. No person shall discharge or cause to be discharged any stormwater, surface water, roof runoff, groundwater, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water into any sanitary sewer. Basement drains and sump pumps shall not be connected to any sanitary sewer. The installation and operation of any garbage grinder rated at 3/4 horsepower or greater shall be subject to review and approval of the Town of Milton.

B. Waters or wastes containing certain contaminants hazardous or injurious to the sewers or the sewage treatment facilities are also excluded.

§ 143-4. Fees and permits.

A. No person shall uncover, make connections to or openings into, use, alter or disturb any public sewer or water line, or appurtenances thereof, without first obtaining a written permit from the Town of Milton. There are three classes of building sewer permits: residential, commercial and industrial. The fees shall be as set from time to time by resolution of the Town Board and shall be on file in the Town offices.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. Before making a sewer or water connection, the property owner (or his agent) shall apply for the appropriate permit on a form furnished by the Town of Milton and shall provide all information required. The combined permit and inspection fee shall be paid to the Town of Milton at the time the permit is issued. Permits are issued at the Town Hall, Geyser Road Office, Monday through Friday between 9:00 a.m. and 4:30 p.m.

C. All expenses incidental to the connection of a building to a sewer or water system shall be paid by the property owner. The owner (or his agent) shall indemnify the Town for any loss or damage that may result from his sewer connection work.

§ 143-5. Registration of contractors; insurance bond.

A. Any person working for fee (contractor) to make connections to the sewer or water system must register with the Town of Milton.

B. All registered contractors must have on file with the Town of Milton an owner's and contractor's protective liability insurance policy, in the name of the Town of Milton and/or the Saratoga County Sewer District, in the following amounts:

(1) Bodily injury: \$500,000 each person and \$1,000,000 each accident; and

(2) Property damage: \$100,000 with a combined single limit of \$1,000,000.

C. The registration and insurance requirements in Subsection B above do not apply to property owners who install their own building sewer lateral connection.

ARTICLE II. Sanitary Sewerage System

§ 143-6. Owner to maintain full service.

The owner shall maintain full service in the existing sewer system continuously. No discharge of sewage to a point outside the system shall be permitted at any time.

§ 143-7. Sewer laterals.

[Amended 3-19-1997 by L.L. No. 5-1997]

A Y-branch and sewer lateral extending to the edge of the right-of-way or beyond shall be installed for each lot. A hardwood stake extending from the sewer to the ground surface shall be installed at the end of each sewer lateral before backfilling. A record drawing depicting the exact location of these lateral stub ends shall be prepared during construction. The end of the sewer lateral shall be sealed with an approved stopper manufactured for the purpose and the stopper shall be wedged in place with stone or masonry before backfilling. The sewer lateral shall eventually be connected to the building it serves before the Town approves the building construction. The sewer lateral shall be a minimum 10 feet from any water service (horizontal).

§ 143-8. Infiltration testing.

A. It is the intention of these construction standards to secure a system with a minimum amount of infiltration. To check the amount of infiltration, the Town of Milton shall require infiltration/exfiltration tests or low pressure air tests, depending upon the existing site condition. These tests must be completed before house services are connected to the system.

B. Infiltration tests. Infiltration testing is an acceptable leakage test only when the groundwater level is suitably higher than the pipe. The owner shall furnish and maintain a V-notch sharp crested weir in a wood frame tightly secured in the sewer system at the locations directed by the Town. The maximum allowable infiltration shall be 200 gallons per mile, per inch of diameter of sewer main, per twenty-four-hour day at any time. The period of testing shall be a minimum of one hour.

C. Exfiltration tests.

(1) Exfiltration testing is an acceptable leakage test only in dry areas or when the groundwater level is suitably low. The owner shall furnish and maintain the necessary plugs, stoppers, water supply and measuring devices at locations required by the Town Engineer. All openings in the section of the system to be tested shall be securely stopped and the section filled with water to provide a minimum of two feet of head over all sewers in the section or two feet higher than the groundwater level, whichever is higher.

(2) After filling, the system shall be allowed to stand a minimum of 12 hours before conducting the tests. The maximum allowable exfiltration shall be 50 gallons per mile, per inch diameter of the sewer, per twenty-four-

hour day at any time. The maximum internal pressure at the lowest point may not exceed 10 pounds per square inch (psi).

D. Low pressure air tests. The owner shall furnish and maintain the necessary plugs, fittings, gauges and pumping systems at locations directed by the Town of Milton. The duration of the testing shall be determined by the Town of Milton Engineer from Table 2.31, taken from UNI-BELL recommended practice for low pressure air testing of installed sewer pipe. Editor's Note: Said table is on file in the Town offices. The prescribed pressure drop shall not exceed 0.5 psi from 3.5 psi to 3.0 psi in excess of the groundwater pressure above the top of the pipe.

E. Deflection tests. Sewers must be straight between manholes and shall be tested for straightness by flashing a light from manhole to manhole, by lamping or by other suitable means. The Town of Milton Engineer may also require other types of deflection testing where construction encountered unstable trench walls or bottoms, heavy rainfall, frozen soil, high groundwater levels, deep lines or improper compaction.

§ 143-9. Building sewers.

A. Building sewer.

(1) The building sewer is defined as extending from the stub end of the sewer lateral within the public right-of-way to the start of the building drain. The building drain is considered to begin at a point five feet outside the foundation wall.

[Amended 3-19-1997 by L.L. No. 5-1997]

(2) The building sewer shall be laid at a depth sufficient to afford protection from frost and at a uniform grade of 1/4 inch per foot (or about 2%). Special permission may be given to use a lesser grade, which in no case shall be less than 1/8 inch per foot (or about 1%).

(3) No building sewer shall be laid within three feet of and parallel to any bearing wall.

(4) Necessary changes in direction shall be made only with properly curved pipe and fittings. Ninety-degree bends are not acceptable. Two forty-five-degree bends connected with a one-foot nipple or a ninety-degree long sweep must be installed where needed.

(5) Cleanouts extending up to ground level (to grade) must be spaced not more than 100 feet apart along the building sewer and shall be installed at all bends. The cleanout on the building drain must extend to a point at least three inches above final grade. All cleanouts shall be installed such that the cleanout opening is in a direction opposite to the direction of flow in the sewer.

[Amended 3-19-1997 by L.L. No. 5-1997]

(6) Certain commercial and industrial sewer connections may be required by the Town of Milton to incorporate a grease trap. The type and details of grease trap installation shall be as specified by the Code Enforcement Officer.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. Building drain.

(1) The building drain is defined as starting at the end of the building sewer five feet outside the foundation wall extending into the building.

[Amended 3-19-1997 by L.L. No. 5-1997]

(2) All building drains shall include a four-inch cleanout, a double hand hole building trap (or running trap) installed inside the foundation wall and a three-inch fresh air inlet to the outside.

(3) The building trap shall be located as close to the foundation wall as possible. No connections shall be made downstream of this trap.

(4) Basement facilities require a backwater valve on the main building drain. As an alternate, a smaller backwater valve may be installed on each separate basement connection to the building drain, such as on washing machines, sinks, toilets, etc.

(5) Where the building drain is located under the basement floor, all cleanout risers shall be extended to raise the cleanout plugs up to the level of the basement floor.

C. Planning sewer connections.

(1) Where possible, the sewer connection should be made directly in front of the building, and in no case should the building sewer cross other property without special permission given in writing by the other property owner.

(2) In the course of providing municipal sewage service, if the existing septic tank is not removed, but abandoned, it must be pumped out. Pumping of septic tanks shall not be discharged into the public sewer system. Metal septic tanks must be filled with compacted gravel or sand prior to inspection by the Code Enforcement Officer. Concrete tanks may be left as is and used for sump pump outlets. All building sewer piping must be bypassed around the abandoned septic tank.

[Amended 3-19-1997 by L.L. No. 5-1997]

(3) Before any work is started on a building sewer connection, a permit from the Code Enforcement Officer must be obtained. Commercial and industrial sewer connections must be described by a plan approved by the Code Enforcement Officer before a permit is issued.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 143-10. Materials specifications.

A. Sewer mains, building sewer pipe and fittings.

(1) All standard sewer mains and fittings shall not be less than eight inches:

PVC plastic pipe Polyvinylchloride	Minimum diameter and strength: 8-inch, SDR 35
	Pipe and fittings: D2241-78
	Joints: Integral bell elastomeric gasketed

(2) All standard building sewer pipe and fittings shall be not less than six inches:

PVC plastic pipe Polyvinylchloride	Minimum diameter and strength: 6-inch, SDR 35
	Pipe and fittings: D2241-78
	Joints: Integral bell elastomeric gasketed

(3) If a change in pipe type is made at the property line, an approved adapter must be used.

B. Building drain pipe and fittings. All building drain pipe and fittings shall conform to the requirements of the New York State Uniform Fire Prevention and Building Code applicable to plumbing, including latest revisions. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. Connection to existing public sewer main.

(1) Except in rare occasions, there will be a building sewer already provided for extension to the building drain. However, it may sometimes be necessary for the property owner to connect to the existing public sewer main and construct the entire building sewer from there to the building drain.

(2) Such connections to the public sewer main may involve special construction, such as sewer taps and risers and will be approved by the Code Enforcement Officer on a case-by-case basis.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. Connection to existing building sewer.

(1) Connection of a new building sewer to an existing building sewer shall be made watertight in an acceptable manner.

(2) The standard connection shall utilize the standard pipe fitting (or manufacturer's recommended adapter) designed to join the type of pipes involved.

(3) The alternate connection, when joining pipes of different material, shall utilize a virgin PVC donut by Fernco Joint Sealer Company, or approved equal, or a virgin PVC coupling with stainless steel clamping bands by Fernco Joint Sealer Company, or approved equal.

E. Cleanouts to grade.

(1) All cleanouts to grade shall use a four-inch minimum diameter raiser, topped with a four-inch cleanout plug (raised square head design). The cleanout plug shall be installed using pipe thread compound. Joints in the cleanout riser must be rubber-gasketed or caulked lead and oakum. No cemented joints are allowed.

(2) All building drain cleanouts shall use a cast-iron or PVC combination Y (wye) and one-eighth-inch bend (long turn pattern only) at the base in the drain with the cast-iron or PVC cleanout riser extending vertically to a point at least three inches above final grade.

[Amended 3-19-1997 by L.L. No. 5-1997]

(3) When they are required, the type and details of all building sewer cleanouts must be approved by the Code Enforcement Officer.

[Amended 3-19-1997 by L.L. No. 5-1997]

F. Fresh air inlet.

(1) Fresh air inlet pipe shall be three-inch-diameter cast iron, copper or plastic.

(2) The fresh air inlet shall terminate outside the building. The open end shall be protected by a bugproof plate or cap, permanently fixed in the mouth of the pipe, with an open ventilating area at least equal to the area of the inlet pipe.

G. Backwater valve. All backwater valves, whether installed in the main building drain or in separate connections to the building drain, shall incorporate a cleanout and be of a type approved by the Code Enforcement Officer.

[Amended 3-19-1997 by L.L. No. 5-1997]

H. Sewage pump stations. All sewage pump or lift stations shall be the type and manufacture as specified by the Saratoga County Sewer District 1. The design, placement and installation of each station must be approved and inspected by the Town of Milton Engineer.

ARTICLE III. Potable Water

§ 143-11. Potable water materials specifications.

A. All pipe for water mains six inches through 12 inches in diameter shall be polyvinylchloride (PVC) plastic pipe. All plastic pipe shall be furnished in twenty-foot nominal laying lengths.

B. All PVC pipe shall be manufactured and supplied in complete conformance with ANSI/ASTM D 2241-78. Polyvinylchloride pipe classification shall be SDR26,PVC 1120.

C. All pipe shall have joints in complete conformance with the manufacturer's recommendations. The pipe manufacturer shall furnish the required joint material.

D. All PVC pipe for hydrant connections, minimum size six inches in diameter, shall conform to the same specifications as given previously for main line PVC pipe, except that hydrant connection pipe shall have mechanical joints in complete conformance with ANSI/AWWA C111/A21.11-80. The pipe manufacturer shall furnish the required joint accessories.

E. All pipe fittings shall be short body in complete conformance with ANSI/AWWA C1110-82. All fittings shall have a minimum pressure rating of 250 psi.

F. All pipe and fittings must be NSF or UL approved.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 143-12. Gate valves and valve boxes.

A. All gate valves and valve boxes for water mains six inches through 12 inches in diameter, including those for hydrant connections and for water services larger than two inches in diameter, shall meet the same specifications. All such gate valves three inches through 12 inches shall conform to ANSI/AWWA C500-80 and shall be suitable for a minimum working pressure of 200 psi after having been hydrostatically tested to 400 psi after manufacture. All valves shall open left with a standard two-inch square operating nut. All valves shall be furnished with mechanical joint ends complete with ductile iron glands, high-strength low-alloy steel tee bolts and nuts, lead-tipped plain-backed rubber gaskets and required joint lubricant.

B. All gate valves three inches through eight inches shall be double disc, iron body, bronze-mounted, nonrising stem and shall be furnished with double O-ring packings or as approved by the Town of Milton Engineer.

[Amended 3-19-1997 by L.L. No. 5-1997]

C. All twelve-inch gate valves shall be furnished with bevel gearing and grease case, bronze rollers, bronze tracks, square operating nut, conventional stuffing box packing and any additional accessories necessary for proper operation in a buried valved box. A bypass and bypass valve are not required on twelve-inch gate valves.

D. All valves boxes shall be of cast iron, telescopic pattern and at least 5 1/4 inches in diameter. Valve boxes for valves three inches through eight inches shall generally have a twenty-six-inch top section and a thirty-six-inch bottom section. Valve boxes for twelve-inch bevel geared valves can generally also have a twenty-six-inch top section and thirty-six-inch bottom section, but in all cases all valve boxes shall be furnished to match the specific valve dimensions (and gear case dimensions if applicable) and trench depth involved.

E. All valve boxes shall be furnished with a cast-iron cover, drop style, with bolts, and the word "water" and an arrow indicating the direction of the valve opening (open left) cast on the cover in raised characters. Valve boxes shall be Clow F-2452 Model 664-A with a F-2490 cover, or an approved equal.

F. Gate valve and valve box installation shall conform to the requirements on Sheet 1 of the Standard Detail Sheets. Editor's Note: Said sheets are on file in the Town offices. All hydrant leads shall incorporate a gate valve which, in general, shall be located as far from the hydrant and as close to the main as possible. Gate valves at main line functions shall be located four feet away, measured center of the valve to center of the junction or fitting. Gate valves on ductile iron water services shall generally be located on the street line or property line or where required by the Town of Milton. All gate valve locations shall be reviewed and approved by the Town of Milton prior to valve installation and preferably during the design of the system. Tops of the valve boxes shall be set flush with grade in paved areas and set one inch above grade in grassed areas.

§ 143-13. Backwater valve.

All water services shall be equipped with backwater valves, whether installed in the building service before the meter or after the meter, but before any subsequent interior pipe branches or fixture units, and be of a type approved by the Town of Milton Engineer.

§ 143-14. Fire hydrants.

A. All fire hydrants shall conform to ANSI/AWWA C502-80 with five-inch minimum main valve openings and six-inch minimum mechanical joint inlet connections furnished complete with ductile iron glands, high-strength low-alloy steel tee bolts and nuts, lead-tipped plain-backed rubber gaskets and required joint lubricant. Hydrants shall be suitable for a five-foot-deep trench. Each hydrant shall have two two-and-one-half-inch hose connections and one five-inch Stortz pumper connection, with Stortz cap and chain. All hydrants shall have double O-ring packing and shall open left with a National Standard five-sided operating nut measuring 1 1/2 inches flat to point. The outlet nozzle cap nuts shall be the same as the operating nut

[Amended 10-27-2003 by L.L. No. 5-2003]

B. All fire hydrants shall be of break flange construction with a frangible break flange located slightly above the ground line and a cast-iron break coupling on the stem at the same location, which shall be so designed that, in case of breakage, only the frangible break flange and cast-iron coupling need be replaced to complete repair.

C. All hydrants shall receive a finish coat of paint above the ground line after installation. Paint shall be weather resistant Sherwin Williams enamel, or an approved equal. Hydrants shall be painted red (including operating nut) with white tip cover and nozzle caps. All hydrants shall be furnished completely shop primed or painted in the same color and pattern as that required above for the finish coat of paint. Shop primer or paint shall be chosen so as to be compatible with the type of finish paint specified above.

D. All fire hydrants shall be Eddy 2000 or 2500 or Mueller Centurion or equal.

E. Hydrant installation shall conform to the requirements on Sheet 1 of the Standard Detail Sheets. Editor's Note: Said sheets are on file in the Town offices. The type of hydrant installation shall be installed truly vertical at the locations set by the Town of Milton Engineer and/or Code Enforcement Officer and shall be carefully plumbed before the connection is made. Hydrants shall be set on a solid precast concrete slab at least 12 inches square and four inches thick. The concrete slab is to be supported by firm undisturbed material or well consolidated fill. Crushed stone, to a minimum depth and thickness of 12 inches, shall be placed around the drain up to a level at least six inches above the drain to provide for hydrant drainage in pervious soil, such as sand or gravel. In impervious soil, such as clay, a drainage pit two feet in diameter and three feet deep shall be excavated below each hydrant and filled completely with crushed stone under and around the bottom of the hydrant, up to a level at least six inches above the drain. In both cases, the top of crushed stone shall be completely covered with polyethylene or building paper to prevent the backfill from sifting down into the crushed-stone drain. When required by the Town of Milton Engineer and/or Code Enforcement Officer because of evidence of high groundwater, the hydrant drain opening shall be plugged to prevent the entrance of groundwater. In this case, no crushed stone need be placed under the hydrant.

[Amended 3-19-1997 by L.L. No. 5-1997]

F. All hydrant leads shall include a gate valve located three feet or more from the hydrant. Separate mechanical restraint shall be used to secure the hydrant to the valve and then the valve to the main line tee or other fitting. An anchoring fitting, Clow F-1217 Tee or F-1218 Elbow with Roto-Ring glands, or approved equal, shall be the standard installation method used to restrain the hydrant valve to the main. From the valve to the hydrant various means of hydrant restraint may be required. A mechanical joint anchoring pipe, Clow F-1216 with Roto-

Ring gland, or approved equal, shall be the normal method of hydrant restraint. Other types of hydrant restraint, if required by the Code Enforcement Officer, will be used to suit the specific installation. Retainer glands may be required. Mechanical joint retainer glands shall be ductile iron Clow F-1058, or approved equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

G. All hydrant lead-valve assemblies shall be blocked against movement with solid precast concrete blocks both behind the hydrant and behind the tee, as shown on Sheet 1 of the Standard Detail Sheets. Editor's Note: Said sheets are on file in the Town offices. These blocks shall bear against undisturbed material.

H. When required by the Town of Milton Engineer and/or Code Enforcement Officer, hydrant guard posts shall be installed around hydrants as shown on Sheet 1 of the Standard Detail Sheets. Editor's Note: Said sheets are on file in the Town offices. These posts shall consist of a six-inch diameter piece of ductile iron pipe set vertically plumb four feet in the ground with its tip extending six inches above the top of the adjacent hydrant. The pipe shall be filled with crushed stone with the top 12 inches of the pipe neatly capped with concrete. After installation, the portion of the guard posts above the ground line shall be painted in alternating six-inch-wide red and white strips, starting with red on top. Paint shall consist of a double coat of weather resistant enamel paint matching in type and color the finish paint coat on the hydrant.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 143-15. Water services.

A. Water services 3/4, one, 1 1/2 and two inches in diameter will generally be installed on public property or rights-of-way extending from the water main to the property or right-of-way line. Refer to Sheet 1 of the Standard Detail Sheets for installation details. Editor's Note: Said sheets are on file in the Town offices. The complete three-fourths-through-two-inch water service shall consist of the tap, corporation stop, branch connection with extra taps and corporation stops if required, copper service pipe and fittings and curb stop and box. Taps will generally be provided by Code Enforcement Officer after the main has been tested, accepted and placed in service. If tapped tees are used in lieu of taps, the tapped tees shall be supplied by the owner and installed by the contractor. Copper service pipe shall be run in trenches five feet depth minimum as measured from finished grade. The curb stop and box shall generally be located on the property or right-of-way line with the top of the curb box set one inch above grade in grassed areas and set flush with grade in concrete sidewalks or paved areas.

B. Water services larger than two inches in diameter in any location shall be furnished and installed by the owner completely at his own expense. For installation details, refer to Sheet 1 of the Standard Detail Sheets. Editor's Note: Said charts are on file in the Town offices.

(1) The complete larger-than-two-inch water service shall generally consist of a main line tee or tapping sleeve and valve, ductile iron service pipe and fittings and standard gate valve and valve box. Such ductile iron service pipe and fittings shall meet the same specifications as given previously in Article II for the main line pipe and fittings and shall be installed in a trench five feet deep minimum to provide at least 4 1/2 feet of cover or more over the barrel of the pipe, all as measured from finished grade.

(2) The standard gate valve and valve box shall generally be located on the property or right-of-way line or where required by the Code Enforcement Officer. The gate valve and valve box shall meet the same specifications as given previously in § 143-11 for main line valves and valve boxes.

(3) The exact configuration of these water services larger than two inches in diameter shall be reviewed and approved by the Code Enforcement Officer prior to their construction.

[Amended 3-19-1997 by L.L. No. 5-1997]

C. Water services of any size on private property shall be furnished and installed by the owner completely at his own expense. All such services shall meet all the same material and installation details as given in these specifications for other water services. Installation details shall be reviewed and approved by the Code Enforcement Officer before the service is installed.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. All water services shall be installed with a backflow prevention valve as approved by the Town of Milton Engineer.

§ 143-16. Copper service pipe and fittings.

[Amended 3-19-1997 by L.L. No. 5-1997]

A. All water services 3/4, one, 1 1/2 and two inches in diameter shall be made with copper service pipe. All copper service pipe shall be soft temper Type K seamless copper tubing conforming to ASTM Specification B88-81 and Federal Specification WWT-799. Copper service pipe shall have the following dimensions and weights:

Nominal Pipe Size (inches)	Outside Diameter (inches)	Weight per Foot (pounds)
3/4	0.875	0.641
1	1.125	0.839
1 1/2	1.625	1.360
2	2.125	2.060

NOTE: Services exceeding 75 feet in length shall be a minimum one inch in diameter as measured from the water main.

B. Fittings for three-fourths-inch and one-inch copper service pipe shall have compressor fittings. Three-part unions for copper to copper shall be Mueller H-15400 or Hays 5615. Other fittings shall be Mueller or Hays items of the same series, or approved equal.

C. Fittings for one-and-one-half-inch and two-inch copper service pipe shall have compression-type connections. Three-part unions for copper to copper shall be Mueller H-15403 110 Compression Connections or Hays 5615 CF Haystite connections. Other fittings as required shall be Mueller or Hays items of the same series, or approved equal.

§ 143-17. Corporation stops.

A. Three-fourths-inch and one-inch corporation stops shall have compression connections and shall be Mueller H-15000 or Hays 5200, both with AWWA (Mueller) inlet threads or equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. One-and-one-half-inch and two-inch corporation stops shall have compression connections and shall be Mueller H-15000, with Mueller H-15071 110 Compression Connection straight coupling attached, or shall be Hays 5200 CF with integral Haystite outlet connection. Both corporation stops have AWWA (Mueller) inlet threads or equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

C. When tapped tees are used that have iron pipe thread taps, Mueller H-15025 or Hays 5204 corporation stops with iron pipe inlet threads may be used for three-fourths-inch and one-inch sizes. For one-and-one-half-inch and two-inch sizes, Mueller H-15025 corporation stops with iron pipe inlet threads with Mueller H-15071 110 Compression Connection straight couplings attached may be used. As an alternate for one-and-one-half-inch and two-inch services with tapped tees, Hays 5280 Corporation stops with iron pipe inlet threads with Hays 5600 CF Haystite straight couplings attached may be used or equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. Whether tapped in or used with tapped tees, corporation stops shall be installed tilted up at about 15° from horizontal so that a partial loop can be formed in the copper service pipe to allow for possible differential movement of the service pipe and main. A minimum of 4 1/2 feet of cover below finished grade shall be maintained over the top of the partial loop in the copper service pipe.

E. Multiple corporation stops for use with branch connections shall be installed 18 inches on center measured along the main and shall be staggered off-line around the circumference of the main.

F. Corporation stop taps larger than the maximum tap size allowable in the main shall not be made. American Water Works Association (AWWA) and DEPR (Ductile Iron Pipe Research Association) recommendations shall be followed. Consideration shall be given minimum pipe wall thickness required for each tap size to ensure a serviceable threaded connection. Service conditions should indicate the extent of full-thread engagement necessary. As a guide, tap size should be limited so that at least three full threads of the corporation stop are engaged in the pipe wall for ductile iron pipe.

§ 143-18. Branch connections.

A. Branch connections shall be Y-type, minimum two-branch for one-inch inlet and one-and-one-half-inch outlet and minimum three-branch for one-inch inlet and two-inch outlet. Branch connections shall be two-branch Mueller H-15340, three-branch Mueller H-15345 or three-branch Hays 5566 (one-inch inlet to one-and-one-half-inch outlet) or optional four-branch Mueller H-15350 or four-branch Hays 557 (one-inch inlet to two-inch outlet). Mueller H-15071 110 Compression straight couplings shall be used on the outlet end of the branch connections to provide the required compression connection to the one-and-one-half-inch and two-inch copper service pipe.

B. As an alternate, branch connections may be two-branch Mueller H-15341, three-branch Mueller H-15346 or three-branch Hays 5546 (one-inch inlet to one-and-one-half-inch outlet) or optional four-branch Mueller H-15351 or four-branch Hays 550 (one-inch inlet to two-inch outlet). Hays 5600 CF Haystite straight couplings shall be then used on the outlet end of the branch connections to provide the required compression connection to the one-and-one-half-inch and two-inch copper service pipe.

§ 143-19. Curb stops and boxes.

A. Curb stops for three-fourths-inch and one-inch copper service pipe shall be nondraining Mueller H-15200 or Hays 5045 or equal. The curb stops shall be set on a solid concrete block. Curb boxes for these curb stops shall be of the extension type with a stationary rod and arch pattern base suitable for a five-foot-deep trench and having a one-inch inside diameter upper section. Curb boxes shall be Mueller H-10314, 5 1/2 feet extended in length telescoping to 4 1/2 feet, with matching No. 82867 stationary rods and No. 87081 lids. As an alternate, curb boxes may be Hays 5800, 4 1/2 feet to 5 1/2 feet adjustment, with matching stationary rods and No. 5803 covers or equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. When either these Mueller or Hays curb boxes for three-fourths-inch and one-inch services are installed in concrete or paved surfaces, cast-iron curb box sleeves shall be installed to allow freedom of movement of the ground key lid. Curb box sleeves shall be Mueller H-10342 or Hays 5890.

C. Curb stops for one-and-one-half-inch and two-inch copper service pipe shall be nondraining Mueller Mark II Oriseal H-10283 with Mueller H-15428 110 Compression Connection couplings to provide the required compression connections. The curb stops shall be set in a cast-iron foot piece, Mueller H-10399 for one-and-one-half-inch Oriseal stops and Mueller H-10400 for two-inch Oriseal stops. Curb boxes shall be Mueller H-10386, with one-and-one-fourth-inch inside diameter upper section, 5 1/2 feet extended length telescoping to four feet 8 1/2 inches, with matching No. 580565 stationary rods and No. 580567 lids and plugs. When installed in concrete or paved surfaces these curb boxes do not require curb box sleeves.

§ 143-20. Water meters.

A. Meters for all water services two inches in diameter and less must be obtained from the Town of Milton.

(1) For three-fourths-inch and one-inch services installed by the Town of Milton on public property or rights-of-way, the five-eighths-inch by three-fourths-inch or three-fourths-inch by one-inch water meter will be installed indoors by the Town of Milton or an approved agent.

(2) For one-and-one-half-inch and two-inch services installed by the Town of Milton or an approved agent on public property or rights-of-way, the water meter shall be installed indoors by the owner.

(3) For all services two inches in diameter or less installed by the owner of private property, the water meter must also be purchased from the Town of Milton, at cost, and then shall be installed indoors by the owner.

(4) In all these cases, the water meters obtained from the Town of Milton will be Neptune or Badger displacement-type meters, or equal, frostproof and straight reading in gallons, or an approved equal.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. All water meters larger than two inches in size shall be purchased and installed by the owner. The water meters shall be Neptune or Badger Turbo meters, or equal, straight reading in gallons. Installation details shall be reviewed and approved by the Town of Milton before the work is done. All installations larger than two inches shall have a bypass line of equal size.

§ 143-21. Installation of water systems.

A. In addition to the various miscellaneous installation requirements given in subsequent sections of this specification, all water distribution system installation shall be done in accordance with ANSI/AWWA C600-82 recommendations. Also, all work shall be done in accordance with the requirements of the Town of Milton Engineer.

B. Trenches shall be open-cut from the surface, deep enough to provide a minimum of five feet of cover over the barrel of the pipe from finished grade.

C. All pipe and fittings shall be laid on good foundations trimmed to shape and, where required, secured against settlement, all in a manner to provide full support for the entire length of pipe. At the joints, enough width and depth, including bell holes, shall be made to permit proper jointing. Blocking support of pipe shall not be permitted unless the pipe is to be laid with a concrete cradle or encasement or inside a tunnel or casing pipe. When pipe is laid in tunnels or casings, the pipe shall be blocked in such a manner so as to take the weight off of the bells. Sufficient selected bedding and backfill shall be placed or other precautions taken to prevent flotation, movement or damage to the pipe, fittings and coatings.

D. Standard pipe installation in trench in earth shall conform to ANSI/AWWA C600-82, Laying Condition Type 2, with the pipe laid on a flat or slightly shaped natural trench bottom with bell holes and tamped pipe zone backfill up to the stringline of the pipe. Excavation to grade and backfilling shall be in accordance with ANSI/AWWA C600-82. When backfilling, satisfactory excavated material or sand, gravel or other special trench backfill, as required by the Town of Milton Engineer, shall be used. The backfill shall be brought by hand or approved mechanical means to a depth of one foot over the pipe to provide a cushion and prevent movement and damage to the pipe during subsequent backfilling with equipment.

E. An alternate pipe installation for trench in earth, when ordered by the Town of Milton Engineer, shall conform to ANSI/AWWA C600-82, Laying Condition Type 4, with the pipe bedded in tamped and shaped select bedding material to a depth of 1/8 of the pipe diameter or a four-inch minimum, whichever is greater, followed with tamped pipe zone backfill up to the top of the pipe. This installation method shall be used to secure better support for the pipe and/or to replace unstable trench bottoms with sound material. Excavation below grade and select bedding shall be in accordance with Section 3.2 of ANSI/AWWA C600-82. Select bedding material shall consist of compacted sand, gravel or crushed stone, depending on conditions approved by the Town of Milton. Backfilling shall be the same as above.

F. The Standard pipe installation for trench in rock shall conform to ANSI/AWWA C600-82, Laying Condition Type 4, with the pipe bedded in tamped and shaped select bedding material to a depth of 1/8 of the pipe diameter or a four-inch minimum, whichever is greater, followed with tamped pipe zone backfill up to the top of the pipe. Rock excavation below grade and select bedding shall be in accordance with Section 3.2 of ANSI/AWWA C600-82. Ledge rock, boulders and large stones shall be removed to provide a clearance of at least six inches below and on each side of all pipe (including bells), valves and fittings. Such excavated rock

shall be replaced with select compacted bedding material, generally sand, gravel or crushed stone, depending on conditions approved by the Town of Milton. Backfilling shall be the same as above.

G. All trench excavation and any required sheeting and shoring shall be done in accordance with the latest revisions of the following codes: Subpart 23-4, Excavation Operation, of the New York State Department of Labor Industrial Code Rule 23, and Subpart P, Excavations, Trenching and Shoring, of the United States Department of Labor Occupational Safety and Health Administration (OSHA) Regulations for Construction. The more stringent requirement in each code shall apply.

H. Proper and suitable tools and equipment for convenient and proper handling and laying of pipe and fittings shall be used. Great care shall be taken to prevent entrance of dirt or foreign matter into the pipe and to prevent damage of pipe lining and coating. Open ends of pipes shall be kept plugged or bulkheaded during construction.

I. All material shall be carefully examined for defect, and no piece shall be laid which is known to be defective. If any material is defective after being laid, it shall be removed and replaced with a sound piece, in a satisfactory manner.

J. Whenever pipes require cutting to fit into other lines, the work shall be done with approved cutting tools specifically designed to cut pipe so as to leave a smooth end at right angles to the axis of the pipe. The cut end shall be ground or filled to a slight taper so as not to damage rubber gaskets. The spigot ends of pipe shall be installed at the correct depth in the bells with a rubber gasket and two silicon bronze wedges per joint.

[Amended 3-19-1997 by L.L. No. 5-1997]

K. When making plain end connections with a sleeve on twelve-inch diameter pipe, ends shall butt together or a filler piece or pipe stop shall be installed between the ends.

L. In order to be accepted by the Code Enforcement Officer, all valve boxes and curb boxes shall be clean and set squarely down on the valve or curb stop, centered and plumb over the wrench nut of the valve or operating rod of the curb stop and shall not be over extended. All valves and curb stops shall be suitably marked and adequately protected during construction.

[Amended 3-19-1997 by L.L. No. 5-1997]

M. Water main/sanitary sewer separation. Water mains shall be installed at least 10 feet horizontally from any existing or proposed sanitary sewer. The distance shall be measured from edge to edge. In cases where it is not practical to maintain a ten-foot separation, the water main may be installed closer to the sanitary sewer, provided that the water main is laid in a separate trench or on an undisturbed earth shelf located on one side of the sanitary sewer at such an elevation that the bottom of the water main is at least 18 inches above the top of the sanitary sewer. Water mains crossing sanitary sewers shall be installed to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sanitary sewer. This shall apply whether the water main crosses above or below the sanitary sewer. For all crossings, one full length of water main pipe shall be located so that each joint shall be as far away as possible from the sanitary sewer. Special structural support of the water main and sanitary sewer may be required.

N. Dust control. In order to control dust conditions during the water main construction, the contractor shall furnish and apply either water or calcium chloride. When water is used on streets or roads, it shall be applied uniformly with a pressure distributor spray bar or by other approved equipment. When water is used on areas that shall be sodded or seeded later, it shall be free from acids, oils, salts or any other substances injurious to plant growth. Calcium chloride shall be in accordance with ASTM Standard D98-80 and shall be delivered in unopened, waterproof bags. It shall be applied to unpaved streets, roads, driveways or other areas at such times as directed by the Town of Milton Engineer. It shall be applied uniformly after the surface has been thoroughly watered, as specified above.

§ 143-22. Thrust blocking and restraint.

A. All plugs, caps, tees, bends and other fittings shall be provided with concrete thrust blocking to resist test pressures or shall be prevented from moving by using suitable metal rods or clamps. Refer to Sheet 2 of the Standard Detail Sheets for typical concrete thrust block details. Editor's Note: Said sheets are on file in the Town offices. All concrete shall be tested to be 3,000 psi and shall be placed around the fittings to completely fill the

space between the fittings and the undisturbed walls of the trench. Concrete shall not overlap any joint and shall be placed so as not to interfere with removing or installing any of the jointing hardware.

B. Other means of thrust restraint utilizing anchoring fittings and retainer glands may be used where appropriate. These thrust restraint options shall be as previously described for use with hydrants in § 143-14 of these specifications and as illustrated on Sheet 1 of the Standard Detail Sheets. Editor's Note: Said sheets are on file in the Town offices.

§ 143-23. Connection to existing system.

[Amended 3-19-1997 by L.L. No. 5-1997]

Connections to existing systems shall be reviewed and approved on an individual basis by the Code Enforcement Officer. In general, connections shall be made with a minimum of or no disruption to water service in the existing system.

§ 143-24. Temporary plugging.

At times when pipe laying is not actually in progress, the open ends of the pipes shall be closed temporarily with pipe plugs or by other means. If water is in the trench when work is resumed, the trench shall be dewatered and the plugs shall not be removed until all danger of water entering the pipe is past.

§ 143-25. Cleaning lines.

[Amended 3-19-1997 by L.L. No. 5-1997]

At the conclusion of the work, the contractor shall thoroughly clean all new pipes by flushing them with water or other means to remove all dirt, stones, pieces of wood, etc., which may have entered during the construction period. If, after this cleaning, any obstructions remain, they shall be removed to the satisfaction of the Town of Milton Engineer and the Code Enforcement Officer. Pipes shall be flushed at a rate of 2.5 feet per second (fps) for a duration suitable to the Town of Milton Engineer and to the Code Enforcement Officer. The rates of flow required to produce 2.5 feet per second flushing velocity in different sizes of pipe are as shown in the following table:

Pipe Size (inches)	Flow Required to Produce 2.5 fps Velocity (gallons per minute)	Hydrant Opening Required at 40 psi Residual
4	100	One-2 1/2"
6	220	One-2 1/2"
8	390	One-2 1/2"
12	880	One-2 1/2"

§ 143-26. Hydrostatic testing.

A. Hydrostatic testing shall be done within 72 hours of conclusion of installation.

B. Hydrostatic acceptance tests, consisting of a pressure test and a leakage test, shall be performed on all sections of all water systems installed after the trench has been backfilled. Hydrostatic presumptive tests may be performed when the system is partially backfilled to simply check the work, but acceptance of the system shall be based on hydrostatic tests run on the finished system after it is completely backfilled. All hydrostatic tests shall be performed in accordance with Section 4 of ANSI/AWWA C600-82.

C. For the pressure tests, the system shall be pressure tested by pressurizing to a minimum of 150 psi, based on the elevation of the lowest point in the section being tested and corrected to the elevation of the gauge. Provisions shall be made to relieve air trapped at high points in the system through adjacent hydrants or through taps and corporation stops installed for this purpose by the contractor. After this pressure has been

maintained successfully, with further pumping as required, for a period of at least one hour, the section under test shall be considered to have passed the pressure test, and leakage tests shall then be performed.

D. Leakage tests shall be performed under a minimum test pressure of 150 psi, based on the elevation of the lowest point of the section being tested and corrected to the elevation of the gauge. The test section should be limited to a maximum length of about 2,000 feet. The leakage test duration shall be a minimum of two hours after the leakage rate has stabilized.

E. The maximum allowable leakage for a two-hour test per one-thousand-foot length of different sizes and nominal laying lengths of pipe shall be as shown in the following table:

Pipe Size (inches)	Allowable Leakage at 150 psi (gallons per 2 hours per 1,000 feet of pipe)
3	0.56
4	0.74
6	1.10
8	1.48
12	2.20

F. All water for the test shall be furnished and disposed of by the contractor at his own expense. Source and/or quality of the water which the contractor proposes to use in testing the lines shall be acceptable to the Town of Milton Engineer and to the Code Enforcement Officer.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 143-27. Sterilization.

A. All pipes and fittings connected to and forming a portion of a potable water supply shall be sterilized and flushed in a manner acceptable to the Town of Milton Engineer and the Code Enforcement Officer. Sterilization shall be accomplished after the pipe has passed the pressure and leakage tests.

[Amended 3-19-1997 by L.L. No. 5-1997]

B. Sterilization shall be performed in accordance with ANSI/AWWA C601-81 (excluding Section 5.1 covering the tablet method). Sterilization shall be accomplished by applying a chlorine solution that will give a fifty-parts-per-million chlorine residual throughout the main being disinfected. The chlorine solution shall remain in the water mains for a minimum period of 24 hours. At the termination of this period, the chlorine residual shall be a minimum of 25 parts per million (ppm). If the residual is less than 25 parts per million (ppm), the entire procedure shall be repeated until a satisfactory value is reached. The chlorine solution shall be thoroughly flushed out prior to placing the new section of the main in service until the chlorine residual does not exceed 1.0 parts per million (ppm). The chlorine solution shall be disposed of in a manner that will in no detrimental way affect human, fish, plant or animal life. Certificates of occupancy shall not be issued until chlorination results are satisfactory.

C. After the water mains have been flushed with potable water to the satisfaction of the Town of Milton Engineer and to the Code Enforcement Officer, samples of water from the mains shall be subject to bacteriological analysis.

[Amended 3-19-1997 by L.L. No. 5-1997]

D. The number of samples and their collection points shall be reviewed with and be acceptable to the Code Enforcement Officer. Also, the testing laboratory that will do the bacteriological analysis shall be a laboratory

approved by the Town of Milton Engineer. The water samples shall test bacteriologically safe before the water mains are placed in service.

[Amended 3-19-1997 by L.L. No. 5-1997]

§ 143-28. Winter construction prohibited.

[Amended 3-19-1997 by L.L. No. 5-1997]

A. Unless specifically approved by the Code Enforcement Officer, no water distribution system installation and construction shall take place during the winter months from November 1 through April 1.

§ 143-29. Record maps and certification.

[Amended 3-19-1997 by L.L. No. 5-1997]

A. At the conclusion of the water system installation, the Town of Milton Engineer shall prepare detailed record maps of the completed water distribution system. These records maps shall be of a form acceptable to the Code Enforcement Officer. The Town of Milton Engineer shall furnish at least three complete sets of twenty-two-by-thirty-four-inch prints of these record drawings to the Code Enforcement Officer.

B. Also, at the conclusion of the water system installation, the Town of Milton Engineer is required to furnish to the Code Enforcement Officer an engineer's certification stating that the water system is complete and was installed in accordance with the previously submitted and approved plans and specifications. The Town of Milton will submit a copy of the Town of Milton Engineer's certification and a copy of the laboratory bacteriological analysis to the Saratoga Health Department.

§ 143-30. Water system supervision.

[Amended 3-19-1997 by L.L. No. 5-1997]

A. All installation and construction of all water mains and services installed in public or private property that are connected directly or indirectly within the Town of Milton system shall be subject to the control of the Code Enforcement Officer.

B. Operation of all valves and hydrants under pressure shall be done only by representatives of the Town of Milton or by such responsible person approved by the Code Enforcement Officer.

C. The Code Enforcement Officer shall be notified at least 24 hours prior to the start of making connections to the existing systems. Also, the Code Enforcement Officer shall be notified at least 24 hours prior to the start of pressure testing, leakage testing and/or sterilization.

D. The Code Enforcement Officer will not authorize any meter installations in any subdivision prior to receiving record drawings and certifications.

§ 143-31. Minimum working pressure.

Minimum working pressure (the pressure under all conditions except fire flows) for potable water systems within the Town shall be 35 psi.

ARTICLE IV. Installation

§ 143-32. Construction specifications.

A. All excavation, pipe installation and backfilling shall be performed in accordance with modern standard practices and applicable safety standards. All components shall be of approved, unused materials, and manufacturers' recommended procedures shall be employed. More specifically, the following standards shall apply:

(1) Pipelaying and trench backfilling:

(a) All pipes:

[1] Pipe manufacturer's recommendations.

[2] New York State Uniform Fire Prevention and Building Code, including latest revisions. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

[3] Water Pollution Control Federation (WPCF) Manual of Practice No. 9-1969.

(b) Polyvinylchloride (PVC) pipe: ASTM D2321-74.

(2) Trench excavation:

(a) New York State Department of Labor Industrial Code Rules (Part 23-1972 and Part 53-1975), including latest revisions.

(b) Occupational Safety and Health Administration (OSHA) Regulations for Construction 1974, including latest revisions.

B. All excavations shall be adequately protected with barricades and lights. All excavations must be properly refilled to grade in compacted layers and the original type of surface replaced. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Milton Highway Superintendent and any other authority having jurisdiction.

C. The opening of streets and sidewalks for the purpose of making water and/or sewer connections must be done in accordance with the requirements of Milton Town laws and of the County or State Highway Department, as applicable. Any required highway work permit shall be obtained by the property owner or his contractor.

D. No connections shall be made into a public sewer or water main except in the presence of a representative of the Town of Milton.

E. No water shall be allowed to gather in excavations or trenches. Pumping of septic tanks to be abandoned shall not be discharged into the public sewer system.

F. All pipe shall be placed with a marker tape for locating the line after construction. The tape shall be buried a maximum of 18 inches below the surface and directly over the pipe. The exact type of marker tape and its location shall be as approved by the Town of Milton Engineer.

G. Pipe and accessories shall be handled in such a manner as to ensure delivery on the work site in a sound, undamaged condition. Rope or canvas slings shall be used in unloading, loading and installation of pipe which cannot be placed by hand. The use of chains or tongs shall not be permitted.

H. Cutting of pipe shall be done in a neat and workmanlike manner without damage to the pipe or pipe lining. Unless otherwise authorized by the Town of Milton, all pipe cutting shall be done by means of an approved type of mechanical cutter. Wheel-type cutters shall be used when practicable.

I. Before being lowered into the trench, all sections of pipe shall be inspected for defects. Defective, damaged or unsound pipe shall be rejected.

J. Deflections from a straight line or grade, as required by vertical curves, horizontal curves or offsets, shall not exceed that recommended by the appropriate specifications or, if not specified, then by the manufacturer's recommendations. If the alignment requires deflections in excess of these limitations, the owner shall provide special bends or a sufficient number of shorter lengths to provide angular deflections within the limit set forth.

K. All pipelines and appurtenances of whatever type or description shall be constructed in an approved manner to the complete satisfaction of the Town of Milton.

L. All pipe shall be installed to the limits of the approved subdivision section and shall terminate in a manhole, catch basin, hydrant or blowoff, as appropriate. Stubs shall be installed in manholes and catch basins to provide for future extension of pipelines.

§ 143-33. Time of inspection and testing.

[Amended 3-19-1997 by L.L. No. 5-1997]

A. When a sewer main, water main or service is installed and completed, but prior to refilling the trench, the contractor performing the work shall notify the Code Enforcement Officer so that the installation can be inspected and approval can be given to refill the trench. Trenches refilled prior to inspection will have to be reopened by the contractor at his expense. The contractor may also be subject to a penalty. These refilling regulations also apply to property owners installing their own building water and/or sewer connection.

B. In the discharge of their duties and for the purpose of sewer inspection, properly identified representatives of the Code Enforcement Officer are legally authorized to enter any premises or property in the Town of Milton.

§ 143-34. Excavation specifications.

A. Necessary arrangements shall be made by the owner with all persons, firms or corporations owning or using any poles, pipes, tracks or conduits, etc., affected by his construction to maintain and protect such facilities during construction. In the event that any existing gas pipes, water pipes, conduits, sewers, tile drains or poles are blocked or interfered with by the excavation required on his project, the owner shall maintain them in continuous operation and restore them to the same condition as they were prior to the start of construction.

B. Sidewalks and pavements must be in no case blocked or obstructed by excavated material, except with the approval of the Town of Milton and then only when adequate provisions have been made for a satisfactory temporary passage of pedestrians and vehicles. Adequate bridging and planked crossings must be provided and maintained across all open trenches for pedestrians and vehicles as ordered by the Town of Milton. Barriers, lights, flares and watchmen shall be provided and maintained by the owner at all trenches, excavations and embankments as required by the Town of Milton.

C. The excavating of the trench shall not advance more than 200 feet ahead of the completed pipe work except where it is necessary to drain wet ground. The width of trenches in which pipe is to be installed shall be such as to provide adequate space for workmen to place and joint the pipe properly and shall be in accordance with the following:

Maximum Trench Width 1 Foot Above Top of Pipe

Pipe Size (inches)	Trench Width (inches)
8 to 12	30
15 to 18	O.D. + 16
21 to 27	O.D. + 18
30 to 36	O.D. + 24

NOTE: O.D. is outside diameter of pipe barrel

D. The owner shall furnish, put in place and maintain such sheeting and bracing as may be required to support properly the sides and ends of excavations and to prevent injury to the structure built or to persons or property.

E. If at any time the Town of Milton orders, the owner shall install such additional sheeting and bracing as may be required by the State of New York Department of Labor, by adverse soil conditions or by the Town of Milton, but compliance with such orders or failure on the part of the Town of Milton to exercise its right to give such order shall in no way release the owner from liability for damage caused by weak or insufficient sheeting nor from his responsibility to protect the work and adjacent property. Voids appearing outside the sheeting shall be immediately and compactly filled with suitable material and to the satisfaction of the Town.

F. All sheeting and bracing shall be in accordance with the Industrial Code Rule No. 23 of the State of New York Department of Labor, Board of Standards and Appeals.

G. Trench bottoms shall be excavated to conform to the type of bedding specified for the project.

H. Where excavations are opened and, in the opinion of the Town of Milton, the materials in place are not adequate for structural stability of the completed work, the Town of Milton may order the owner to carry the excavation to an additional depth and furnish and place concrete cradles, sand or gravel refill and/or timber and piling foundations.

§ 143-35. Rock excavation; blasting.

A. Excavation and trenches in rock shall be carried to a depth of 1/4 the diameter of the pipe but in no case less than six inches below the pipe bottom and shall be made by any acceptable method, including use of explosives.

B. Where blasting is necessary, it shall be done by men experienced in such work. All blasts shall be well covered and provisions made to protect pipes, conduits, sewers, structures, persons and property adjacent to the site of the work. Prior to blast, all persons in the vicinity, but no less than 300 feet, shall be given ample warning. Blasting will not be permitted between sunset and one hour after sunrise, except with special permission, nor within 25 feet of the completed work.

C. All handling and use of explosives shall be in accordance with Industrial Code Rule Nos. 23 and 30 of the New York Department of Labor, Board Standards and Appeals, and Article 16 of the New York State Labor Law.

D. The owner shall secure all permits required by law for blasting operations and any additional hazard insurance required.

§ 143-36. Lines and grades.

Three batter boards, a top line plumb bob and grade pile shall be used to transfer line and grade from grade stakes to pipeline unless some other method of checking the pipe invert grade and line is approved by the Town.

§ 143-37. Bedding.

The class of bedding to be used shall be as specified in the final submission drawings. There shall be excavation for bells and flanges in all classes of bedding. Beddings for pipe shall conform to one or more of the following:

A. First-class bedding. First-class bedding is that method of laying pipe in which the pipe is carefully bedded in compacted granular materials placed on a flat trench bottom. The granular material shall be crushed stone, pea gravel or sand, and maximum particle size shall be 3/4 inch. The depth of the granular bedding below the bottom of the pipe shall be 1/4 the outside pipe diameter or four inches, whichever is greater, and shall extend to a point four inches over the top of the pipe. If mechanically tamped, material may be placed in six-inch layers; three-inch layers if tamped by hand. If a clean, dry, free-flowing sand is used, no compaction will be required. All materials up to 12 inches over the top of the pipe shall be placed by hand.

B. Concrete cradle bedding.

(1) Concrete cradle bedding is that method of bedding pipe in which the lower part of the pipe exterior is bedded in plain or reinforced concrete of 2,500 psi or greater, having a minimum thickness under the pipe of

1/4 the nominal inside diameter and extending up the sides of the pipe for a height equal to 1/4 of the outside diameter.

(2) The cradle shall have a width at least equal to the outside diameter of the barrel of the pipe plus eight inches, and it shall be constructed monolithically without horizontal construction joints. The remainder of the bedding to a point four inches over the top of the pipe shall conform to first-class bedding.

C. Concrete encasement. Concrete encasement is that method of bedding pipe in which the entire pipe is jacketed by plain or reinforced concrete having a compressive strength of 2,500 psi or greater. The encasement width and height shall be at least equal to the outside diameter of the barrel of the pipe plus eight inches or as shown on the approved final subdivision drawings. Normally stronger pipe should be used, with concrete cradle or encasement being permitted only in unusual cases.

§ 143-38. Pipelaying.

A. Pipe shall be protected during handling against impact shocks and free fall. Pipe shall be kept clean at all times.

B. The laying of pipe in prepared trenches shall be commenced at the lowest point, with the spigot ends pointing in the direction of flow.

C. All pipe shall be laid with ends abutting and true to line and grade. They shall be carefully centered so that when laid they will form a uniform invert.

D. Preparatory to making pipe joints, all surfaces of the portions of the pipe to be jointed or of the factory-made jointing material shall be clean and dry. Lubricants, primers, adhesives, etc., shall be used as recommended by the pipe or joint manufacturer. The jointing materials or factory-fabricated joints shall then be placed, fitted, joined and adjusted in such a workmanlike manner as to obtain the degree of watertightness required.

E. Trenches shall be kept water-free and as dry as possible during bedding, laying and jointing and for as long a period as required. As soon as possible after the joint is made, sufficient backfill material shall be placed along each side of the pipe to offset conditions that might tend to move the pipe off line and grade.

F. All ends of pipe runs shall be capped with standard stoppers or with a fitting provided with an approved joint. If stoppers are used they must be wedged in place with boulders or masonry blocks. Large lines may be bricked off at the ends or otherwise sealed in a manner approved by the Town of Milton Engineer.

§ 143-39. Backfilling.

A. All backfilling to a point four inches over the top of the newly laid pipe shall be as specified under § 143-37, Bedding. To a point 18 inches over the top of the pipe, there shall be no stones larger than two inches in diameter.

B. No frozen material shall be used for backfill.

C. When backfilling in an open-cut across or within the right-of-way limits of any street, road, highway, sidewalk or railroad, the remainder of the backfill shall be select granular material. Compaction for the entire depth shall be as directed under § 143-37, Bedding, or with water if satisfactory drainage is provided for free water.

D. When backfilling in unpaved areas outside the right-of-way, the excavated material may be used to complete the backfilling, provided that all deleterious contents, if any, are removed as directed by the Town of Milton. The backfill shall be rounded off over the trench not higher than eight inches. Materials shall be compacted in layers not more than two feet thick by hand or by machine.

E. No pipe shall be covered before permission is given by the Town of Milton.

F. Under no circumstances shall water be permitted to rise in trenches before they are backfilled.

G. Backfilling shall be completed to a point two feet above the top of all pipe laid each day. Operations shall be scheduled so that the trench is completely backfilled to within 200 feet of the end of the completed, installed sewer at the end of each day.

H. Whenever timber sheeting is driven to a depth below the elevation of the top of the pipe, that portion of the sheeting below the elevation of the top of the pipe shall not be disturbed or removed. Whenever timber sheeting is driven for the protection of trench walls in water-bearing soil, no portion of such sheeting below a level four feet over the top of the pipe shall be removed.

§ 143-40. Tunnels.

Methods of excavation support and backfill in tunnels made beneath existing structures, railroads, pavements and sidewalks for the installation of pipe or conduits shall be subjected to approval of the Town of Milton before work is begun.

§ 143-41. Jacking and boring.

Methods of jacking or boring to install pipe shall be approved by the Town of Milton before such work is started.

§ 143-42. Manholes and catch basins.

A. All manholes and catch basins shall be precast concrete construction (Fort Miller or equal).

B. Precast concrete rings shall be laid with full mortar joints.

C. Mortar shall consist of one part portland cement and two parts clean torpedo sand with 10% hydrated lime added.

D. Pipe placed through manhole or catch basin sidewalls and stubs installed for future extensions shall extend through the walls a sufficient distance to allow connection on the outside. Such pipes shall be struck smooth on the inside in line with the inside wall of the manhole. The manhole masonry shall be carefully constructed around all pipes so as to prevent leakage along the outer surfaces.

E. Frame castings shall be set in full mortar beds on top of masonry.

F. The top four to 12 inches of the manhole directly under the casting shall be constructed of precast concrete grade rings to provide for adjustment to grade and future construction. Field cutting of precast manhole sections shall not be allowed for grade adjustment.

§ 143-43. Connections.

A. Connections of new lines to existing lines, when encountered in construction and not shown on the final subdivision drawings, shall be made where ordered by the Town of Milton. Such connections shall be made within a manhole or catch basin in the case of sewers or storm drains except for house sewer and drain connections.

B. Junctions for future sewer connections indicated on the final subdivision drawings shall be sealed as specified in § 143-38, Pipelaying.

CHAPTER 146. SMOKING IN TOWN FACILITIES

§ 146-1. Policy.

§ 146-2. Prohibited areas.

§ 146-3. Enforcement.

§ 146-4. Penalties for offenses.

§ 146-5. General comments.

CHAPTER 146. SMOKING IN TOWN FACILITIES

[HISTORY: Adopted by the Town Board of the Town of Milton 8-25-2003 by L.L. No. 3-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 38.

§ 146-1. Policy.

It is the policy of the Town of Milton to enforce the provisions of the Clean Indoor Air Act (Public Health Law Article 13-E). Smoking is not permitted in the areas where there is sensitive or hazardous material and in other places that may be designated. The Town of Milton adopts all rules and procedures as outlined by the 1989 New York State Clean Indoor Air Act and Article 13-E, Regulation of Smoking in Certain Public Areas, without further adoptions or legislation.

§ 146-2. Prohibited areas.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Smoking is not permitted in places of employment. "Place of employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services, and shall include, but not be limited to, offices, school grounds, retail stores, banquet facilities, theaters, food stores, banks, financial institutions, factories, warehouses, employee cafeterias, lounges, auditoriums, gymnasiums, rest rooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, rooms or areas containing photocopying equipment, or other office equipment used in common, and Town vehicles. Smoking is not permitted in confined areas of general access.

§ 146-3. Enforcement.

The provisions of the 1989 New York State Clean Indoor Air Act and Article 13-E, Regulation of Smoking in Certain Public Areas, shall be enforced by the Commissioner of Health, New York State Department of Health. Any person who desires to register a complaint relative to the provisions of the Act may do so with the above state agency (the enforcement officer).

§ 146-4. Penalties for offenses.

The enforcement officer may impose a civil penalty of up to \$2,000 for each violation of the Act.

§ 146-5. General comments.

Employees are encouraged to discuss any concerns with their supervisor or department head relative to this policy and procedures thereof.

CHAPTER 149. SOLID WASTE AND LITTERING

ARTICLE I. Transportation of Refuse

§ 149-1. Loads to be covered.

§ 149-2. Penalties for offenses.

ARTICLE II. Littering

§ 149-3. Legislative intent.

§ 149-4. Prohibited activities.

§ 149-5. Provisions not applicable to pickup days.

§ 149-6. Penalties for offenses.

ARTICLE III. Landfills and Dumping

ARTICLE IV. Recycling

CHAPTER 149. SOLID WASTE AND LITTERING

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

GENERAL REFERENCES

Outdoor burying of rubbish — See Ch. 72.

Property maintenance — See Ch. 132.

Abandoned vehicles — See Ch. 167.

Zoning — See Ch. 180.

ARTICLE I. Transportation of Refuse

[Adopted 12-19-1990]

§ 149-1. Loads to be covered.

No person shall haul or transport or cause to be hauled or transported over or upon any of the streets or roads located within the Town of Milton (exclusive of the Village of Ballston Spa) any garbage, offal, manure, rubbish, shavings or sawdust in any open bed truck, trailer or similar vehicle unless the same is provided with a tarpaulin, canvas covering, plastic covering or other material which will prevent the material with which it may be loaded from falling or blowing from such vehicle upon any of the roads located within the Town of Milton, exclusive of the Village of Ballston Spa.

§ 149-2. Penalties for offenses.

[Amended 3-19-1997 by L.L. No. 5-1997]

Any person, firm or corporation who or which shall violate any of the provisions of this article shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

ARTICLE II. Littering

[Adopted 8-17-1994 by L.L. No. 4-1994]

§ 149-3. Legislative intent.

A. The Town Board of the Town of Milton is committed to the effective management of solid waste.

B. Saratoga County's enforcement of recycling and refuse has been accompanied by an unanticipated increase in littering and unlawful refuse disposal on public highways and adjoining public and private lands. This unfortunate situation impairs the health and safety of our citizens, diminishes the beauty and viability of our scenic lands and increases our fiscal burdens.

C. A Town-wide prohibition against littering and unlawful refuse disposal will complement our commitment to effective management solid waste and will supplement the statewide prohibition of such actions codified in Vehicle and Traffic Law § 1220. Effective management of solid waste mandates stricter penalties for littering and unlawful refuse disposal in the Town of Milton.

§ 149-4. Prohibited activities.

No person, firm, partnership, association, corporation, company or organization of any kind shall throw, deposit or place or cause to be thrown, deposited or placed upon any highway or within the limits of the right-of-way of such highway or upon private lands adjacent thereto any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter.

§ 149-5. Provisions not applicable to pickup days.

This article shall not apply on published pickup days by the Town of Milton.

§ 149-6. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a violation punishable by minimum fine of \$500 or community service not to exceed 60 hours or by both such fine and community service. The fine for a second violation of this article shall be \$1,000 and any other subsequent violations shall be \$1,000.

ARTICLE III. Landfills and Dumping

[Landfills, dumps and dumping grounds shall be regulated as provided in Chapter 180, Zoning.]

ARTICLE IV. Recycling

[The recycling regulations adopted by the County of Saratoga are enforced in the Town of Milton. Those regulations are on file in the Town offices and can be examined there during regular business hours.]

CHAPTER 150. STORM SEWERS

ARTICLE I. Illicit Discharges and Connections

§ 150-1. Purpose; intent.

§ 150-2. Definitions.

§ 150-3. Applicability.

§ 150-4. Responsibility for administration.

§ 150-5. Severability.

§ 150-6. Discharge prohibitions.

§ 150-7. Prohibition against failing individual sewage treatment systems.

§ 150-8. Prohibition against activities contaminating stormwater.

§ 150-9. Requirement to prevent, control and reduce stormwater pollutants by use of best management practices.

§ 150-10. Suspension of access to MS4; illicit discharges in emergency situations.

§ 150-11. Industrial or construction activity discharges.

§ 150-12. Access and monitoring of discharges.

§ 150-13. Notification of spills.

§ 150-14. Enforcement; penalties for offenses.

§ 150-15. Appeal of notice of violation.

§ 150-16. Corrective measures after appeal.

§ 150-17. Injunctive relief.

§ 150-18. Alternative remedies.

§ 150-19. Violations deemed public nuisance.

§ 150-20. Remedies not exclusive.

CHAPTER 150. STORM SEWERS

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

GENERAL REFERENCES

Sewers and water — See Ch. 143.

Stormwater management — See Ch. 151.

Subdivision of land — See Ch. 154.

ARTICLE I. Illicit Discharges and Connections

[Adopted 1-24-2007 by L.L. No. 1-2007]

§ 150-1. Purpose; intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Milton through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES general permit for municipal separate storm sewer systems. The objectives of this article are:

- A. To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- C. To prohibit illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 150-2. Definitions.

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

BEST MANAGEMENT PRACTICES (BMPs)

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

CLEAN WATER ACT

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

CONSTRUCTION ACTIVITY

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

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL

New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS

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

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.

ILLCIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 150-6 of this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM

A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY

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

MS4

Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM

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

- A. Owned or operated by the Town of Milton;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

MUNICIPALITY

The Town of Milton.

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. This list is not exhaustive, and may be updated from time to time.

PREMISES

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

SPECIAL CONDITIONS

A. Discharge compliance with water quality standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under 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 municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. 303(d) listed waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

C. Total maximum daily load (TMDL) strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an

MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT

A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee, the municipal engineer or other public official(s) designated by the Town of Milton to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

303(d) LIST

A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL

Total Maximum Daily Load.

TOTAL MAXIMUM DAILY LOAD

The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER

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

§ 150-3. 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.

§ 150-4. Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

§ 150-5. Severability.

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

§ 150-6. 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). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article, unless the Department or the municipality 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 a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under 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 or any other pollutant to the municipality's MS4, or allows such a connection to continue.

§ 150-7. Prohibition against failing individual sewage treatment systems.

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

A. The backup of sewage into a structure.

B. Discharges of treated or untreated sewage onto the ground surface.

C. A connection or connections to a separate stormwater sewer system.

D. Liquid level in the septic tank above the outlet invert.

E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.

F. Contamination of off-site groundwater.

§ 150-8. 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 municipality's MS4 SPDES permit.

(2) Cause or contribute to the municipality being subject to the special conditions as defined in § 150-2 (Definitions) of this article.

B. Such activities include failing individual sewage treatment systems as defined in § 150-7, improper management of pet or farm animal waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

§ 150-9. Requirement to prevent, control and reduce stormwater pollutants by use of best management practices.

A. Best management practices. Where the SMO has identified illicit discharges as defined in § 150-2 or activities contaminating stormwater as defined in § 150-8, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

(2) Any person responsible for a property or premises which is, or may be, the source of an illicit discharge as defined in § 150-2 or an activity contaminating stormwater as defined in § 150-8 may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Individual sewage treatment systems: response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's being subject to the special conditions as defined in § 150-2 of this article, the owner or operator of such individual sewage treatment systems shall be required to:

(1) Maintain and operate individual sewage treatment systems as follows:

(a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee;

(b) Avoid the use of septic tank additives;

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

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

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

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

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

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

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

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

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

§ 150-10. 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 persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

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

§ 150-11. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

§ 150-12. 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 municipality shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

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

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

(6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this 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.

§ 150-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 150-14. Enforcement; penalties for offenses.

A. Notice of violation.

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

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (d) The performance of monitoring, analyses, and reporting;
- (e) Payment of a fine; and
- (f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 150-15. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the Municipal Clerk and mail a copy of its decision by certified mail to the discharger.

§ 150-16. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 150-17. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 150-18. Alternative remedies.

A. Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Office, where:

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

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.

§ 150-19. 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.

§ 150-20. Remedies not exclusive.

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

CHAPTER 151. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

ARTICLE I. General Provisions

§ 151-1. Findings of fact.

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ARTICLE II. Administration and Enforcement

§ 151-6. Construction inspection.

§ 151-7. Performance guarantee.

§ 151-8. Enforcement; penalties for offenses.

§ 151-9. Fees for services.

Attachments:

151a Schedule A Practices Accept for Water Quality

151b Schedule B Maintenance Agreement

CHAPTER 151. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Town Board of the Town of Milton 10-25-2006 by L.L. No. 2-2006. Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers and water — See Ch. 143.

Storm sewers — See Ch. 150.

Subdivision of land — See Ch. 154, specifically §§ 154-9.1, 154-22K and 154-23C.

Zoning — See Ch. 180, specifically §§ 180-39.5 and 180-52D.

ARTICLE I. General Provisions

§ 151-1. Findings of fact.

It is hereby determined that:

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

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

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

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

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

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

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;

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

§ 151-2. Purpose.

The purpose of L.L. No. 2-2006 Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C. is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 151-1 hereof. This L.L. No. 2-2006 seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 currently in effect or as amended or revised from time to time;

B. Require land development activities 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 currently in effect or as amended or revised from time to time;

C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increase in stream temperature, and streambank erosion and maintain the integrity of stream channels;

D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 151-3. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of Milton has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Milton and for the protection and enhancement of its physical environment. The Town Board of Milton may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 151-4. Applicability; administration.

A. This L.L. No. 2-2006 Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C. shall be applicable to all land development activities as defined in § 180-39.5 of Chapter 180, Zoning.

B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Office may:

(1) Review the plans,

(2) Upon approval by the Town Board of the Town of Milton, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or

(3) Accept the certification of a licensed professional that the plans conform to the requirements of this L.L. No. 2-2006.

C. All land development activities subject to review and approval by the Town Board of Milton, Town of Milton Planning Board, and/or Town of Milton Code Enforcement Official under Town subdivision, site plan, erosion control and/or special permit regulations shall be reviewed subject to the standards contained in L.L. No. 2-2006.

D. All land development activities not subject to review as stated in Subsection C shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of L.L. No. 2-2006.

§ 151-5. Exemptions.

The following activities may be exempt from review under L.L. No. 2-2006. Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C.

A. Agricultural activity as defined in L.L. No. 2-2006.

B. Silvicultural activity except that landing areas and log haul roads are subject to L.L. No. 2-2006.

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

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

E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Milton on or before the effective date of L.L. No. 2-2006.

F. Land development activities for which a building permit has been approved on or before the effective date of L.L. No. 2-2006.

G. Cemetery graves.

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

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

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

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

ARTICLE II. Administration and Enforcement

§ 151-6. Construction inspection.

A. Erosion and sediment control inspection.

(1) The Town of Milton Stormwater Management Officer may require such inspections as necessary to determine compliance with L.L. No. 2-2006 Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C. and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of L.L. No. 2-2006 and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Milton enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- (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.
- (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 shall then provide suggested corrective actions to be taken to remedy the violations, which actions must be approved by the Stormwater Management Office prior to their commencement. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Town of Milton Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional or engineer acceptable to the Town.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

D. Submission of reports. The Town of Milton Stormwater Management Officer may require additional monitoring and reporting from entities subject to L.L. No. 2-2006 as are necessary to determine compliance with L.L. No. 2-2006.

E. Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Milton or its agent the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C.

§ 151-7. Performance guarantee.

A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Milton in its approval of the stormwater pollution prevention plan, the Town of Milton shall require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Milton as the beneficiary. The security shall be in an amount to be determined by the Town of Milton based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Milton, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Milton. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or property owner, or by a corporation that owns or manages a residential, commercial or industrial facility, the developer or property owner, prior to construction, may be required to provide the Town of Milton with an irrevocable letter of credit from an approved financial institution or surety, or other security acceptable to the Town, 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 property owner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Milton may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs. In the event the funds held are not enough to cover such costs, or no longer in place, the Town may do the work, or have a third party do the work, and charge the costs back to the developer or property owner. The developer and/or property owner shall allow Town workers or third parties hired by the Town to enter on to the premises to perform such work. Failure to allow access to the premises shall entitle the Town to a court order or injunction requiring access with all costs and expenses incurred in order to obtain such to be paid by the developer and/or property owner.

C. Recordkeeping. The Town of Milton shall require entities subject to L.L. No. 2-2006 Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C. to maintain weekly, monthly, and/or yearly records demonstrating compliance with L.L. No. 2-2006.

§ 151-8. Enforcement; penalties for offenses.

A. Notice of violation. When the Town of Milton determines that a land development activity is not being carried out in accordance with the requirements of L.L. No. 2-2006, Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C. it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (1) The name and address of the landowner, developer or applicant;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the land development activity into compliance with L.L. No. 2-2006 and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The Town of Milton may issue a stop-work order for violations of L.L. No. 2-2006. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Milton confirms that the land development activity is in compliance and the violation has been satisfactorily

addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in L.L. No. 2-2006.

C. Violations. Any land development activity that is commenced or is conducted contrary to L.L. No. 2-2006 may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of L.L. No. 2-2006 shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of L.L. No. 2-2006 shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of L.L. No. 2-2006, the Stormwater Management Officer working with the Code Enforcement Official may cause to prevent the issuance of a certificate of occupancy, or if already issued, may prevent the occupancy or use of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Milton may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 151-9. Fees for services.

The Town of Milton may require any person undertaking land development activities regulated by L.L. No. 2-2006 Editor's Note: See this Ch. 151, and Zoning §§ 180-39.5 and 180-52D and Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Milton or performed by a third party for the Town of Milton.

Attachments:

151a Schedule A Practices Accep for Water Quality

151b Schedule B Maintenance Agreement

CHAPTER 152. STREET AND HIGHWAY SPECIFICATIONS

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Attachments:

152a Images

CHAPTER 152. STREET AND HIGHWAY SPECIFICATIONS

[HISTORY: Adopted by the Town Board of the Town of Milton 1-19-1989 by L.L. No. 1-1989; amended in its entirety 7-20-1994 by L.L. No. 3-1994. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Notification of defects — See Ch. 119.

Subdivision of land — See Ch. 154.

Vehicles and traffic — See Ch. 168.

ARTICLE I. Procedures

§ 152-1. Preparation and submission of highway plans.

Plans including profiles and construction details of the proposed highways shall be prepared by a qualified professional engineer or land surveyor properly licensed by the State of New York. The plans shall clearly define the limits of the proposed right-of-way and shall include the location, width, profiles and grades of proposed roadways, typical road sections, storm drainage, including culverts and other drainage structures, and the location of easements and utilities. Plans shall be first submitted to the Town Superintendent of Highways and the Town Engineer. When any proposed highway drains toward or otherwise may affect a county or state highway, plans shall be submitted to the County Commissioner of Public Works or the New York Department of Transportation for review and comments and to the Town Planning Board for review and approval under the applicable subdivision regulations of the Town. Such plans so submitted shall not be altered, modified or amended after having been approved by the Planning Board, unless revised plans are resubmitted and approved by all proper authorities. However, the developer shall, at his own expense, provide additional storm drainage facilities as may be ordered by the Town Superintendent of Highways if during the progress of the work, in the opinion of the Town Superintendent of Highways and/or the Town Engineer, such additional structures or facilities are necessary to assure the durability of pavement, the future maintenance of the right-of-way and the welfare and safety of the public. If construction has not been started within one year from the date of final approval by the Town Planning Board, plans shall be resubmitted and approved as above.

§ 152-2. Performance bond and insurance.

A. Performance bond.

(1) Prior to the start of construction of any approved highway, the developer shall deposit with the Town Clerk a performance bond of acceptable surety or shall deposit acceptable negotiable government bonds,

cash or certified check drawn upon a national or state bank payable at sight to the Town Board, guaranteeing that:

(a) Within two years the developer will complete the construction of all required improvements within the right-of-way in accordance with the approved plans and specifications; and

(b) Upon certification by the developer's professional engineer and by the Town Superintendent of Highways that the construction of the highway has been completed in accordance with the approved plans and specifications, the developer will dedicate the completed highway to the Town for use as a public highway free and clear of all liens and encumbrances. This guaranty of dedication shall apply to the owner of the property as well as the developer where the two are not synonymous.

(2) As guaranty for the performance of the above requirements, the developer shall deposit, as heretofore set forth, a surety bond, negotiable government bonds, cash or certified check in the amount of 100% of the total construction cost. This amount shall be determined by applying to the quantities or dimensions shown on the approved plans the rate per unit as established by the then-prevailing construction materials and labor costs. The amount proposed shall be approved by both the Town Highway Superintendent and the Town Engineer prior to acceptance by the Town. The above-mentioned guaranty of performance may be reduced in dollar amount upon dedication of all rights-of-way and easements to the Town. The new dollar amount shall be acceptable to the Town Superintendent of Highways and the Town Engineer. The reduced guaranty shall remain in effect for one year following acceptance of the right-of-way by the Town.

B. Insurance. The developer shall procure and maintain at his own expense and without expense to the Town, until final acceptance by the Town of the work covered by approved plans and specifications, insurance for liability for damages imposed by law of the kinds and in the amounts hereinafter provided, with insurance companies authorized to do such business in the State of New York, covering all operations under the approved plans and specifications whether performed by him or subcontractors. Before commencing the work, the developer shall furnish to the Town a certificate or certificates of insurance in a form satisfactory to the Town showing that he has complied with this subsection, which certificate or certificates shall provide that the policies shall not be changed or canceled until 30 days' written notice has been given to the Town. The kind and amount are as follows:

(1) Liability and property damage.

(a) Bodily injury liability. Unless otherwise specifically required by special specification, each policy shall have limits of not less than:

[1] Each person: \$1,000,000.

[2] Each accident: \$2,000,000.

(b) Property damage liability. Unless otherwise specifically required by special specification, each policy shall have limits of not less than:

[1] Each accident: \$1,000,000.

[2] Aggregate: \$2,000,000.

§ 152-3. Inspections.

A. The developer shall afford the Town Superintendent of Highways the opportunity to inspect the work in order that he, the Superintendent, may assure himself that these minimum specifications are being complied with.

B. Such inspections occur at the following listed places in order of construction, and the developer shall give the Superintendent at least two days' notice of such expected completions and shall not proceed to the next order of work until the Superintendent has approved the work inspected:

(1) Upon completion of the subgrade.

(2) Upon completion of the foundation course, at which time the developer shall furnish the Superintendent with men and equipment to dig or have dug test holes to establish and confirm the depth and quality of the foundation course.

(3) Prior to the beginning of paving operations.

(4) Upon completion of the asphaltic concrete base course and top course, at which time the developer shall furnish the Superintendent with men and equipment to dig or have dug test holes to establish and confirm the depth and quality of each paving course.

(5) The Superintendent, or his representatives, shall be given access to the work at all times in order that he may inspect the work as it progresses.

§ 152-4. Maintenance.

During development construction, prior to full acceptance, it is expected and understood that as part of the conditions of approval of the subdivision the developer shall agree to maintain all roads.

A. The edges of the road (i.e., the gutter line) shall be kept free and clear of debris, stone, gravel or any material which prevents the free flow of water. Driveways shall be so constructed that the flow line remains clear.

B. The storm sewer system shall be kept clean and operational.

C. The surface pavement shall be maintained on a continuing basis. Soft spots or other structural defects shall be repaired immediately by excavation and replacement with approved material. "Immediate" shall be considered to be 24 hours from the time of oral or written notification by the Superintendent to the developer, unless arrangements are made satisfactory to the Superintendent to protect the traveling public by lights and barricades until such time as repairs can be made. Potholes and edge raveling shall be remedied on a continuing basis or as ordered by the Superintendent. Repairs shall be made with asphalt concrete (hot mix when available).

§ 152-5. Conditions for issuance of building permit.

No building permits will be issued until the subdivision roads are completed through subgrade preparation.

§ 152-6. Engineer certification.

Prior to acceptance of a highway constructed under these specifications, the developer's professional engineer shall certify, in writing, that he or his authorized representative has inspected all phases of the highway construction and that all work has been completed in accordance with the approved plans and these specifications.

§ 152-7. Dedication.

The conditions to be satisfied before the Town Board considers acceptance of a new highway are as follows:

A. A set of as-built plans of the highway showing right-of-way lines, drainage and utility easements and a road center-line profile must be submitted to the Town Clerk. These plans must bear the stamp of both a licensed professional engineer and a licensed land surveyor and, if they are a portion of a subdivision or a site plan, the stamp of approval of the Planning Board.

B. Metes and bounds descriptions of all right-of-way and easements prepared by a licensed land surveyor must be submitted to the Town Clerk.

C. The plans and descriptions must be reviewed by the Town Engineer who shall indicate his approval in writing to the Town Board. Five printed copies and one Mylar of the completed as-built drawings of the plan, profile, cross section and drainage facilities must be submitted to the Superintendent of Highways.

D. The submitted deeds must be approved by the Town Attorney as to form and sufficiency. A fee title policy shall be issued in the name of the Town of Milton by a title company licensed to do business in New York State. The minimum amount of such fee title policy shall be \$20,000 and thereafter shall be in the amount of \$25,000 per mile or portion thereof.

E. The work completed on the highway on the date of final submittal must be approved by the Town Highway Superintendent, and the Town Board must be notified of this approval.

F. Approved permanent concrete or granite monuments shall be set according to the Town highway specifications or as directed by the Town Engineer, and their location shall be shown on the plans. Iron pipes, unless embedded in concrete, shall not be considered permanent for the purposes of these regulations.

ARTICLE II. Highway Classifications

§ 152-8. Classifications enumerated.

A. The Town Planning Board shall determine and designate into which of the three following classifications each proposed highway falls on the basis of one or more of the criteria hereinafter set forth:

(1) Major or through highway. (See Figure 1. Editor's Note: Figure 1 is included at the end of this chapter.)

(2) Commercial or industrial highway. (See Figure 2. Editor's Note: Figure 2 is included at the end of this chapter.)

(3) Rural- or suburban-type highway. (See Figure 3. Editor's Note: Figure 3 is included at the end of this chapter.)

B. Final plans shall be drawn to show, and the developer shall construct each highway in accordance with, the particular specifications for its designated classification as also hereinafter set forth, as well as in accordance with the specifications common to all classifications.

§ 152-9. Determining criteria for classification.

Determining criteria for classification shall be as follows:

A. Major or through highways. (See Figure 1. Editor's Note: Figure 1 is included at the end of this chapter.)

(1) The proposed highway is the direct and logical continuation of an existing highway that carries 500 or more heavy and light vehicles during a twelve-hour period as shown on the latest count.

(2) The proposed highway creates a shorter and more convenient through-traffic artery so that it can be reasonably expected that traffic will be diverted from other major highways to such an extent that it will reach at least 500 cars in 12 hours two years after opening.

(3) The proposed highway could logically be expected to become a major highway because of future construction or other foreseeable circumstances.

(4) Heavy traffic (trucks) described as being more than 10% of the design hour traffic and at least half of the trucks are anticipated to be at or near legal maximum weight.

B. Commercial and industrial highways. (See Figure 2. Editor's Note: Figure 2 is included at the end of this chapter.)

(1) The proposed highway is in an area zoned for commerce or industry.

(2) The proposed highway is on or is so close to the dividing line between a residential and a commercial or industrial area that it may reasonably be expected to carry a substantial volume of heavy vehicles.

(3) The proposed highway creates a shorter and more convenient route between a commercial or industrial area and a major traffic artery.

(4) The proposed highway for any other reason may be expected to carry a substantial volume of commercial or industrial traffic.

C. Rural and suburban highways. (See Figure 3. Editor's Note: Figure 3 is included at the end of this chapter.)

(1) This classification is intended to cover the majority of subdivision roads.

(2) The proposed highway shall not be or be reasonably expected to become a through, commercial or industrial highway.

(3) The proposed highway shall be a dead end, loop or minor highway within a residential development.

(4) The proposed highway is not or cannot reasonably be expected to become a continuation or extension of a highway of one of the other two above-described classifications. Should such be the case, the proposed highway shall take the classification of the highway of which it is a continuation or extension.

(5) The proposed highway does not or cannot reasonably be expected to carry a substantial volume of traffic.

ARTICLE III. Construction Specifications

§ 152-10. Right-of-way layout.

The developer shall establish and clearly mark on site the limits of highway right-of-way and easements, the center line and grades of the road pavement and the location and elevation of drainage and drainage structures in accordance with the approved plans. Such markers shall be maintained at the developer's expense until the construction of all required improvements within the right-of-way limits have been completed, inspected and approved by the Town Superintendent of Highways.

§ 152-11. Clearing and grubbing.

A. The developer shall clear the entire area within the limits of:

(1) The highway right-of-way, exclusive of trees designated by the Town to remain.

(2) Stream channels and ditches.

(3) Easement areas.

B. All roots and stumps shall be grubbed, excavated and removed from the above areas.

§ 152-12. Excavation, filling and rough grade.

A. The developer shall complete the shaping of the highway right-of-way, streams and ditches and easement areas to the line and grade as shown on the approved plans and as otherwise may be directed by the Town Superintendent of Highways. All unsuitable or unstable material shall be completely excavated and removed from the right-of-way, and all rock or boulders larger than six inches in diameter shall be excavated at least eight inches below the finished subgrade of road pavement, drainage or drainage structures, curbs and sidewalks.

B. Where fills are necessary to complete the required line and grade or to backfill trenches or other excavations, the materials incorporated in the work shall be acceptable to the Town Superintendent of Highways and shall be placed in layers not exceeding eight inches in depth, each layer to be thoroughly compacted by rolling with a three-wheel, sheep's-foot, pneumatic-tired or padded-wheel roller or by impact rammer or vibrator equipment in areas inaccessible to power rollers.

C. All compacting shall continue until the fills are firm and unyielding. Special care shall be exercised immediately adjacent to pipes in order to avoid damage to the pipe and to prevent pipe misalignment.

D. The areas between the road shoulder or curbing and right-of-way line must be graded and seeded in order to prevent erosion.

E. The rough grade of the road pavement, curb and sidewalk areas shall be completed within one inch above or below finished subgrade as shown on the approved cross section of the right-of-way improvement.

F. Earth shoulders and flow lines of ditches and gutters shall be maintained in satisfactory condition at the developer's expense at all times during the course of construction of the subdivision and until such time as the Town Board has accepted dedication of the right-of-way.

§ 152-13. Trench excavation, laying and backfilling.

A. The width of the trench in which the pipe is placed shall be sufficient to permit thorough tamping of the backfill under the haunches and around the pipe. Where rock in either boulder or ledge formation is encountered, it shall be removed to below grade and replaced with suitable materials in such a manner as to provide an earth cushion having a thickness under the pipe of not less than eight inches; and where there are excessively heavy fills over the top of the pipe, the Town Superintendent of Highways may specify that a sand cushion up to 1/2 inch in thickness per foot of fill be placed over the top of the pipe. In no case shall the top of any drainage pipe be less than 18 inches below the finished grade of the pavement. Where soft, spongy or other unstable soil is encountered at the grade established, all such unstable soil under the pipe and for a width of one diameter on each side of the pipe shall be removed and replaced with run-of-bank (ROB) gravel or other acceptable material. In all cases the bed shall be thoroughly compacted and shall provide a firm foundation for the pipe.

B. Pipe shall be laid to a true line and grade on the prepared bed of the trench. Pipelaying shall begin at the downstream end and progress upstream.

C. Backfilling of trenches shall be done in accordance with the subsection on fills under the above heading of § 152-12, Excavation, filling and rough grade.

D. Any additional drainage facilities not shown on the approved plans and which may be ordered by the Town Superintendent of Highways shall be constructed by the developer at the developer's expense in accordance with these specifications and included on the as-built drawings.

§ 152-14. Restoration of disturbed areas within right-of-way.

A. It is the intent of this specification that all disturbed areas within the right-of-way due to highway construction and placement of utilities shall be restored to conditions acceptable to the Town.

B. The removal of all equipment and parts, junk, rubbish, excess material, debris of all kinds and trees damaged beyond repair shall be included in the restoration work.

C. All unpaved areas within the rights-of-way and newly created or stripped earth slopes shall be seeded in accordance with Section 610-3.02 of the current Standard Specifications of the New York State Department of Transportation.

D. In order to control soil erosion, sodding shall be placed on areas designated by the Town Superintendent of Highways in accordance with Section 612-3.01 of the current Standard Specifications of the New York State Department of Transportation.

§ 152-15. Grades and vertical curves.

A. Highways shall be so designed that finished tangent grades will not be less than 1.0% nor more than 8.0%.

B. Every change in grade shall be effected with a vertical curve of sufficient length to ensure adequate stopping sight distance and to provide for smooth transition. These vertical curves shall be designed in accordance with

the graph shown on Figures 4 and 4A of these specifications. Editor's Note: The figures are included at the end of this chapter.

ARTICLE IV. Drainage Requirements

§ 152-16. Drainage report.

A. A hydraulic design report prepared by a licensed professional engineer containing design information for all highway drainage structures, storm sewers and channels must be submitted to the Town Engineer and the Town Superintendent of Highways. This report should contain the basic design data required to arrive at each drainage structure size, such as design frequency, flow rate, grade, velocity, area and method used to determine the waterway size. A consideration should also be given to anticipated (if any) future development and any urbanization of the area.

B. There should be enough information shown on the plans and profile to properly construct all the required drainage facilities. Type and size of culvert, end treatments of inlets and outlets, the gauge of metal pipe or class of concrete pipe, invert elevation each inlet and outlet, ditch and channel section, gutters, channel protection and alignment of ditches are some of the information required on the plan and profile.

§ 152-17. Drainage easements.

A. The developer shall dedicate to the Town by recordable instrument all easements as shown on the plans.

B. All drainage easements must have a minimum width of 30 feet and shall include the right to enter upon said property for the purposes of installing, maintaining and repairing the ditches and pipes as placed in such easements. It is the policy of the Town that all storm drainage be enclosed in drainage pipe, and all easements shall contain a provision providing for the right to install underground pipes and to discharge stormwater therein. The developer shall also install in said easements pipe of a size sufficient to provide for present and future runoff.

C. Where it is proposed that stormwater be drained from the highway or from other lands of the developer to the perimeter of the developer's property, easements shall be provided in recordable form and free and clear of all liens from the adjoining owners permitting the discharge of stormwater drainage onto such adjoining lands.

D. The developer shall provide an attorney's certificate of title indicating that the above mentioned easements and rights to discharge surface water are free and clear of all liens.

§ 152-18. Pipe specifications.

A. Storm drain and culvert pipe may be corrugated metal, reinforced concrete or ADS with a minimum diameter of 12 inches.

B. Round corrugated metal pipe and pipe arches, fully bituminous coated, and end sections shall conform to Section 707-02 of the current Standard Specifications of the New York State Department of Transportation, with the following exceptions:

(1) All collars or connecting bands shall be 12 inches wide and shall be furnished with bolts six inches long.

(2) Round corrugated aluminum pipe, pipe arches and end sections shall conform to Section 707-13 of the current Standard Specifications of the New York State Department of Transportation.

(3) Reinforced concrete pipe shall be manufactured with slip joints or bell and spigot joints.

(4) Each piece of reinforced concrete pipe shall be marked with the specification number and the date of manufacture.

(5) Reinforced concrete pipe shall be sealed with flexible watertight elastomeric gaskets and approved bituminous sealers or plastic sealers. Bituminous or plastic sealants shall be applied at the time the pipe is

being laid to line and grade. Such sealants shall be installed with the sealant manufacturer's instructions so that the joint is completely filled with the sealant.

(6) Round ADS pipe shall conform to the current Standard Specifications of the New York State Department of Transportation.

(7) All collars or connecting bands shall be furnished with plastic ties and installed in accordance with the manufacturer's recommendations.

(8) Corrugated metal or ADS pipe and pipe arch connections for making field joints shall consist of corrugated bands so constructed as to lap on equal portions of each culvert section to be connected.

(9) Height of the fill and pipe classes shall be designed to meet the minimum requirements of H-20 highway loading, which is equivalent to a truck with two loaded axles carrying 16 tons of load each.

§ 152-19. Treatment of culvert ends.

A. Whenever a drain begins or ends in an open ditch, pond or stream, inlet and outlet ends shall be designed to protect embankments and channels and to preserve the hydraulic efficiency of the pipe.

B. The following end treatments shall be used for drainage pipes:

(1) Prefabricated end sections.

(2) Headwall and wingwalls with or without concrete aprons.

(3) Beveled pipe ends.

C. Prefabricated end sections shall be of similar material and construction to the pipe. End sections shall be connected to the pipe in the same manner as pipe sections are connected.

§ 152-20. Underdrains.

A. Where underdrains are required, they shall be designed by a professional engineer and approved by the Superintendent of Highways and the Town Engineer.

B. Underdrains may be perforated metal or ADS and placed in trenches and surrounded by material which is both pervious to water and capable of protecting the pipe from infiltration by the surrounding soil. (See Figure 5. Editor's Note: Figure 5 is included at the end of this chapter.)

§ 152-21. Catch basins and curb inlets.

Specifications and drawings on Figures 7, 7A, 7B show the minimum acceptable construction for typical catch basins and curb inlets. Editor's Note: These figures are included at the end of this chapter. Whenever, in the opinion of the Town Highway Superintendent, ground conditions or other circumstances require larger or heavier materials and additional materials, reinforcing or other modifications and improvements in design and construction shall be made as directed by the Town Highway Superintendent at any time prior to paving.

A. Location. Catch basins shall be located at all points of change of slope or alignment and at all junction points. Catch basins shall be located in the lows of sag vertical curves as necessary to prevent ponding. At no time shall catch basins be spaced farther apart than 300 feet on slopes up to 6% and 250 feet on slopes over 6% in steepness.

B. Construction. All construction and materials shall comply with Section 604 of the current Standard Specification of the State of New York Department of Transportation.

C. Installation of pipes.

(1) Openings in catch basins around all pipes entering and leaving the basin shall be cut to fit the contours of the pipes as closely as possible. Remaining interstices shall be solidly filled with mortar for the full thickness of the wall. Ends of all pipes shall be cut off flush with the inside surface of the catch basin walls and shall project outside a sufficient distance to allow for proper connection with adjoining pipe section.

(2) When the diameter of the effluent pipe is greater than that of the influent pipe, the elevation of the top of the influent pipe shall be no lower than the elevation of the top of the effluent pipe.

(3) When the diameter of the effluent pipe is the same or smaller than the influent pipe, the elevation of the invert of the influent pipe shall be no lower than the elevation of the invert of the effluent pipe. In no case shall the top of any influent pipe be more than five feet above the invert of the effluent pipe.

D. Curb inlets.

(1) Wherever required, catch basins shall be capped with inlets having a minimum frame opening of 30 inches by 30 inches or a type as designated by the Town Superintendent of Highways.

(2) Curb-type inlets shall be installed so that the top of the grating shall be no more than one inch below the finished grade of the wearing surface, and the pavement shall be sloped toward the inlet as shown in Figure 7B. Editor's Note: Figure 7B is included at the end of this chapter. Catch basin covers and cast iron curb boxes shall conform to the current Standard Specifications of the State of New York Department of Transportation, Division of Construction, and be designed to carry H-20 highway loading. All catch basins shall be square unless otherwise approved by the Town Superintendent of Highways.

E. Steps for catch basins. Catch basins having a depth greater than 48 inches from the finished surface to the top of the concrete base shall be provided with steps. The steps shall extend 4 1/2 inches inside the wall of the catch basin. The top step shall not be more than 18 inches below the finished surface. Intermediate steps shall be no more than 18 inches apart. Reinforced plastic steps meeting Section 725-02 of the Standard Specifications, State of New York Department of Transportation, Construction Division, may be used.

§ 152-22. Open ditches.

A. With the approval of the Town Highway Superintendent and Town Engineer, open ditches for back lots and side slopes may be used in lieu of storm drain pipes when the grade of the land traversed is flat or when it is desirable to drain and dry up the surrounding area.

B. In no case shall the grade of an open ditch exceed 6%. The following guide lines shall be used in treatment of these ditches:

(1) Up to 1%: seed and mulch.

(2) One percent to 3 1/2%: jute mesh and seed.

(3) Three and one-half percent to 5%: sod.

(4) Over 5%: riprap.

C. Riprap, when called for, shall consist of field stone or rough, hewn quarry stones as nearly cubical in form as is practical, placed upon a slope not steeper than 1:2 and so laid that the weight of the large stones is carried by the soil and not by the adjacent stones. All stones shall weigh 50 to 150 pounds each, and at least 60% of them shall weigh more than 100 pounds each.

D. Whenever a drain pipe enters an open ditch, the bottom and sides of the ditch shall be riprapped for a distance of at least 30 feet beyond the end of the pipe.

ARTICLE V. Bases and Subbases

§ 152-23. Subgrades.

A. After completion of the rough grade in accordance with § 152-12 and prior to laying of the foundation course, the subgrade shall be shaped to line and grade and thoroughly compacted with an approved self-propelled roller weighing not less than 10 tons. All hollows and depressions which develop during rolling shall be filled with acceptable granular material and again rolled. This process shall continue until no hollows or depressions develop. The subgrade shall not be muddy or otherwise unsatisfactory when the foundation course is laid upon it.

B. Any soft or unstable portions of the subgrade which develop under the roller shall be completely excavated and removed from the right-of-way and shall be replaced with acceptable granular material and the area reggraded and compacted as above.

§ 152-24. Fine grading.

A. Before fine grading of subbase material or construction of curbs and sidewalks is started, all storm and sanitary sewers and all utilities, including house connections and hydrants, shall have been installed, and all fill and backfill shall have been thoroughly compacted to the satisfaction of the Town Superintendent of Highways.

B. Fine grade shall conform to the prescribed width of pavement and shall conform to the typical cross section of the road pavement and to the approved line and grade.

§ 152-25. Foundation course; granular material.

A. After the fine grade and all curbs have been constructed to the satisfaction of the Town Superintendent of Highways, the developer shall furnish and place a foundation course of approved crusher run stone or crusher run gravel to the depth as called for in these specifications. All materials acceptable for these courses shall be hard, durable and sound and shall be well-graded from coarse to fine. One hundred percent by weight of the particles shall be of such a size as will pass through a two-inch square hole, 25% to 60% by weight shall be 1/4 inch, and 5% to 40% by weight shall pass through the No. 40 mesh sieve and 0% to 10% by weight shall pass through the No. 200 mesh sieve.

B. The materials shall be placed on the finished subgrade in six-inch layers and shall be thoroughly compacted by rolling with a self propelled ten-ton roller. Water shall be added to the material in such amounts as the Town Highway Superintendent may consider necessary for proper compaction. After compaction, the surface shall be true to grade and cross section, and any depressions shall be eliminated by the use of additional granular material thoroughly compacted so that it will not weave under the roller, and the total depth after compaction shall not be less than 12 inches.

ARTICLE VI. Bituminous Pavements

§ 152-26. Plant mix asphalt concrete.

A. The contractor shall construct a two-course bituminous concrete pavement laid to conform to the required grade, thickness and cross section shown on the plans and in the specifications. The top course shall not be placed until construction has been substantially completed as determined by the Town Highway Superintendent. No heavy equipment shall be allowed to travel on the top course.

B. Materials and the method of construction shall conform to Section 401 of the current Standard Specifications of the New York State Department of Transportation. The base course shall be Type 3; the final wearing course shall be Type 7.

C. If the initial course has been completed for an extended period of time, it shall be thoroughly cleaned of all foreign materials and a tack coat of asphalt emulsion applied to the surface at the rate of 0.1 to 0.2 gallon per square yard prior to placing the final wearing course. A final wearing course of fine asphaltic concrete shall be uniformly spread by a self-propelled mechanical spreader equipped with tamping bars and heating unit and in sufficient depth to provide the required finished compacted thickness after rolling thoroughly with a two- or three-wheel tandem roller weighing approximately 10 tons.

D. Extreme care shall be exercised in placing of the bituminous concrete to ensure that all longitudinal joints are lapped in the placing of adjoining strips and that all lateral joints are trimmed before continuing the placement of additional material.

ARTICLE VII. Incidental Construction

§ 152-27. Curbs.

A. Whenever required, portland cement curbs or asphalt curbs shall be constructed on both sides of the street as shown on Figures 2 and 3 and to the dimensions and specifications shown on Figure 6. Editor's Note: Said figures are included at the end of this chapter.

B. Where required by the Town Highway Superintendent, porous tile with a minimum diameter of four inches shall be laid in coarse washed-sand under all curbs as shown on Figure 6. This underdrain shall be so graded that any water under the curbs will drain to the nearest catch basin where the underdrain shall be connected as shown on Figure 7. Editor's Note: Figure 7 is included at the end of this chapter.

C. Concrete shall be finished and cured to the satisfaction of the Town Highway Superintendent. The developer shall, at his own expense, replace any curbing damaged before dedication.

D. Curbs may be of a mountable or nonmountable type. Curbs on medians, inside shoulder edges or outline channelizing islands can be of a nonmountable type.

E. Ramps for the handicapped, required by Highway Law § 330, shall be provided at each curbed intersection and midblock cross crosswalk where curbs are constructed. Ramps at intersections shall be constructed in accordance with Figures 8 and 9 and the specifications for sidewalks. Editor's Note: Said figures are included at the end of this chapter. Ramps at midblock locations shall be constructed in a similar manner.

§ 152-28. Sidewalks.

A. Whenever required, the developer shall construct sidewalks on both sides of streets as shown on Figure 2. Editor's Note: Figure 2 is included at the end of this chapter. Sidewalks shall be constructed of portland cement concrete.

B. Cement concrete sidewalks shall be four inches thick and shall be of one-to-two-to-three mix with air entrainment of 6% by volume. Cement concrete sidewalks shall be reinforced with No. 6x6-6x6 welded wire fabric placed two inches from the bottom of the slab and shall be poured in one course, properly screeded, finished to true grade and cured.

C. All sidewalks shall be constructed on a base of approved gravel or crushed stone of at least six inches in depth. Sidewalks shall be constructed with a transverse slope of 1/4 inch per foot toward the traveled way, except that the slope may be away from the traveled way if the runoff will not affect adjacent properties. The longitudinal slope of a sidewalk shall equal that of the street and not exceed 8%.

D. Where vehicular traffic is anticipated to cross an area of sidewalk, concrete sidewalks shall be six inches thick and shall be mixed, reinforced and placed in accordance with the specifications above.

§ 152-29. Driveways.

A. The developer shall so design, layout and construct all driveways both within and without the limits of the right-of-way so that the latest models of modern cars may enter and leave the right-of-way without difficulty. (See Figures 10 and 11. Editor's Note: Said figures are included at the end of this chapter.)

B. The developer shall obtain all necessary permits and construct all driveway entrances to the satisfaction of the governing agency. All necessary driveway entrances within the subdivision shall be constructed at the time of construction of the curbs.

C. A minimum of 275 feet stopping sight distance shall be provided for both approaches along the roadway at driveway entrances. (See § 152-30 for method of measuring stopping sight distance.)

§ 152-30. Intersections.

A. The developer shall construct all road intersections in accordance with Figure 12, except in the case of a new road intersecting an existing road when it shall be modified as shown on Figure 13. Editor's Note: Said figures are included at the end of this chapter.

B. All intersections on new roads within a subdivision shall have a stopping sight distance of at least 275 feet. When subdivision roads intersect existing Town, county or state roads, the stopping sight distance shall be determined by the posted speed limit of the road being entered.

C. Stopping sight distance shall be measured from a point on the center line of the approaching lane of the minor road or driveway 12 feet behind the edge of roadway of the major road to a point on the center line of the approaching lane of the major road. The height of eye and height of object shall both be assumed to be 44 inches above the road pavement. Each approach to the intersection shall be considered separately.

§ 152-31. Road name signs.

The developer shall furnish and install a four-way road name sign at every road intersection made by the roads he/she constructs. Signs and posts shall conform to the standards established by the Uniform Traffic Manual of New York State. (See Figure 14. Editor's Note: Figure 14 is included at the end of this chapter.) Similar or duplication of road names within the Town of Milton and adjoining towns will not be permitted.

§ 152-32. Monuments.

A. Monuments shall be set on the right-of-way line along one side of all highways at angle points, points of curves and centers of culs-de-sac. Monuments shall also be placed at corners of parcels of land to be dedicated to the Town of Milton upon completion of the project or to be reserved from Town access, i.e., stormwater detention basin areas, park areas, easements, etc. All corners of subdivisions must be monumented.

B. Monuments shall be a minimum of 36 inches long and four inches square and shall have centered in the top a one-half-inch steel rod slightly protruding, or some other permanent and satisfactory center mark. Monuments shall be constructed of concrete as shown on Figure 15. Editor's Note: Figure 15 is included at the end of this chapter.

C. Monuments shall not be set until the roadway has been completed nor shall they be set while frost is in the ground. They shall be so set and tamped as to prevent settlement and shifting.

D. The developer's licensed land surveyor shall certify that the location of all monuments is accurate before acceptance of the highway by the Town Board.

§ 152-33. Guide railing.

A. The type and need for guide rail installation shall be approved by the Town Highway Superintendent. General guidelines for determining the need for guide rails are as follows:

(1) Height of dropoff is measured from the break of the road shoulder slope to the toe of slope. Slopes steeper than one on two with a height of dropoff more than four feet will require guide rail installation. Slopes of one on two or less and having a height of dropoff more than 10 feet shall be protected with a guide rail.

(2) Guide rails shall be installed to protect drivers from fixed objects and roadside hazards as shown on the following list:

(a) Culvert headwalls.

(b) Along bodies of water.

(c) Rock cuts and rock outcrops.

(d) Retaining walls.

(3) While guide rails are used to protect the driver from roadside hazards, the guide rail itself is considered a hazard of a lesser degree. Therefore, the use of guide railing is to be discouraged. Wherever possible, the roadway profile shall be adjusted to provide for shallow fills and flat side slopes.

B. Guide rail installation shall be in accordance with Sections 710-20, Corrugated Beam Guide Railing, and 710-22 Cable Guide Railing, of the current Standard Specifications of the New York State Department of Transportation. (See Figures 16, 17 and 18. Editor's Note: Said figures are included at the end of this chapter.)

§ 152-34. Traffic signs.

All signs, markings and other control devices for maintenance and protection of traffic must conform to the requirements of the New York State Manual of Uniform Traffic Control Devices.

§ 152-35. House drains.

Roof and cellar drains shall in no case be allowed to flow onto the highway right-of-way. With the approval of the Town Highway Superintendent and the Town Engineer, in writing, these drains may be piped to the roadway stormwater pipe drain to which they shall be connected on top only. Such drains must be installed prior to the start of fine grading of the roadway and include a backflow prevention device.

§ 152-36. Culs-de-sac.

Wherever a temporary or permanent dead-end is allowed on a subdivision roadway, a turnaround shall be constructed. This turnaround shall take the form of a circle as required by the Town Highway Superintendent and shall be constructed as shown on Figures 19 and 20. Editor's Note: Said figures are included at the end of this chapter. The temporary type of construction shall be used only when authorized by the Town Planning Board in cases of foreseeable future extension of the roadway.

§ 152-37. Mailbox placement.

A. There are two styles of boxes which are approved by the United States Postal Service:

(1) Traditional design in three standard sizes. (See Figure 21. Editor's Note: Figure 21 is included at the end of this chapter.)

(2) Contemporary design. (See Figure 21.)

B. Mailboxes of the approved traditional or contemporary design are required whenever a mailbox is newly installed or an unsuitable receptacle is replaced. Exception: custom built rural-type mailboxes may be used if prior approval is given by the Postmaster and the Superintendent of Highways. In no case shall there be more than two boxes on one post.

C. Extended arm type of supports are suggested to facilitate highway snow removal. (See Figure 21. Editor's Note: Figure 21 is included at the end of this chapter.) This type of support allows the snowplow to sweep near or under boxes without damage to supports and provides easy access to the boxes by both the carrier and the home owner. All supports must be of adequate strength and size to properly support the box; a treated four-by-four-inch post is recommended. Diagonal bracing in front of the post should be avoided as this could interfere with the snowplow and cause damage to the support and or mailbox.

D. Massive mailbox supports have been known to cause extensive damage to vehicles and serious injury to people who accidentally strike them. The use of heavy metal posts, concrete posts and miscellaneous items of farm equipment, such as milk cans filled with concrete, should be avoided. The ideal support is an assembly which, if struck, will bend or fall away from a striking vehicle instead of severely damaging the vehicle and injuring its occupants. Boxes and supports should be kept painted and free from rust.

Attachments:

152a Images

CHAPTER 154. SUBDIVISION OF LAND

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§ 154-20. Documents required.

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§ 154-22. Sketch plat submission requirements for major subdivisions.

§ 154-23. Preliminary plat submission requirements for major subdivisions.

§ 154-24. Final plat submission requirements for a major subdivision.

ARTICLE VII. Airport Notification District

§ 154-25. Airport Notification District.

ARTICLE VIII. Enforcement and Penalties

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§ 154-30. Authorized representative of Planning Board.

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CHAPTER 154. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Milton 9-14-1988; amended in its entirety 6-20-2001 by L.L. No. 2-2001. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Construcion codes — See Ch. 85.

Right to farm — See Ch. 81, Art. I.

Flood damage prevention — See Ch. 88.

Sewers and water — See Ch. 143.

Stormwater management and erosion and sediment control — See Ch. 151.

Street and highway specifications — See Ch. 152.

Zoning — See Ch. 180.

ARTICLE I. Authority and Declaration of Policy

§ 154-1. Statutory authority; governing provisions.

A. By resolution adopted on August 2, 1972, by the Town Board of the Town of Milton, Saratoga County, New York, the Planning Board of the Town of Milton has the authority to approve, approve with conditions and disapprove plats for subdivisions within that portion of the Town of Milton outside the limits of the Incorporated Village of Ballston Spa and to assume all other powers and duties as prescribed by the Town Law, Chapter 62 of the Consolidated Laws of the State of New York. All subdivision plats hereinafter submitted to the Planning Board for approval shall be governed by and subject to the provisions of this chapter.

B. A comprehensive amendment of these regulations was adopted by the Planning Board of the Town of Milton on February 10, 1988, and approved by the Town Board on September 14, 1988.

C. A comprehensive amendment of these regulations was adopted by the Town Board on June 20, 2001.

§ 154-2. Declaration of policy.

It is declared to be the policy of the Town of Milton Planning Board to consider land subdivision plats as part of a plan for the orderly, economic and efficient future growth and development of the Town consistent with its rural character and the continuing needs of its people for enjoyable open space. The following objectives shall guide the Planning Board's decisions as related to the public health, safety and welfare:

A. Land to be subdivided and developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Proper provisions shall be made for water supply, drainage, sewage and other needed improvements and utilities.

C. All proposed development shall be so designed as to be in harmony with the development pattern of adjacent and neighboring properties.

D. Proposed streets shall compose a convenient system conforming to the Town Master Plan and shall be of such width, grade and location as to accommodate present and prospective traffic.

E. All development shall be designed to facilitate adequate fire and emergency protection and provide access for fire-fighting and related equipment.

F. Proper provisions shall be made for permanent reservations of open spaces for parks and playgrounds and for the protection of natural drainage and significant historical and environmental features.

G. Future development shall bear a fair share of the capital costs to the Town for public improvements necessary to service such new development.

ARTICLE II. Definitions

§ 154-3. Terms defined.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

DESIGNATED TOWN ENGINEER

That licensed professional engineer, either employee or consultant, who shall be chosen by the Town Board to perform the duties of the designated Town Engineer for purposes of this chapter.

ENGINEER or LICENSED PROFESSIONAL ENGINEER

A person licensed as a professional engineer by the State of New York.

PLAT

The map of a subdivision showing the location, boundaries and proposed ownership of individual properties and associated improvements.

PRELIMINARY PLAT

The maps, drawings and other data showing the layout of a proposed subdivision, as specified in § 154-23 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout and improvements within such proposed subdivision.

RESUBDIVISION

Any change in the plat of a subdivision which has previously been filed in the office of the Saratoga County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

SKETCH PLAT

A sketch of a proposed subdivision showing the information required by § 154-22 of these regulations, to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and the objectives of this chapter.

STREET

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, artery, avenue, boulevard, lane, place, drive or however otherwise, which is an existing public way or a way shown upon a subdivision plat approved by the Town Planning Board as provided by these regulations or on a plat duly filed and recorded in the office of the Saratoga County Clerk.

STREET PAVEMENT

The wearing or exposed surface of the roadway used by vehicular traffic, i.e., the traveled way.

STREET WIDTH

The width of the right-of-way or the distance between property lines on opposite sides of a street, measured at right angles to the center line of such street.

SUBDIVIDER

Any person, firm, corporation, partnership or association which shall lay out for the purpose of development, sale or lease any subdivision as defined herein, either for himself, itself or others.

SUBDIVISION

The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership, lease for other than agricultural or conservation purposes or building development. Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped. For the purposes of this chapter, a parcel shall be considered already to have been divided into two or more lots by one or more public streets or railroad or utility rights-of-way held in fee simple.

A. **MINOR SUBDIVISION** — Any subdivision containing not more than four lots, each of at least the minimum lot area and dimension permitted by Chapter 180, Zoning, each fronting on an existing street and not involving any new street or road, whether intended to be private or public, nor the extension of municipal facilities not adversely affecting the development of the remainder of the parcel or adjoining properties and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Chapter 180, Zoning, or this chapter.

B. **MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or any extension of Town facilities.

SUBDIVISION PLAT or FINAL PLAT

The final maps, drawings and charts on which the subdivider's plan of subdivision, containing all information or detail required by law and by § 154-24, is presented to the Planning Board for approval and which, if approved, shall be submitted to the Saratoga County Clerk for filing or recording in order to complete the subdivision approval process.

SUPERINTENDENT OF HIGHWAYS

The duly elected Town Superintendent of Highways.

SURVEYOR, LAND

A person licensed as a professional land surveyor by the State of New York.

ZONING CHAPTER

Chapter 180, Zoning, of the Code of the Town of Milton, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.

ARTICLE III. Procedure for Approval of Subdivision

§ 154-4. Approval required.

Whenever any subdivision of land is proposed and before any contract for the sale or lease of or any offer to sell or lease any lots in such subdivision or any part thereof is made and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply for approval of such proposed subdivision in accordance with the following procedures.

§ 154-5. Preapplication conference.

A. The property owner or his duly authorized representative shall initially schedule an appointment with the Zoning Enforcement Officer to informally discuss the proposed subdivision and become familiar with the requirements of this chapter, Chapter 180, Zoning, and other laws, ordinances, rules, regulations or policies of the Town of Milton, County of Saratoga or the State of New York that may be pertinent to the proposed subdivision.

B. Discussion at the preapplication conference shall include review of both procedural and submission requirements and the technical application of the standards provided within the regulations as related to lot layout and required improvements. The Zoning Enforcement Officer shall make a recommendation to the Planning Board as to the submissions request for a minor or major subdivision.

§ 154-6. Sketch plat review and classification.

A. Submission of sketch plat. The property owner or his duly authorized representative shall submit to the Clerk of the Planning Board, at least 21 days prior to the regular meeting of the Planning Board, a sketch plat application and 13 copies of a sketch plat of the proposed subdivision for purposes of classification and preliminary discussion. If the proposed subdivision includes five or more lots, the sketch plat shall conform to the requirements listed in § 154-22 of this chapter.

B. Classification and designation. Classification of the sketch plat is to be made at the regular meeting by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. A notation regarding classification shall be made by the Planning Board directly on the sketch plat. The Planning Board may require, however, when it deems necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plat is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in § 154-7 of this chapter. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in §§ 154-8 and 154-9. The Planning Board shall, based upon input provided by the applicant, also designate the name by which the subdivision shall be known.

C. Study of sketch plat.

(1) The Planning Board shall, within 62 days after submission, determine whether the sketch plat meets the objectives of these regulations and shall, where it deems necessary, make, in writing, specific recommendations to be incorporated by the applicant in the next submission to the Planning Board. In its review, the Planning Board may schedule a field visit to the site. To facilitate the inspection of the site, the subdivider shall have the corners of the property, proposed lot corners and the center line of any proposed streets marked by temporary stakes. The subdivider may be requested to accompany the Planning Board during its site visit.

(2) Sketch plat review requires the filing of an initial application and payment of a fee in accordance with the subdivision fee schedule established and annually reviewed by the Town Board upon recommendation of the Planning Board. Sketch plat endorsement does not allow filing of a plat with the County Clerk or authorize the sale or lease of or any offer to sell or lease any lots in such subdivision or any part thereof.

§ 154-7. Approval of minor subdivision plat.

A. Application and fee. Within six months of the classification by the Planning Board of a proposed subdivision as a minor subdivision, the property owner or his duly authorized representative shall submit an application for approval of a minor subdivision plat. The plat shall conform to the requirements of these regulations for a minor subdivision plat, plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § 154-21 of this chapter. Any application for plat approval for a minor subdivision shall be accompanied by the applicable fee in accordance with the subdivision fee schedule established and annually reviewed by the Town Board upon recommendation of the Planning Board. A copy of said fee schedule shall be available from the Zoning Enforcement Officer.

B. Number of copies. The application for approval of a minor subdivision plat, complete with 13 copies of the subdivision plat and all further required data specified within § 154-21, shall be filed with the Zoning Enforcement Officer at least 21 days prior to the regular meeting of the Planning Board, at which time it shall be introduced and considered officially received by the Planning Board for purposes of these regulations.

C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the minor subdivision plat.

D. Approval procedure.

(1) All time frames specified below must be coordinated with § 154-10, Coordination with State Environmental Quality Review Act.

(2) Within 62 days of the receipt of the complete minor subdivision plat application by the Planning Board, the Planning Board shall hold a public hearing on such plat.

(3) Notice of the public hearing shall be advertised at least once in the official newspaper of the Town at least five days before such hearing.

(4) Within 62 days from the date of such public hearing, the Planning Board shall act by resolution on the minor subdivision plat. The Planning Board shall either approve, conditionally approve with or without modification or disapprove the minor subdivision plat. The Board shall specify, in writing, its reasons for any such disapproval. In the event that the hearing is not held or if the Board fails to disapprove the minor subdivision plat within the 62 days prescribed above, the plat shall be deemed approved. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board.

(5) Upon a resolution of approval, two Mylar and four copies of the minor subdivision plat shall be provided by the applicant and properly signed by the Chairman of the Planning Board. The subdivision plat may then be filed by the applicant in the office of the Saratoga County Clerk. Any minor subdivision plat not so filed or recorded within 60 days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void. If conditional approval is granted, the Planning Board shall empower the Chairman of the Planning Board to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five business days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in the Planning Board office, and a copy so certified shall be mailed to the subdivider. The copy mailed to the subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted, for a period not to exceed two additional periods of 90 days each.

§ 154-8. Approval of preliminary plat for major subdivision.

A. Application and fees.

(1) Prior to the filing of an application for the approval of a major subdivision plat and within six months of the classification by the Planning Board of the sketch plat of a proposed subdivision as a major subdivision, the property owner or his duly authorized representative shall file an application for consideration with a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form and include all the data prescribed by § 154-23 hereof. The preliminary plat shall, in all respects, comply with the requirements of §§ 276 and 277 of the Town Law and these regulations, except where a waiver of any specific requirement may be specifically requested from and authorized by the Planning Board.

(2) Payment of a fee shall accompany all applications for approval of a preliminary plat for a major subdivision. Said application fee shall be in accordance with the subdivision fee schedule established and annually reviewed by the Town Board upon recommendation of the Planning Board.

B. Purpose.

(1) The preliminary plat and the supporting documents for a proposed subdivision constitute the material to be officially submitted to the Planning Board, and later, one copy shall become the official record of the Town Clerk. The preliminary plat and supporting documents shall show the layout of the subdivision and its public improvements so that the Planning Board can indicate its approval or disapproval of the subdivision

prior to the time that the final plat, including the final engineering design and detailing of the public improvements and utilities, is completed. Approval of the preliminary plat does not constitute an approval of the final plat, nor should it be considered a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics.

(2) The preliminary layout shall additionally serve as a key map to subdivisions subsequently laid out in sections or phases on final plats.

C. Number of copies. The application for approval of the preliminary plat, complete with 13 copies of the preliminary plat, shall be filed with the Clerk of the Planning Board at least 21 days prior to the regular meeting of the Planning Board, at which time it shall be introduced and considered officially received by the Planning Board for purposes of this chapter. A proposed submission which does not include all the required drawings and documents specified within § 154-23 of this chapter shall not be accepted by the Clerk of the Planning Board.

D. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

E. Study of preliminary plat. The Planning Board shall study the practicality of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relationship to the topography of the land, water supply, sewage disposal, drainage, lot sizes and configuration, the future development to lands not yet subdivided and the requirements of the Master Plan, the Official Map and Chapter 180, Zoning.

F. Approval procedure.

(1) All time frames specified below must be coordinated with § 154-10, Coordination with State Environmental Quality Review Act.

(2) Within 62 days of receipt of the complete preliminary plat application by the Planning Board, the Planning Board shall hold a public hearing on such preliminary plat.

(3) Notice of the public hearing shall be advertised at least once in the official newspaper of the Town at least five days before such hearing.

(4) Within 62 days of the date of such public hearing, the Planning Board shall act, by resolution, on the preliminary plat. The Planning Board shall either approve with or without modifications or disapprove the preliminary plat. The Board shall specify, in writing, its reasons for any such disapproval. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a preliminary plat within the time prescribed therefor shall be deemed approval of the plat.

(5) When approving a preliminary plat, the Planning Board shall state, in writing, the modifications, if any, it deems necessary for submission of the plat in final form with respect to the specific changes which it will require in the preliminary plat; the extent of waivers which may have been specifically requested and which, in the Planning Board's opinion, may be authorized without jeopardy to the public health, safety and general welfare; and the categories of improvement and the estimated amount of all bonds or similar performance guaranties which the Planning Board shall require as a requisite for approval of the final plat. The action of the Planning Board, plus any conditions attached thereto, shall be noted on three copies of the preliminary plat. One copy shall be returned to the subdivider, one copy shall be retained by the Planning Board and one copy shall be forwarded to the Town Board through the Town Clerk. Prior to the approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 154-9. Approval of final plat for major subdivision.

A. Application and fee.

(1) Following approval with or without modifications of the preliminary plat, the property owner or his duly authorized representative shall prepare a final plat, together with all other supplementary documents, in

accordance with § 154-24 of this chapter. The application for final plat approval for a major subdivision or any section thereof shall be accompanied by a processing fee in accordance with the Town's subdivision fee schedule.

(2) The final plat and other supplementary documents shall be filed with the Clerk of the Planning Board, together with a written application for final approval, within 180 days after approval with or without modifications of the preliminary plat, unless such time limit is extended by mutual consent of the applicant and the Planning Board.

B. Purpose. The final plat and the supporting documents for a proposed subdivision constitute the complete development of the subdivision proposal. After public hearing, as required, and approval by the Planning Board, this complete submission, along with the applicable performance guaranty and the general liability insurance policy, as approved by the Town Board, becomes the basis for the development of the subdivision, the installation of required improvements and the applicable inspection services by the Planning Board, the designated Town Engineer or other delegated Town officials.

C. Number of copies. The application for approval of the final plat, complete with 13 copies of the final plat, shall be filed with the Clerk of the Planning Board at least 21 days prior to the regular meeting of the Planning Board, at which time it shall be introduced and considered officially received by the Planning Board for purposes of these regulations.

D. Approval procedure.

(1) All time frames specified below must be coordinated with § 154-10, Coordination with State Environmental Quality Review Act.

(2) Within 62 days of the receipt of the final plat by the Planning Board, the Planning Board shall hold a public hearing, if required, on such final plat. Such hearing shall be advertised at least once in the official newspaper of the Town; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § 154-8 of this article and modified in strict accordance with requirements of such approval, if such preliminary plat has been approved with modifications, the Planning Board may waive by resolution the requirement for such public hearing.

(3) Within 62 days of the date of such public hearing or from the date of receipt of the application by the Clerk of the Planning Board if no such hearing is held, the Planning Board shall act by resolution on the final plat. The Planning Board shall either approve, conditionally approve with or without modification or disapprove the final plat. The Board shall specify, in writing, its reasons for any such disapproval. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.

(4) If conditional approval is granted, the Planning Board shall empower the Chairman of the Planning Board to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in the Planning Board office, and a certified copy shall be mailed to the subdivider which shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire and the application shall be considered to have been withdrawn 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. Upon specific request by the applicant, the Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted, for a time not to exceed two additional periods of 90 days each.

E. Final approval and filing. Upon completion of the requirements in §§ 154-9, 154-13 and 154-14 and notation to that effect upon the subdivision plat, the subdivision plat shall be deemed to warrant final approval. Two Mylar and four copies as provided by the applicant shall be properly signed by the Chairman of the Planning Board upon receipt of notification that the required performance guaranty and insurance, as may be requested, have had the approval of the Town Attorney. The final plat may then be filed by the applicant in the office of the Saratoga County Clerk. Planning Board approval of a final plat shall not be deemed an acceptance by the Town of any street or other land shown as offered for cession to public use.

F. Expiration of approval. The approval of a final plat shall expire within 62 days after the date of the Planning Board's resolution authorizing the Chairman of the Planning Board to sign the drawings unless filing of the plat or a section thereof, as may be authorized by the Planning Board, is accomplished within that time period in the office of the Saratoga County Clerk in accordance with § 276 of the Town Law. Expiration of an approval shall mean that any further action shall require submission of a new application, payment of a new filing fee and Planning Board review of all previous findings. On and after such expiration of plat approval, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect.

G. Filing in sections. At the time of final plat approval, the Planning Board may permit the plat to be divided into two or more sections, subject to any conditions the Board deems necessary to ensure the orderly development of the plat. In accordance with § 276 of the Town Law, the applicant may file a section of the approved plat with the Saratoga County Clerk, which section shall consist of not fewer than 10 lots nor less than 10% of the total number of lots shown on the approved plat. In this circumstance, plat approval on the remaining sections of the plat shall continue in effect for a period of three years from the filing date of the first section with the County Clerk. When a plat is filed by section with the County Clerk, the applicant shall, within 30 days, file with the Town Clerk the entire approved preliminary plat. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the Saratoga County Clerk and the required improvements have been installed and approved in such section or a satisfactory performance guaranty covering the cost of such improvements has been posted.

§ 154-9.1. Stormwater pollution prevention plan.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

A. For all major and certain minor (only for minor subdivisions in which the Town Planning Board deems necessary) preliminary subdivision plats add "Stormwater pollution prevention plan: a stormwater pollution prevention plan (SWPPP) consistent with the requirements of Article I, General Provisions, of Chapter 151, Stormwater Management and Erosion and Sediment Control, and § 180-39.5, Stormwater control, of Chapter 180, Zoning, shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in § 180-39.5, Stormwater control, of Chapter 180, Zoning. The approved preliminary subdivision plat shall be consistent with the provisions of L.L. No. 2-2006." Editor's Note: See Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.

B. For all major and certain minor (only for minor subdivisions in which the Town Planning Board deems necessary) Final Subdivision Plat approvals add "Stormwater pollution prevention plan: a stormwater pollution prevention plan consistent with the requirements of Article I, General Provisions, of Chapter 151, Stormwater Management and Erosion and Sediment Control, and § 180-39.5, Stormwater control, of Chapter 180, Zoning, and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in § 180-39.5, Stormwater control, of Chapter 180, Zoning. The approved final subdivision plat shall be consistent with the provisions of L.L. No. 2-2006."

C. However, in cases where property is being subdivided only and not developed, and where there is not immediate plan to develop such, a stormwater pollution prevention plan shall not be required, unless the Planning Board deems it necessary. The right is further reserved to require a plan when the lots are actually developed.

§ 154-10. Coordination with State Environmental Quality Review Act.

A. Preliminary plats, and final plats where no preliminary plat was required, shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

B. When the Planning Board is the lead agency under the State Environmental Quality Review Act (SEQRA), any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows:

(1) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the plat shall be held within 62 days after the receipt of a complete preliminary plat; or if the Planning Board determines that the preparation of an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement. If no public hearing is held on the draft environmental impact statement, the public hearing on the plat shall be held within 62 days of filing the notice of completion.

(2) The hearing on the plat shall be advertised at least once in the official newspaper of the Town at least five business days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 business days before a hearing held jointly therewith. The hearing on the plat shall be completed within 120 days after it has begun.

(3) If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 62 days following the close of the public hearing on the plat. Within 30 days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the plat.

C. If the Planning Board is not the lead agency under the State Environmental Quality Review Act, any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows:

(1) The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the plat within 62 days after the receipt of a complete plat by the Clerk of the Planning Board.

(2) The hearing on the plat shall be advertised at least once in the official newspaper of the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 business days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such plat. The hearing on the final plat shall be completed within 120 days after it has begun.

(3) The Planning Board shall act on the plat within 62 days after the close of the public hearing on such plat.

§ 154-11. Building permits and certificates of occupancy.

A. Upon the posting of a satisfactory performance guaranty or upon certification of the completion or installation of all required improvements to the satisfaction of the Town Board, in accordance with § 154-14 of this chapter, and upon Planning Board approval of the final plat, the subdivider or his successor in title may be issued building permits for the construction of buildings in accordance with the approved subdivision plat, Chapter 180, Zoning, and other applicable laws, rules and regulations.

B. In instances where building permits have been authorized upon the posting of a satisfactory performance guaranty, the subdivider or his successor in title may not be subsequently issued certificates of occupancy for any buildings constructed in the subdivision until completion of all required improvements to Town standards and upon certification of such as required in § 154-14 of this chapter.

ARTICLE IV. Required Improvements and Performance Guaranties

§ 154-12. Compliance required.

Any subdivider who proposes to develop a major subdivision in the Town of Milton shall comply with the regulations provided in this article regarding the posting of performance guaranties and the provision or installation of utilities and other required improvements.

§ 154-13. Required improvements.

In making determinations regarding the necessity and extent of the provision and installation of required subdivision improvements, the Planning Board shall take into consideration the prospective character, density and uses within the proposed subdivision, whether residential, commercial or industrial.

A. Required improvements. The Planning Board shall require the provision and installation of the following improvements in accordance with Town law, unless it shall specifically waive, in writing, any such improvements as provided in § 154-27 of this chapter:

- (1) Parks, playgrounds or other public open spaces of adequate size and location for recreational purposes.
- (2) Paved streets, roadways, common driveways and driveway aprons.
- (3) Street signs and posts.
- (4) Pedestrianways.
- (5) Streetlighting.
- (6) Curbs and gutters.
- (7) Street trees.
- (8) Water supply facilities.
- (9) Sanitary sewage disposal facilities.
- (10) Storm drainage facilities.
- (11) Seeding and other means of erosion control for all lands within the subdivision tract, including all lots, common areas and rights-of-way.
- (12) Monuments or other acceptable markers suitably placed and installed.

B. Standards for public cemeteries as defined by Town Law § 291 to ensure the protection of cemeteries and burial grounds. No subdivision shall be approved by the Planning Board which abuts or includes a public cemetery or burial ground unless the following is provided in the subdivision plat:

[Added 3-17-2004 by L.L. No. 1-2004 Editor's Note: This local law also redesignated former Subsections B through E as C through F, respectively. **]**

- (1) A deed of record or survey and proposed deed of the cemetery or burial ground providing a metes and bound description to the cemetery or burial ground and an access easement.
- (2) Public access to the cemetery or burial ground from a public street, said access to be a minimum of 30 feet wide, unless a separate public access exists on the property or adjoining property.
- (3) Restrictions to ensure that no structure, principal or accessory, shall be constructed within 100 feet of the bounds of the cemetery or burial ground.
- (4) An enclosure along the boundaries of the cemetery or burial grounds, defining the boundaries, built of materials which may reasonably be expected to survive 75 years. The Planning Board shall also have the discretion to require a series of plantings within the one-hundred-foot buffer zone to act as a visual/physical barrier from adjoining structures and uses.

C. Standards for installation. All improvements required by the Planning Board shall be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments or as provided in this chapter.

D. Modification of the design of improvements shown on the approved plat. If at any time before or during construction of the required improvements shown on the approved plat it is demonstrated to the designated Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the designated Town Engineer may, upon concurrence by the Chairman of the Planning Board, authorize minor modifications which are within the spirit and intent of the Planning Board's approval and do not extend to constitute the waiver or substantial alteration of the function of any of the improvements required by the Planning Board. The designated Town Engineer shall issue any such authorization under this provision in writing and shall transmit a copy of such authorization to the Clerk of the Planning Board for report to the Planning Board at its next regular meeting.

E. Inspection of improvements.

(1) At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements, so that the Town Board may cause such inspection to be made to assure that all Town specifications and required improvements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities as required by the Planning Board. The inspection fee shall provide reimbursement to the Town for actual direct costs incurred for such engineering services, not to exceed 2% of the cost of the improvements.

(2) In order to facilitate inspection of required improvements during construction, the applicant shall notify the designated Town Engineer at least three business days at each of the following stages of construction:

(a) When rough grading is completed;

(b) Before drainage and other underground facilities are installed, but prior to backfilling;

(c) After gravel base is spread and compacted;

(d) When each pavement course is being applied; and

(e) After completion of all improvements.

(3) The applicant shall not proceed to work on any stage subsequent to the first stage until the work of the previous stage has been inspected and approved by the designated Town Engineer or his duly authorized representative. In the case of any other improvements, the designated Town Engineer shall inspect the work at such progressive stages as he shall specify. The designated Town Engineer shall certify to the Planning Board that the work was inspected by him or his duly authorized representative and was found to be in accordance with the approved plans and specifications.

F. Proper installation of improvements. If the designated Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance guaranty, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, the Zoning Enforcement Officer and the Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the Town's rights under the performance guaranty. No plat shall be approved by the Planning Board as long as the subdivider is in performance default on any previously approved plat within the Town of Milton.

§ 154-14. Performance guaranties for required improvements.

A performance bond or equivalent security shall be delivered to the Town to guarantee thereby to the Town that the subdivider shall faithfully cause to be constructed and completed, within a reasonable time, the required improvements and convey the required lands and improvements, where applicable, to the Town free and clear of all encumbrances.

A. Procedure. Before the Planning Board grants final approval of the final subdivision plat, the subdivider shall provide to the Clerk of the Planning Board a detailed engineer's cost estimate for all required improvements for review, shall provide concurrence by the designated Town Engineer and shall subsequently follow the procedure set forth in either Subsection A(1) or (2) herein:

(1) Amount and term.

(a) In any amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the subdivider shall file with the Town Clerk a performance guaranty to cover the full cost of the required improvements. Any such performance bond or equivalent security shall comply with the requirements of § 277 of the Town Law and, further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year, or such other period as the Planning Board may determine appropriate but not exceeding three years, shall be set forth in the bond or equivalent security as the period within which the required improvements must be completed. The subdivider shall additionally file a copy of said certified check or other performance guaranties with the Clerk of the Planning Board.

(b) If the Planning Board shall decide at any time during the term of the performance guaranty that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance guaranty or that required improvements have been installed as provided in this article and by the Planning Board in sufficient amount to warrant reduction in the face amount of said bond or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bond or equivalent security, the Planning Board may modify its requirements for any or all such improvements, and the value of such performance guaranty shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost, in full, of the amended list of improvements required by the Planning Board, and any security deposited with the bond may be reduced or increased proportionately.

(2) The subdivider shall complete all required improvements to the satisfaction of the designated Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements, in addition to the cost of satisfactorily installing any improvements not approved by the designated Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. The subdivider shall additionally file a copy of said certified check or other performance guaranty with the Clerk of the Planning Board.

B. As-built drawing required. No required improvements shall be considered to be completed until the installation of the improvements has been approved by the designated Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the specific location of all underground utilities as actually installed. If the subdivider completes all required improvements according to provisions of Subsection A(2) above, then said map shall be submitted prior to endorsement of the final plat by the Planning Board Chairman. However, if the subdivider elects to provide a performance guaranty for all required improvements as specified in Subsection A(1) above, such bond or equivalent security shall not be released until such map is submitted and deemed satisfactory by the Planning Board.

§ 154-15. Maintenance bonds.

The subdivider shall file with the Town Board a maintenance bond in an amount not less than 20% of the cost estimate for installation of required improvements and which shall be adequate to assure the satisfactory condition and operation of the initial public improvements for a period of one year following their completion and acceptance, where applicable, by the Town Board. Such maintenance bond shall be satisfactory to the Town Attorney as to form, manner of execution and surety and in an amount satisfactory to the designated Town Engineer. The subdivider shall additionally file a copy of said certified check or other performance guaranty with the Clerk of the Planning Board.

§ 154-16. Liability insurance required.

A. Filing requirement. The subdivider shall file with the Town Attorney a general liability insurance policy at the same time that he files his performance guaranty. The Town Board shall approve the policy as to form. The policy shall be in force during the term of the performance guaranty and shall be extended in conformance with

any extension of the performance guaranty. The subdivider shall additionally file a copy of said certified check or other performance guaranty with the Clerk of the Planning Board.

B. Limits of coverage. The policy shall insure the Town and the subdivider and shall cover all operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature involving all public improvements. Said policy shall have limits of liability of \$1,000,000 for bodily injury and/or property damage per occurrence.

§ 154-17. Public franchise utilities.

A. Service connections. When public franchise utilities are to be installed, the subdivider shall submit to the Planning Board written assurances from each public utility company that such company will make the necessary service installations within a time limit and according to specifications satisfactory to the Planning Board.

B. Easements or other releases. The final plat shall include statements by the owner granting all necessary easements or other releases where required for the installation of public franchise utilities.

ARTICLE V. Design Standards

§ 154-18. General requirements.

Any subdivider who proposes to develop a subdivision in the Town of Milton shall observe all general requirements for land subdivision as herein provided.

A. Character of land. Land to be subdivided shall be of such character that, in the opinion of the Planning Board, it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and with a minimum of detrimental effect on the environment.

B. Preservation of any significant features. The Planning Board may require the preservation of natural features which add value to development and to the community, such as large trees or wooded areas, watercourses and falls, beaches, historic spots and similar irreplaceable assets. In particular, with the exception of using the R-2 open space incentive option, all wetlands, floodplains, steep slopes and streams shall be protected from development encroachment by having the areas deducted from the plot prior to calculating development density of buildable area under the Zoning Code, § 180-22.

C. Conformance to Official Map and Comprehensive Plan. Subdivision plats and improvements provided shall conform to the Official Map and Chapter 180, Zoning, of the Town of Milton and shall be in harmony with the Comprehensive Plan.

D. Minimum lot area. No lot in a subdivision shall have less than the minimum lot area and minimum lot dimensions required by Chapter 180, Zoning, for the district in which it is located, unless otherwise provided in the Chapter 180, Zoning.

E. Plats with access through other municipalities. Whenever access to a subdivision is by crossing land in another municipality, the Planning Board may require assurance from said municipality that such access is adequately improved or that a legally adequate performance guaranty has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.

F. Replatting. Replatting of all or part of land covered by an existing plat which has been laid out prior to compulsory subdivision plat review, approval and filing shall comply with this chapter as now required.

G. Preservation of topsoil. No topsoil shall be removed from any land in the Town, except that in areas over which heavy equipment will be operated, the topsoil shall be stripped and stockpiled on the property. When final grades have been established and construction activities have been completed, the entire property shall be suitably graded and, to the extent practicable, recovered with topsoil to a depth of at least six inches after rolling, except that portion of the site covered by buildings or included in the roads.

H. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by culverts or other permanent drainage structures. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way not less than 30 feet in width. All such structures and rights-of-way shall be of design and specification approved by the designated Town Engineer and the Town Highway Superintendent.

I. Floodplains. If any portion of the land within the subdivision is subject to periodic inundation or flood hazard caused by stormwater, this portion shall be clearly indicated on any submissions required by these regulations. In cases of doubt, the Planning Board may require the submission of a flood hazard study delineating the limits of the one-hundred-year-floodplain. Such study shall be conducted by a licensed professional engineer.

(1) Land subject to flooding and land deemed by the Planning Board to be otherwise uninhabitable shall not be platted for residential occupancy nor for any such other use that may increase danger to health, life or property or aggravate the flood hazard.

(2) Any subdivision, including all proposed improvements and construction, must comply with all further applicable provisions of the National Flood Insurance Act of 1968, including all amendments thereto.

J. Wetlands. Areas of wetlands shall be clearly indicated on any submissions required by these regulations and shall be protected from negative impacts related to development.

K. Steep slopes. Slopes in excess of 15% shall be clearly indicated on any submissions required by these regulations and shall be protected from negative impacts related to development.

L. Stormwater. Best management practices (BMPs) shall be employed in designing all subdivisions under these regulations. Areas where an engineered stormwater solution will be required shall be clearly indicated on any submissions of a proposed plat.

§ 154-19. Minimum design standards for lots, streets, public areas and public improvements.

The subdivider shall additionally conform to all subdivision design standards as herein provided. These standards shall be considered minimum standards and shall be modified or waived by the Planning Board only as provided for in §§ 154-27 and 154-28 of this chapter.

A. Lots.

(1) Lots to be buildable. The lot arrangement shall be such that, in constructing a building in compliance with Chapter 180, Zoning, there will be no foreseeable prohibitions to development based upon soils, topography or other natural conditions, including the presence of wetlands of floodplain areas.

(2) Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line on both streets as well as side yard requirements for the zoning district in which the lot is located.

(3) Minimum lot size. Each lot shall be no smaller than the minimum lot area and lot dimensions required by Chapter 180, Zoning, for the district in which it is located.

(4) Driveway grade. Driveway grades between the street pavement and the building setback line shall not exceed 8%.

(5) Access from public streets.

(a) The subdividing of land shall be such as to provide each lot with satisfactory access, either directly or via suitably improved private streets, for routine and emergency purposes from the community's system of public streets and roadways.

(b) A lot of less than three-hundred-foot frontage fronting on a county or state highway shall be designed as to share a common curb cut with an adjacent lot if either adjacent lot has not been previously granted a curb cut permit. Whenever practicable, new developments shall use existing curb cuts of neighboring

properties. When more than three lots are proposed to be subdivided from a parcel with frontage on a county or state highway (or there is a possibility of creating four or more lots equal in size to the average area of the lots proposed for subdivision), frontage for all such lots shall be on internal streets and not on the county or state highway. Each lot permitted to front on a county or state highway shall provide for an improved on-site turnaround so as to obviate the necessity of any vehicle from backing onto such highway. Similar provisions on Town highways shall be encouraged.

(c) Any access driveway shall be constructed with a driveway apron and related curbing installed wholly to the edge of right-of-way and of the same material specification as the adjoining street.

(6) Access from private streets. Access from privately owned and maintained streets, as may be specifically authorized in accordance with § 280-a of the Town Law, shall be deemed acceptable only if such streets are designed and improved in accordance with § 154-19B of this chapter and means satisfactory to the Planning Board are provided for the long-term ownership and maintenance of said privately owned and maintained streets.

B. Streets.

(1) General objectives. Streets shall be of sufficient width, suitably located. The arrangement of streets shall be coordinated such that they compose a convenient system and cause no undue hardship to adjoining properties.

(2) Arrangement of streets. To the extent practicable, the arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided by use of stub streets, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and services. Any stub street shall be provided with a temporary turnaround with a pavement radius of at least 40 feet. A note on the subdivision plat shall state that the land included within the turnaround which is outside the normal street right-of-way shall revert to abutters upon continuation of the stub street.

(3) Street connections. Subdivisions containing 20 or more lots shall have at least two connections with existing public streets, with streets shown on the Town's Official Map as may be developed in accordance with § 270 of the Town Law, or street shown on an approved subdivision plat for which a performance bond or similar performance guaranty has been posted.

(4) Cul-de-sac streets. Any cul-de-sac or permanent dead-end street shall be restricted to a length equal to 400% of the minimum lot width prescribed by Chapter 180, Zoning, for the zoning district or more restrictive zoning district in which the proposed cul-de-sac street is located, in order to provide for convenience of traffic movement and to facilitate effective police, fire and related emergency protection. A turnaround with a radius of at least 60 feet and a pavement radius of 40 feet shall be provided at the end of culs-de-sac or permanent dead-end streets.

(5) Design standards. Streets and related improvements shall be constructed in accordance with the design standards as further detailed by Chapter 152, Street and Highway Specifications, of the Code of the Town of Milton. Dimensions of travel lanes, shoulders and other laid out measures shall be determined by the Planning Board based on the zoning district and design guidelines.

C. Parks and public open space. Adequate lands for parks and other public open space purposes shall be provided in any subdivision of land for residential purposes throughout the Town of Milton.

(1) Amount of land dedicated. In general, the Planning Board shall require that not less than 5% nor more than 10% of the total land area within the subdivision be set aside and shown on the plat for park and public open space purposes. The minimum area of contiguous open space acceptable for this use shall be five acres. A smaller public open space may be approved by the Planning Board if the difference in area between the open space offered and the five-acre-minimum may reasonably be expected to be provided by future subdivision of adjacent land for residential purposes. All lands designated on the plat as park or public open space must be deemed suitable for this purpose by the Planning Board, based upon analysis of the lands' topographic, geologic, hydrological and locational characteristics. The Planning Board may establish such conditions on the subdivision concerning access, use and maintenance of such park and public open space lands as deemed necessary to ensure the preservation of the lands, in perpetuity, for their intended

purposes. Such conditions shall be clearly noted by the licensed land surveyor and/or professional engineer on the plat prior to final plat approval and subsequent recording of the plat in the office of the Saratoga County Clerk and Milton Town Clerk.

(2) Information to be submitted. In the event that an area to be used for park or public open space is required to be shown, the subdivider shall submit, prior to final plat approval, to the Planning Board drawings at a scale of not less than 20 feet to the inch of such area and showing the following features thereof:

(a) The boundaries of said area, giving lengths and bearings of all straight lines; and radii, lengths, central angles and tangent distances of all curves.

(b) Existing features such as streams, ponds, clusters of trees, rock outcrops and structures, existing and proposed.

(c) Existing and, if applicable, proposed changes in grade contours of the said area and of the area immediately adjacent, for a distance of not less than 100 feet, with such contours to be at an interval of not more than two feet.

(d) Plans for improvements of said area, not limited to grading, seeding, fencing and landscaping, the provision of play and related equipment and the address of conditions relating to the protection of the public health and safety.

(3) Payment in lieu of dedication. In cases where because of the size, topography or location of the subdivision or because of the size of the individual lots provided within the subdivision or of the proposed open space, the requirement for land dedication or reservation for parks and other public open space purposes would be deemed unreasonable or undesirable by the Planning Board, the Planning Board shall alternatively require, under § 277 of the Town Law, that a payment be made into a special fund for Town recreation site acquisition and/or improvement in lieu of such land dedication or reservation within the subdivision. Such payment shall be a condition of approval of the final plat and shall be assessed in accordance with the subdivision fee schedule established and annually reviewed by the Town Board upon recommendation of the Planning Board. No final plat shall be signed by the Chairman of the Planning Board until such payment has been received by the Town Clerk and receipt therefor provided to the Planning Board.

D. Public improvements and utilities.

(1) Placement. Underground improvements required by the Planning Board in accordance with § ~~154-13~~ and public franchise utilities shall be placed in the street right-of-way between the street paving and the right-of-way line. Where topography makes such placement impracticable, perpetual unobstructed easements at least 30 feet in width shall be provided for along lot frontages abutting the street lines, with satisfactory access to the street. Wherever possible, easements shall be as continuous from block to block and their layout shall be as regular as possible. Subject to the discretion of the Town Board, an underground public improvement or utility operated for revenue by the Town or by a special district may be installed by the Town in a private street, provided that a public easement of satisfactory size is obtained for such improvement or utility. Before the street is paved, the subdivider shall install underground service connections for all required improvements and utilities to the property line of each lot within the subdivision.

(2) Service connections.

(a) Water. Where an appropriate public or community water main already exists and is physically and legally accessible, the subdivider may connect into said main and provide a water connection for each lot in accordance with Article 12 of the Town Law, the Public Health Law and other applicable laws, rules and regulations. Where an appropriate water main does not exist or is not accessible, the subdivider shall install, at his own expense, such main, together with all necessary valves, cutoffs, fire hydrants, pumps, storage tanks, meters and other equipment necessary to make such water system conform to the standards of the Town and other permit approving agencies.

(b) Sanitary sewers. Where an appropriate public sanitary sewer system is reasonably accessible, physically and legally, the subdivider shall install, at his expense, the necessary connections into the system and provide a sewer connection for each lot.

(c) Storm drainage system.

[1] The subdivider shall install all necessary storm drainage sewers and appurtenant facilities, at his expense, in accordance with standards of the Town and of all authorities having jurisdiction. Where an appropriate storm drainage system is reasonably accessible, the subdivider shall make proper connection thereto. Otherwise, the subdivider shall provide appropriate means and methods for stormwater runoff satisfactory to the Planning Board and all other authorities having jurisdiction. In either event, the storm drainage facilities provided shall be fully consistent with storm drainage design standards which may be promulgated and from time to time reviewed and modified by the Planning Board.

[2] The drainage system shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside of the subdivision. The designated Town Engineer shall approve the design and size of facilities based on anticipated runoff from a twenty-five-year storm under conditions of total potential development permitted by Chapter 180, Zoning, in the watershed. The cost of a culvert or other drainage facility in excess of that required for the particular subdivision may be deemed to be the responsibility of the Town or may be prorated among the upstream property owners.

[3] The subdivider's engineer shall also study and report on the effect of each subdivision on the existing downstream drainage system outside the area of the subdivision, and this report shall be reviewed by the designated Town Engineer. When it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a twenty-five-year storm of one-hour duration, the Planning Board shall notify the Town Board of such a potential condition. In such case, the Planning Board shall not approve the plat until provisions have been made for the improvement of said condition.

E. Pedestrianways.

(1) Adequate provisions shall be made for the convenient and safe movement of pedestrians and bicyclists in any subdivision of land throughout the Town of Milton.

(2) To the extent considered practicable by the Planning Board, and in consideration of public health, safety and convenience, the Planning Board may require additional or alternatively located pedestrianways (either pedestrian path, sidewalk or bikeway) be provided within a residential subdivision to provide access to parks or public spaces, school sites, neighborhood shopping facilities or similar destinations. Any such pedestrianway may be situated within a public right-of-way established within a suitable easement.

F. Private water supply and sewage disposal facilities. Where community or public water supply and/or sewage disposal facilities are not available, the Planning Board shall ascertain as a part of subdivision plat review and approval that each prospective lot and dwelling unit may be adequately served by acceptable water supply and sewage disposal facilities and all such on-site water supply and sewage disposal facilities shall be designed and installed in accordance with the requirements of the New York State Departments of Health and Environmental Conservation.

G. Street trees. Trees shall be planted on both sides of a newly installed street or roadway in locations approved by the Planning Board, except where unnecessary due to the presence of significant, preservable existing vegetation, which shall be identified on the subdivision plat. Street trees shall generally:

(1) Be located near the property line and be spaced approximately 50 feet apart, subject to variations made necessary by driveways and street corners as well as by the species of trees planted;

(2) Have a caliper of three inches or larger measured at breast height and be not less than 10 feet in height; and

(3) Be approved as to species by the Planning Board.

ARTICLE VI. Documents Required for Submission

§ 154-20. Documents required.

Any subdivider who proposes to develop a subdivision in the Town of Milton shall submit plats and other documents for approval as provided in this article.

§ 154-21. Submission requirements for minor subdivision plat.

A. Submission requirements for a minor subdivision plat shall be as follows:

- (1) A completed subdivision application form;
- (2) Receipt for payment of the required application fee as specified by § 154-7 of this chapter; and
- (3) Thirteen copies of the proposed subdivision plat certified by a licensed land surveyor, bearing the Planning Board's assigned case number, including individual stamp/signature blocks for the Town Planning Board and the New York State Health Department, and suitable for filing in the office of the County Clerk.

B. In the case of a minor subdivision only, the subdivision plat application shall include the following information:

- (1) An area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract and showing the distance to the nearest street intersection. The drawing of the entire tract may be by either deed plot or actual survey.
- (2) An actual field survey of the boundary lines of the tract or portion thereof being subdivided, giving complete descriptive data by bearings and distances and made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments, as approved by the Planning Board, and shall be referenced and shown on the plat. The Planning Board may modify the requirement for a full field survey pursuant to § 154-28 of this chapter.
- (3) Information concerning portions of the land within the subdivision subject to periodic inundation by floodwaters or in a wetlands area, whether or not sufficient in size to be designated by the New York State Department of Environmental Conservation (NYSDEC).
- (4) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- (5) Documentation regarding all easements, existing or proposed, which either affect or are intended to affect any portion of the subdivision plat.
- (6) Required information regarding sanitation and water supply facilities. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the New York State Health Department. If required by the Planning Board, evidence of contact with the Health Department may be required to be presented at the time of application and a specific note regarding this requirement may be required to be stated on the plat. Written endorsement of the subdivision plat by the New York State Health Department may be required, in certain circumstances, prior to final stamping by the Planning Board if any of the proposed lots is less than five acres in land area.

[Amended 11-9-2004 by L.L. No. 5-2004]

- (7) Proposed subdivision name, Town of Milton, Saratoga County, New York.
- (8) The date, North arrow, map scale and the name and address of the record owner and subdivider.
- (9) An environmental assessment form [or draft environmental impact statement (DEIS)] as required by SEQR regulations.
- (10) Any additional requirements deemed necessary by the Planning Board due to the unique circumstances of the subdivision plat, including the submission of additional data more typically required for a major subdivision plat.

C. Submission of a stormwater pollution prevention plan shall be determined as set forth in § 154-9.1 of this chapter.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

§ 154-22. Sketch plat submission requirements for major subdivisions.

The sketch plat initially submitted to the Planning Board shall be based on Tax Map information, or some similarly accurate base map, at a scale of not less than 100 feet to an inch. The entire sketch plat shall be shown on one sheet. The sketch plat shall show the following information:

A. Proposed subdivision name.

B. A vicinity or area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract and the distance to the nearest street intersection. All streets shall also be shown within 500 feet of the applicant's property.

C. All existing structures, wooded areas, streams, slopes greater than 15%, wetlands and other significant physical features within the portion to be subdivided and within 200 feet thereof.

D. The name and addresses of the owner and of all adjoining property owners as disclosed by the most recent Town assessment records. Property owners across the street also shall be shown.

E. The Tax Map sheet, block and lot numbers, as available from the Town Assessor's office or the Saratoga County Real Property Tax Service.

F. All the utilities available and all streets, whether public or private, which are either proposed, mapped or built.

G. The proposed pattern and number of lots (including approximate lot areas, widths and depths), street layout, sewerage and water supply within the subdivided area.

H. Information regarding all existing restrictions on the use of land, including easements, covenants and the location of zoning district boundaries.

I. As may be applicable, a conceptual engineering report discussing the demands of the proposed subdivision on water, sewer, drainage, highways and related systems and discussing the methods through which these demands may be accommodated and the methods through which any potentially adverse impacts may be mitigated, including discussion of alternatives, as may be appropriate.

J. A long-form EAF, Part I (or a DEIS), as required by SEQR regulations.

K. Submission of a stormwater pollution prevention plan shall be determined as set forth in § 154-9.1 of this chapter.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

§ 154-23. Preliminary plat submission requirements for major subdivisions.

A. Preliminary plat submission requirements for major subdivisions shall be as follows:

(1) A completed subdivision application form;

(2) Receipt for payment of the required application fee as specified by § 154-8 of this chapter; and

(3) Thirteen copies of the preliminary plat certified by a licensed land surveyor and/or professional engineer, as required by law, at a scale of not more than 100 but preferably not less than 50 feet to an inch.

B. The preliminary plat shall include, to the extent applicable, all information identified below:

(1) Information on existing site conditions, as follows:

(a) An actual field survey of the boundary lines of the tract or portion thereof to be subdivided giving complete descriptive data by bearings and distances and made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments of such size and type as approved by the Town Planning Board and shall be referenced and shown on the plat.

(b) The names and addresses of all contiguous owners and identification of any contiguous land owned or under option by the applicant.

(c) Street rights-of-way on the subdivision and within 500 feet of its boundaries, including the name and right-of-way width and the location, type, width and elevation of the surface and any legally established center-line elevations, including those at intersections and other critical points.

(d) The location, width, identification and purpose of and restrictions upon any other rights-of-way and easements on the subdivision.

(e) Drainage structures on the subdivision and within 500 feet of its boundaries, including type of structure and location, invert elevations, gradients, types and sizes of all pipe and all other drainage structures where applicable, including direction of flow.

(f) The location, size and capacity of all other utility structures, such as sewer, water, stormwater, gas mains and power lines, on the subdivision and within 200 feet of its boundaries.

(g) As contours affect proposed improvements or existing improvements that will be utilized, ground elevations on the tract shall be based on a datum plane approved by the designated Town Engineer. For land with slope that is less than approximately 2%, spot elevations should be shown at all breaks in grade, along all drainage channels or swales and at selected points not more than 100 feet apart in all directions; for land that slopes more than 2%, contours should be shown at intervals of not more than two feet or as required by the Planning Board. All slopes greater than or equal to 15% shall be clearly delineated.

(h) Designated wetlands (including buffer areas), marshes, ponds, streams (including stream corridor overlay setbacks) and all land subject to periodic or occasional flooding or similar unstable conditions on the subdivision or within 500 feet of its boundaries. Indicated shall be location, approximate land area, high-water level based on a one-hundred-year storm and maximum depth of water at critical points.

(i) The location of rock outcrops, wooded areas, isolated preservable trees, structures, stone walls and other significant existing features for the proposed subdivision area and within 500 feet thereof.

(j) Data regarding soils characteristics from the USDA Soil Conservation Service soils survey and indication of depth to groundwater throughout the site.

(k) If the proposed subdivision will not be served by common sewage disposal, subsurface data in accordance with New York State Health Department or Department of Environmental Conservation requirements, including the date, location and graphic representation of findings for all test holes, including the location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions and depth of groundwater, unless pits are dry at a depth of five feet.

(2) Information of proposed site development, as follows:

(a) Streets, as follows:

[1] Name. Names shall be checked prior to submission with the Town Clerk to avoid duplication and be subject to subsequent approval of the Town Planning Board.

[2] The width and location of any streets or public ways or places shown on the Official Town Map within the area to be subdivided, together with street profiles of all streets or public ways proposed by the developer.

[3] Right-of-way width.

[4] Tentative center-line elevations at intersections and at principal changes in gradient.

[5] Tentative center-line gradient shown in percent-of-slope.

[6] Computed sight distance at intersections and other critical points.

[7] Plans, profiles and cross sections, showing, as applicable, the proposed location and type of pedestrianways, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof, the character, width and depth of pavements and subbase and the location of manholes, basins and underground conduits.

[8] Preliminary designs of any bridges which may be required.

(b) Lot layout, as follows:

[1] Lot lines and dimensions scaled to the nearest foot.

[2] The proposed location of buildings and driveways in full accordance with zoning and other requirements.

[3] Lot numbers and lot areas measured to the nearest 100 square feet if less than one acre or nearest 0.1 of an acre for parcels greater than one acre.

(c) Easements, parks, restricted areas and other improvements, as follows:

[1] Purpose and restrictions; where proposed to be public dedication or a homeowners' association, the Town shall be listed as a third party.

[2] Designation of areas or rights-of-way which are to be offered for public dedication or deeded to homeowners' associations or other private corporations with clear indication of proposed changes in grades and landscaping thereon. The Board may require special improvements and planting of trees, shrubs, grass and other landscaping in all areas to be so dedicated.

(d) Preliminary construction and post-construction of stormwater drainage system and management plan.

[1] Drainage structures shall be shown on the preliminary plat indicating the approximate location and size of proposed lines and culverts and their profiles, including connection to existing storm system or alternate means of disposal.

[2] The outline of watersheds tributary to drainage structures and their approximate area in acres, including those which extend beyond the boundaries of the subdivision, shall also be shown.

[3] A preliminary report detailing best management practices for stormwater management and erosion control during construction and post-construction phases. Environmental Conservation Law (ECL) State Pollutant Discharge Elimination System (SPDES) permit will suffice.

(e) Preliminary water supply and sewage treatment systems, as follows:

[1] If community or public facilities are available or to be provided, the approximate capacity, location, size and profiles of all proposed waterlines, valves, hydrants and sewer lines, including connection to existing facilities as required and provided in the Public Health Law and ECL, shall be shown.

[2] If private on-site facilities are provided, design data consistent with the requirements of the New York State Health Department and Department of Environmental Conservation.

(f) Easements. Where the topography is such as to make difficult the inclusion of any of the required facilities and improvements within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property. Where requested by the Planning Board, the Town shall be listed as a third party enforcer.

(g) Covenants or deed restrictions. A copy of all covenants or deed restrictions which either presently affect or are intended to apply to all or part of the tract. Where requested by the Planning Board, the Town shall be listed as a third party enforcer.

(h) Temporary stakes or markers. The Planning Board may require the location of temporary stakes or markers adequate to enable the Planning Board to locate readily and appraise the basic layout in the field, including markers at the corners of the tract. Unless the subdivision is adjacent to an existing street intersection, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

(3) A preliminary engineering report detailing the demands of the proposed subdivision on water, sewer, wetland, streams, highways and related systems and detailing the methods through which these demands shall be accommodated and the methods, including available alternatives, through which any potentially adverse impacts shall be mitigated.

(4) Additional data that may be required to complete SEQR process, as initiated with the submission at the sketch plat phase.

(5) A listing and status of all federal or State of New York permits or approvals required with a listing of all relevant agency contacts, including addresses and telephone numbers.

C. Submission of a stormwater pollution prevention plan shall be determined as set forth in § 154-9.1 of this chapter.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

§ 154-24. Final plat submission requirements for a major subdivision.

A. Final plat submission requirements for a major subdivision shall be as follows:

(1) Completed subdivision application form;

(2) Receipt for payment of required application fee, as specified by § 154-9 of this chapter; and

(3) Two Mylar and four copies of the final plat certified by a licensed land surveyor and/or professional engineer, as required by law, at a scale of not more than 100 but preferably not less than 50 feet to an inch. The final plat shall bear the Planning Board's assigned case number, include individual stamp/signature blocks for the Town Planning Board and the New York State Health Department and be suitable for filing in the office of the County Clerk.

B. To the extent applicable, the following information will be submitted for approval and shall constitute a final plat:

(1) The lot map of the entire subdivision shall be the same as that required on the preliminary plat with the following additions:

(a) Lot layout, as follows:

[1] Number identification by a suitable system of consecutive numbers circled and related to the Town Tax Maps.

[2] Lot lines with accurate dimensions to the nearest tenth of a foot and bearings to the nearest five seconds.

[3] Lot areas for each lot measured accurately to the nearest 100 square feet for lots of one acre or less and to the nearest 0.1 acre for lots greater than one acre.

[4] Minimum building setback lines, if imposed beyond zoning requirements through deed restriction, shown and dimensioned.

(2) Survey data, as follows:

(a) Accurate tract boundary lines with bearings and distances.

(b) Survey tie-in with accurate bearings and distances to nearest established street monuments or other official monuments which are within reasonable distance of the property. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the New York State Department of Transportation, they shall be placed as required by the designated Town Engineer and their location shall be noted and referenced upon the plat.

(c) Special district boundaries, e.g., water or sewer, lighting and stormwater, as they affect the subdivision, referenced to the subdivision survey by accurate bearings and distances.

(d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

(e) Accurate dimensions to the nearest tenth of a foot.

(f) Monuments.

[1] The accurate location of all monuments (existing, proposed or to be reset) shall be shown.

[2] Monuments shall be of a type approved by the Planning Board and shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as may be required by the Planning Board.

(3) Required improvement plans and profiles.

(a) The amount of all performance guaranties and conduct of all required inspections shall be based on these drawings, the final plat itself, these subdivision regulations and other applicable Town specifications for such required improvements and utilities.

(b) Unless a specific waiver is requested and granted in writing by the Planning Board, the proposed improvements and utilities shall be considered to comply specifically with these subdivision regulations and the other applicable Town specifications for such improvements and utilities.

(c) Basic drawing layout requirements are the same as those required for the preliminary plan and shall also include rights-of-way, gradients and directional arrows downhill.

(d) Designs for waterlines, sewers, streets, bridges and drainage structures shall be prepared by a licensed professional engineer.

(e) Complete drainage system for the entire subdivision, with appropriate development staging for each of the final plat sections, shown graphically and related to all existing drainage features shall be included.

(f) Utility system requirements, as follows:

[1] Water supply and distribution, as follows:

[a] The location of source on property or, where piped in, the size of the supply main and capacity assessment to meet complete build-out demand.

[b] The location and size of all distribution mains.

[i] The location of fire hydrants.

[c] The location of control valves.

[2] Sanitary waste disposal systems, as follows:

[a] Sanitary sewer system design shall be indicated in all cases where public or private sewer connections exist or are proposed. Where a community or public sewer system exists, a capacity assessment to meet build-out demand shall be prepared.

[b] Typical lot layout indicating the location of individual system, where appropriate, with reference to house and water supply, and a detailed drawing of proposed sanitary waste disposal system.

[3] The location of electric, telephone, cable television, gas and other energy-related lines.

[4] The location and description of streetlighting.

[5] Stormwater management during construction and post-construction.

(g) Profile drawing requirements, as follows:

[1] Drawings shall be prepared with horizontal scale of one inch equals 50 feet and vertical scale of one inch equals 10 feet, unless otherwise approved by the Planning Board.

[2] All profiles shall show the existing natural grades, the typical cross section of existing or proposed roads, the center lines of intersecting roads and a system of survey stations.

[3] The center-line profile of all proposed roads with dimensions on vertical curves, and notations as to gradient and critical elevations.

[4] Detailed plans for bridges, culverts or similar structures.

[5] The invert profile and location of all storm and sanitary drainage structures (manholes, catch basins, etc.) in street rights-of-way, drainage or other easements.

(h) Recreation and community improvements. Landscape plans prepared by a registered landscape architect and/or architect indicating proposed changes in existing grades and landscaping, including the following items: play areas, walkways, incidental shelters, lighting, walls, new trees and shrubs (location, caliper and botanical name) and other required improvements.

(i) Final engineering report.

(4) Certifications, as follows:

- (a) Certification of title showing that the applicant is the owner or duly authorized agent of the owner.
- (b) Written offers of cession to the Town for all proposed public streets, rights-of-way and open spaces shown on the subdivision plat and copies of agreements or other documents showing the manner in which open spaces, title of which is reserved by the subdivider, are to be maintained. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- (c) A certificate by the designated Town Engineer certifying that the subdivider has complied with one or both of the following alternatives:
 - [1] All or part of the improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Board granting approval of the preliminary plat; or
 - [2] A performance bond or equivalent security has been posted available to the Town in sufficient amount to assure completion of all required improvements.
- (d) Protective covenants and other appropriate devices in form for recording.
- (e) Letters directed to the Chairman of the Planning Board and signed by a responsible official or any governmental authority or district which must provide necessary utility service approving the utility installation design and assuring that adequate service will be available to accommodate the needs of the subdivision. Assurance shall also be provided that the long-term ownership and maintenance of the utilities shall be provided in accordance with Article 12 of the Town Law or similarly acceptable mechanism.
- (f) A letter, in appropriate cases, directed to the Chairman of the Planning Board and signed by a responsible official of the State Department of Transportation or the Saratoga County Highway Department, approving proposed construction and access on state or county rights-of-way, respectively. If access or construction affects a Town highway, approval of the Town Highway Superintendent shall be similarly required.
- (g) Endorsement and approval by the New York State Health Department and Department of Environmental Conservation for the plans for all water supply and sewage disposal facilities shown on the final plat.

ARTICLE VII. Airport Notification District

§ 154-25. Airport Notification District.

A boundary is hereby delineated 1/2 mile on either side of the center line of each runway at the Saratoga County Airport and extending one mile from the end of the runway. Any subdivision of land wholly or partially located within this delineated boundary shall have the following note, which shall be written on the final plat:

"This property is located within the Airport Notification District, and as such, the use of this property may be affected by aircraft overflights and aircraft noise."

ARTICLE VIII. Enforcement and Penalties

§ 154-26. Penalties for offenses.

A. Any person who violates or causes to be violated any provision of this chapter or of the terms or conditions of any approval of any subdivision approved by the Planning Board under this chapter shall be guilty of an offense and be punishable as follows:

- (1) For a first offense, by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both.

(2) For a second offense, both of which were committed within a period of five years, by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both.

(3) For a third or subsequent offense, all of which occurred within a period of five years, by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both.

B. Each day's continued violation shall constitute a separate additional violation.

ARTICLE IX. Miscellaneous Provisions

§ 154-27. Waiver of specific improvements.

The Planning Board may waive upon specific request and by specific resolution, subject to appropriate conditions and guaranties, for such period as it may determine, the requirements of these regulations relative to the provision and design of any or all required improvements which, in its judgment of the special circumstances of a particular plat or plats, are not requisite to the interests of the public health, safety and general welfare of the Town or are not appropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.

§ 154-28. Modification of specific requirements.

Where the Planning Board finds that compliance with these regulations would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage or other physical features of the site, the minimum requirements of these regulations may be modified upon specific request and by specific resolution of the Planning Board to mitigate the hardship, provided that the public interest is protected and the development is in keeping with the general spirit and intent of these and other Town regulations.

§ 154-29. Review of decisions of Planning Board.

A. Any officer, department, board or bureau of the Town, with the specific approval of the Town Board, or any person or persons jointly or severally aggrieved by any decision of the Planning Board concerning a plat decision may bring a proceeding to review such decision in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal in whole or in part. Such proceeding must be commenced within 30 days after the filing of the decision in the office of the Town Clerk.

B. Commencement of such proceeding shall stay all further proceedings upon the decision appealed from.

§ 154-30. Authorized representative of Planning Board.

The sole officer authorized to sign approved subdivision plats is the Chairman of the Planning Board or, in his absence, the Vice Chairman. The Clerk of the Planning Board is, however, authorized to carry out any ministerial acts on behalf of the Planning Board or its Chairman that are required by these regulations.

§ 154-31. Plat void if revised after approval.

No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves, in writing, any such modifications. In the event that any subdivision plat is recorded in the office of the Saratoga County Clerk without complying with these requirements, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the office of the Saratoga County Clerk.

§ 154-32. Conflict with other provisions.

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements established by the Planning Board of the Town of Milton for the subdivision of land and the provision of required improvements within the Town. Should the requirements of these regulations conflict with or otherwise

be inconsistent with any provision or requirement of any other lawfully adopted rules, regulations, ordinances or laws, the more stringent provisions, or those imposing the higher standards, shall govern.

CHAPTER 158. TAXATION

ARTICLE I. Senior Citizens Exemption

§ 158-1. Purpose.

§ 158-2. Exemption granted; conditions.

§ 158-2.1. Exclusion of medical expenses.

§ 158-3. First-time filing after March 1.

§ 158-4. Filing of renewal application before grievance day.

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§ 158-6. Purpose.

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§ 158-10. Purpose.

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ARTICLE IV. Exemption for Persons with Disabilities and Limited Income

§ 158-14. Legislative intent.

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ARTICLE V. Partial Exemption for Living Quarters for Parent or Grandparent

§ 158-17. Purpose.

§ 158-18. Conditions for exemption.

§ 158-19. Cessation.

§ 158-20. When effective; annual application required.

CHAPTER 158. TAXATION

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

GENERAL REFERENCES

Assessments — See Ch. 5.

ARTICLE I. Senior Citizens Exemption

[Adopted 3-22-1971]

§ 158-1. Purpose.

The purpose of this Article is to grant a partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or over meeting the requirements set forth in § 467 of the Real Property Tax Law.

§ 158-2. Exemption granted; conditions.

Real property owned by persons 65 years of age or over shall be exempt from Town taxes to the extent of 50% of the assessed valuation subject to the following conditions:

- A. The owner or all of the owners must file an application annually in the Assessor's office at least 90 days before the day for filing the final assessment roll or such other time as may be hereafter fixed by law.

B. The income of the owner or the combined income of the owners must not exceed the maximum income for the 12 consecutive months prior to the date that the application is filed, in accordance with the following schedule:

[Amended 12-3-1980; 3-25-1983; 6-19-1985; 2-27-1987; 10-25-1989; 12-28-1994; 3-19-1997 by L.L. No. 5-1997]

Maximum Income Exemption Eligibility	Percentage of Assessed Valuation Exempt From Taxation
\$16,500 or less	50%
Greater than \$16,500 but less than \$17,500	45%
\$17,500 or more but less than \$18,500	40%
\$18,500 or more but less than \$19,500	35%
\$19,500 or more but less than \$20,400	30%
\$20,400 or more but less than \$21,300	25%
\$21,300 or more but less than \$22,200	20%
\$22,200 or more but less than \$23,100	15%
\$23,100 or more but less than \$24,000	10%

C. Title to the property must be vested in the owner or, if more than one, in all the owners for at least 60 consecutive months prior to the date that the application is filed.

D. The property must be used exclusively for residential purposes, be occupied in whole or in part by the owners and constitute the legal residence of the owners.

§ 158-2.1. Exclusion of medical expenses.

[Added 2-20-1997 by L.L. No. 2-1997]

A. Purpose. The purpose of this section shall be to allow the exclusion of all medical and prescription drug expenses which were actually paid and not reimbursed or paid by insurance from the definition of "income" for purposes of the senior citizen exemption pursuant to § 467 of the Real Property Tax Law of the State of New York.

B. Legislative intent. Pursuant to the provisions of § 467 of the New York State Real Property Tax Law as heretofore adopted by the Legislature of the State of New York, the purpose of this section is to allow the exclusion of medical and prescription drug expenses which were actually paid and were not reimbursed or paid by insurance from the definition of "income" for purposes of the senior citizen exemption.

C. Meanings. The meanings of words and expressions as used in this section shall be identical to their meanings as used in Section 467 of the Real Property Tax Law of the State of New York.

D. Inconsistencies. Insofar as the provisions of this section are inconsistent with the provisions of any other local law or act, the provisions of this section shall be controlling.

§ 158-3. First-time filing after March 1.

[Added 2-20-1997 by L.L. No. 3-1997 Editor's Note: Original § 158-3, Authority to accept applications for renewal after taxable status date, added 4-3-1989 by L.L. No. 3-1989, was superseded 2-20-1997 by L.L. No. 4-1997. See now § 158-4.]

A. Purpose. The purpose of this section shall be to allow an aged person to file a first-time exemption after March 1 but before grievance day pursuant to § 467 of the Real Property Tax Law of the State of New York if there is a medical reason, such as hospitalization, death in the family, etc.

B. Legislative intent. Pursuant to the provisions of § 467 of the New York State Real Property Tax Law as heretofore adopted by the Legislature of the State of New York, the purpose of this section is to allow filing by an aged person of a first time exemption after March 1 but before grievance day if there is a medical reason.

C. Meanings. The meanings of words and expressions as used in this section shall be identical to their meanings as used in § 467 of the Real Property Tax Law of the State of New York.

D. Inconsistencies. Insofar as the provisions of this section are inconsistent with the provisions of any other local law or act, the provisions of this section shall be controlling.

§ 158-4. Filing of renewal application before grievance day.

[Added 4-3-1989 by L.L. No. 3-1989; amended 2-20-1997 by L.L. No. 4-1997]

A. Purpose. The purpose of this section shall be to allow an aged person to file a renewal exemption application up to grievance day as per § 467 of the Real Property Tax Law of the State of New York as provided therein.

B. Legislative intent. Pursuant to the provisions of § 467 of the New York State Real Property Tax Law as heretofore adopted by the Legislature of the State of New York, the purpose of this section is to allow an aged person to file a renewal exemption application up to grievance day.

C. Meanings. The meanings of words and expressions as used in this section shall be identical to their meanings as used in § 467 of the Real Property Tax Law of the State of New York.

D. Inconsistencies. Insofar as the provisions of this section are inconsistent with the provisions of any other local law or act, the provisions of this section shall be controlling.

§ 158-5. Penalties for offenses.

[Added 3-19-1997 by L.L. No. 5-1997]

Any person or persons found guilty of making a willful false statement in the application of this exemption shall be punishable by a fine of not more than \$100, and shall be disqualified from further exemption for a period of five years.

ARTICLE II. Disabled Persons Exemption

[Adopted 1-4-1984]

§ 158-6. Purpose.

The purpose of this article is to exempt from real property taxes improved property owned by certain physically disabled persons, as authorized by § 459 of the Real Property Tax Law.

§ 158-7. Conditions for exemption.

An improvement to any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by:

A. A resident owner of the real property who is physically disabled; or

B. A member of the resident owners household who is physically disabled, if such member resides in the real property.

§ 158-8. Applicability to prior construction.

Any such real property tax exemption will apply to improvements constructed prior to the effective date of this article.

§ 158-9. When applicable.

This article shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 2, 1984.

ARTICLE III. Alternative Veterans Exemption

[Adopted 2-20-1997 by L.L. No. 1-1997; amended in its entirety 6-23-2003 by L.L. No. 2-2003]

§ 158-10. Purpose.

The purpose of this article shall be to provide for an increase in the maximum exemption allowable in Paragraphs (a), (b), and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law of the State of New York as provided therein.

§ 158-11. Legislative intent.

Pursuant to the provisions of § 458-a of the New York State Real Property Tax Law as heretofore adopted by the Legislature of the State of New York, the purpose of this article is to provide for an increase in the maximum exemption allowable in Paragraphs (a), (b), and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law of the State of New York as provided therein.

§ 158-12. Definitions.

The meanings of words and expressions as used in this article shall be identical to their meanings as used in § 458-a of the Real Property Tax Law of the State of New York.

§ 158-13. Increase of exemption.

The exemptions allowed by § 458-a(2)(a), (b), and (c) be and the same hereby are increased to \$27,000, \$18,000 and \$90,000, respectively, as provided in § 458-a(2)(d)(ii).

ARTICLE IV. Exemption for Persons with Disabilities and Limited Income

[Adopted 12-17-1997 by L.L. No. 7-1997; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 158-14. Legislative intent.

The purpose of this article is to provide a partial exemption from taxation imposed by the Town of Milton upon real property situated within the Town of Milton owned by persons with disabilities whose income is limited by such disabilities, and used as the legal residence of such persons, pursuant to the authority vested in the Town by § 459-c of the Real Property Tax Law of the State of New York as amended or changed.

§ 158-15. Incorporation of statute.

The provisions of § 459-c of the Real Property Tax Law, as amended or changed, through the effective date of this article, together with any further acts of legislation amendatory thereof or supplemental thereto, shall apply to and govern the determination of the exemption of taxation permitted by this article to the extent specified in this article as if such § 459-c had been more particularly set forth herein and as the same may be determined from time to time by Town Board resolution.

§ 158-16. Eligibility; schedule of exemption.

To be eligible for the exemption authorized by such § 459-c and implemented by this article, the maximum income of such persons shall not exceed \$16,500, or a lesser amount determined by the Town Board, to qualify for the fifty-percent exemption. However, any such person having a higher income shall be eligible for exemption in accordance with the following schedule

Combined Income	Percentage Assessed Valuation Exempt from Taxation
\$0 to \$16,500	50%
\$16,500 but less than \$17,500	45%
\$17,500 but less than \$18,500	40%
\$18,500 but less than \$19,500	35%
\$19,500 but less than \$20,400	30%
\$20,400 but less than \$21,300	25%
\$21,300 but less than \$22,200	20%
\$22,200 but less than \$23,100	15%
\$23,100 but less than \$24,000	10%

ARTICLE V. Partial Exemption for Living Quarters for Parent or Grandparent

[Adopted 3-25-2005 by L.L. No. 1-2005]

§ 158-17. Purpose.

The purpose of this article is to provide for an exemption from the increase in value to residential property for the construction or reconstruction of living quarters for a parent or grandparent who is at least 62 years of age, as authorized by § 469 of the Real Property Tax Law.

§ 158-18. Conditions for exemption.

An improvement to any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is for the construction or reconstruction of living quarters for a parent or grandparent under the following conditions:

- A. The property must be the owner's principal residence;
- B. The property must be within a geographic area in which such construction is permitted;
- C. The property must be used as a primary residence of at least one parent or grandparent;
- D. The construction or reconstruction must have occurred after January 1, 2001;
- E. The exemption, which applies to taxes and special ad valorem levies, is limited to the lessor of:
 - (1) The increase in the assessed value attributable to the new construction or reconstruction,
 - (2) 20% of the total assessed value of the property, or
 - (3) 20% of the median sale price of residential property in the county.

§ 158-19. Cessation.

The exemption may continue so long as the parent or grandparent maintains the living quarters as their primary place of residence, and shall end with the cessation of use as the primary place of residence by the parent or grandparent.

§ 158-20. When effective; annual application required.

This article shall become effective immediately upon filing in the office of the Secretary of State; however, will not be retroactive in nature, and will apply only to future tax rolls. An application must be filed annually in the Town Assessor's office on or before March 1 of each year.

CHAPTER 167. VEHICLES, ABANDONED AND/OR UNREGISTERED

§ 167-1. Legislative intent and findings.

§ 167-2. Definitions.

§ 167-3. Prohibited acts.

§ 167-4. Exemptions.

§ 167-5. Penalties for offenses.

§ 167-6. Other considerations.

CHAPTER 167. VEHICLES, ABANDONED AND/OR UNREGISTERED

[HISTORY: Adopted by the Town Board of the Town of Milton 12-26-2007 by L.L. No. 2-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Junk and junk dealers — See Ch. 103.

Abandoned and unoccupied mobile homes and trailers — See Ch. 114, Art. I.

Property maintenance — See Ch. 132.

Vehicles and traffic — See Ch. 168.

§ 167-1. Legislative intent and findings.

By adoption of this chapter, the Town Board of the Town of Milton declares its intent in so doing to regulate and control the presence of abandoned or unregistered motor vehicles within the Town of Milton, exclusive of such part of said Town as may be within the limits of the Village of Ballston Spa. Said Town Board hereby declares that the presence of abandoned or unregistered motor vehicles can constitute a nuisance, an unsightly condition and a source of annoyance not only to the owners and occupants of adjoining lands but also the general public. These vehicles can also constitute a hazard to property and persons. The vehicles, their components and contents may be highly flammable. Batteries and such other elements of such vehicles can contain acids and other matter potentially harmful to humans. These vehicles frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These vehicles can constitute an attractive nuisance to children and certain adults. The presence of such vehicles may diminish the aesthetic qualities of the Town and tend to depreciate not only the property of other persons in the neighborhood but the Town generally. The Town Board of Milton also recognizes the fact that not all unregistered vehicles are unsightly or a public nuisance and that other special circumstances may deserve consideration.

§ 167-2. Definitions.

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

ABANDONED

The relinquishment of all right, title, claim and possession with the intention of not reclaiming it nor resuming its ownership, possession or enjoyment.

ACCESSORY STRUCTURE

Structure containing less than 750 square feet, the use of which is customarily incidental and subordinate to that of the principal building and which is attached thereto or is located on the same lot premises. Accessory structures are not for human habitation and include garages, sheds and barns. (From Chapter 180, Zoning, Article II, § 180-5, Definitions.) (See Chapter 180, Zoning, Article V, § 180-17, Architectural features and accessory structures, Subsection B: Accessory structures may be located in any side or rear yard, subject to the limitations stated herein, including the accessory structure shall not extend beyond the front of any dwelling on the premises or closer than 60 feet to the road, whichever is less; and be set back no less than 10 feet from the property line and 12 feet from the principal building. There shall be no more than three per property and, in the aggregate, shall not occupy more than 30% of the required yard. A building permit is required prior to the construction of an accessory building. See also § 180-17, Subsection C, single portable accessory structures, for height and square footage. Portable structures must also comply with the placement codes set forth in § 180-17B.)

ANTIQUE VEHICLE

See "historical vehicle."

CLASSIC CAR

See "historical vehicle."

DISMANTLED VEHICLE

Any vehicle with some or all of its related parts removed, rendering it nonfunctional and illegal for road use pursuant to the Vehicle and Traffic Law of the State of New York.

FENCING, PRIVACY

Permanently installed fencing which complies with local zoning regulations (see Chapter 180, Zoning, Article VI, § 180-27) and blocks the street level view of items behind the fencing.

HISTORICAL VEHICLE

Any vehicle manufactured more than 25 years prior to the current calendar year, and any other model, year and type vehicle which has unique characteristics and which is determined to be of historical, classic or exhibition value. This includes each motor vehicle which is owned and operated as an exhibition piece or collector's item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses. Historical vehicles are not generally used for daily transportation.

MOTOR VEHICLE

A passenger auto, truck, tractor-truck, trailer, bus, motor home, motorcycle or other licensed and insured vehicle operated or driven upon a public highway and which is propelled or drawn by other than human muscular power, except for motor vehicles whose primary use is for agricultural purposes, such as tractors, bulldozers, etc.

PERSONS

An individual, an association, a partnership and/or a corporation.

RACING VEHICLE

Any vehicle not intended or registered for legal road use, and is specifically modified for use in an auto racing sport.

RECREATIONAL VEHICLE

Boats, snowmobiles, three- or four-wheelers, ATVs, and other engine-propelled vehicles which require a license and insurance, in accordance with the Vehicle and Traffic Law of the State of New York, when used off of the vehicle owner's property.

UNINSURED/UNINSPECTED VEHICLE

A motor or recreational vehicle which, though it may be carrying a license plate, is not insured or inspected in accordance with the Vehicle and Traffic Law of the State of New York.

UNREGISTERED

Not registered in accordance with the Vehicle and Traffic Law of the State of New York. Includes recreational vehicles.

VINTAGE CAR

An historical vehicle but may have vintage rather than historical license plates.

WHOLE AND COMPLETE VEHICLE

Any vehicle which is fully operational with all its related parts, and is legal for road use pursuant to the Vehicle and Traffic Law of the State of New York.

§ 167-3. Prohibited acts.

A. It shall be unlawful for any person to park, store, place or otherwise deposit any abandoned, unregistered or uninsured motor vehicle, or parts thereof, in, on or upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston Spa. It shall be unlawful to park, store, place or otherwise deposit any recreational vehicle, or parts thereof, upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston Spa, except as in compliance with § 167-4K of this chapter.

B. It shall be unlawful for any person to suffer or permit the parking, storage, placing or otherwise depositing of any abandoned, unregistered or uninsured motor vehicle, or parts thereof, in, on or upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston Spa. It shall be unlawful for any person to suffer or permit the parking, storage, placing or otherwise depositing of any recreational vehicle, or parts thereof, upon any premises, whether public or private, within the boundaries of the Town of Milton, exclusive of the Village of Ballston Spa, except as in compliance with § 167-4K of this chapter.

§ 167-4. Exemptions.

This chapter shall not apply to the following persons:

A. To persons who are dealers in secondhand, junk and auto parts activities and businesses, provided that such persons are licensed to conduct such activity and such persons comply with the ordinance regulating such activity. Editor's Note: See Ch. 103, Junk and Junk Dealers.

B. To persons who are dealers in new or used motor vehicles, provided that such persons are authorized by the State of New York to conduct such activity; and provided, further, that the presence of unregistered motor vehicles be limited to the principal place of business of such dealers.

C. To persons whose unregistered motor vehicle is specifically exempted from registration by the Vehicle and Traffic Law of the State of New York.

D. To persons whose unregistered vehicles are parked, stored, placed or otherwise deposited in an enclosed accessory structure, such as a garage or barn. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See definitions above and Chapter 180, Zoning, Article V, § 180-17, Architectural features and accessory structures, for size and location specifications.)

E. To persons who have discontinued their registration on a temporary basis which shall not exceed six months. Said motor vehicle must be stored out of sight in a side or rear yard in an accessory structure or behind a privacy fence. Application for an exception/variance, for consideration of special circumstances other than those exceptions stated in this section, may be made to the Zoning Board of Appeals for an extension of said period, but must be made prior to the expiration of the six-month period.

F. To persons who have discontinued their motor vehicle registration on a temporary basis while they are currently on active duty in any of the Armed Forces of the United States or the State of New York, provided that said motor vehicle is kept and stored out of sight, in an accessory structure or behind a privacy fence, on property owned by said person or said person's immediate family. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See Chapter 180, Zoning, Article V, § 180-17B and C.) For installation of privacy fencing see Chapter 180, Zoning, Article VI, § 180-27.

G. To persons who have discontinued their motor vehicle registration while attending school, provided the person is a full-time occupant of the premises and is attending school on a full-time basis, and provided that said vehicle is owned or operated by a member of the family occupying said premises and that said motor vehicle is kept and stored out of sight, in an accessory structure or behind a privacy fence. The exemption shall be limited to the period September 1 through May 30 or for the length of the school term, whichever is shorter. This exemption shall not apply to any recreational vehicle or commercial vehicle. The exemption under this section will only be granted by the Town Enforcement Officer. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See Chapter 180, Zoning, Article V, § 180-17B and C.) For installation of privacy fencing see Chapter 180, Zoning, Article VI, § 180-27.

H. To persons whose unregistered motor vehicle is used principally for the purpose of automobile racing and which motor vehicle, in fact, is so used at least once every nine months on a sanctioned track as evidenced by written proof of the same. Said racing vehicle must be owned and operated by a member of the family who is a full-time resident of said premises. Whole and complete unregistered vehicles, which are used primarily for racing, and dismantled racing vehicles, which are in the process of being repaired or used as parts for repair, must be either enclosed out of sight in an accessory structure, such as a barn or garage, or must be concealed from street level view and from ground level view for adjoining properties by the use of appropriate privacy fencing. However, under no circumstances shall there be more than three said racing vehicles, whole or dismantled, stored outside of an accessory structure. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See Chapter 180, Zoning, Article V, § 180-17B and C.) For installation of privacy fencing see Chapter 180, Zoning, Article VI, § 180-27.

I. To persons who own whole and complete historical vehicles or dismantled historical vehicles which are in the process of restoration, or used as parts for restoration, providing the said historical vehicle(s) is/are owned by a member of the family who is a full-time resident of said premises. Said vehicle(s) must be stored in an enclosed accessory structure such as a barn or a garage, or must be concealed from street level view and from ground level view for adjoining properties by the use of appropriate privacy fencing. However, under no circumstances shall there be more than three said historical vehicles, whole or dismantled, stored outside of an accessory structure. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See Chapter 180, Zoning, Article V, § 180-17B and C.) For installation of privacy fencing see Chapter 180, Zoning, Article VI, § 180-27.

J. To persons having a maximum of one unregistered vehicle in running condition for snowplowing and/or snow removal.

K. To persons whose recreational vehicles are stored on their property, provided said vehicle is owned and operated by a full-time resident of the dwelling and that storage of said recreational vehicle shall not extend beyond the front line of the primary dwelling or closer than 60 feet from the road, whichever is less. Unless actually being driven, said vehicle(s) must be covered at all times, stored in an enclosed accessory structure or concealed from street level view and from ground level view for adjoining properties by the use of appropriate privacy fencing. However, under no circumstances shall there be more than three said recreational vehicles stored outside of an accessory structure. An accessory storage structure cannot extend past the front of any dwelling on the premises. (See Chapter 180, Zoning, Article V, § 180-17B and C.) For installation of privacy fencing see Chapter 180, Zoning, Article VI, § 180-27.

§ 167-5. Penalties for offenses.

A. Any person who commits or permits any acts in violation of this chapter shall be deemed to have committed an offense against such chapter, and such person shall be given written notice of said violation with a period of 15 days from receipt of said notice to correct said violation. Each day such violation shall continue or to be permitted to exist after the fifteen-day period has expired shall constitute a separate distinct violation, without any further paperwork or notices provided.

B. For every violation of any provision of this chapter the person violating the same shall be subject to fine of not more than \$250 or imprisonment not exceeding 15 days, or both such fine and imprisonment.

C. Additionally, any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$100 for each offense. Such penalty shall be collectible by and in the name of the Town for each day that such violation shall continue. Each day shall be a distinct separate violation subject to a separate penalty.

D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

§ 167-6. Other considerations.

According to Chapter 180, Zoning, Article VI, Supplemental Regulations, § 180-23, Applicability: "The following supplemental regulations are applicable in all zoning districts in the Town of Milton unless otherwise provided herein." Persons who store vehicles on their property, under the categories in § 167-4, Exemptions (listed above), should be aware of the code set forth in Chapter 180, Zoning, Article VI, Supplemental Regulations, § 180-24, General performance standards, which states that "No use shall be permitted that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions or other local, state and federal laws, rules or regulations." These standards address: A. Noise; B. Atmospheric effluence (dust and pollutants); C. Glare and heat; D. Industrial waste; F. Fire and explosion hazards; G. Maintenance of developed property; and H. Commercial vehicles.

CHAPTER 168. VEHICLES AND TRAFFIC

ARTICLE I. Winter Parking Restrictions

§ 168-1. Prohibited parking.

§ 168-2. Penalties for offenses.

CHAPTER 168. VEHICLES AND TRAFFIC

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

GENERAL REFERENCES

Mobile homes and trailers — See Ch. 114.

Street and highway specifications — See Ch. 152.

Abandoned and/or unregistered vehicles — See Ch. 167.

Prohibition of vehicles — See Ch. 169.

ARTICLE I. Winter Parking Restrictions

[Adopted 12-29-1976]

§ 168-1. Prohibited parking.

Except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or official traffic control device or as a result of an emergency situation, no person shall stop, stand or park vehicles from November 1 through April 1 on any and all Town roads or closer than four feet to the edge of the pavement.

§ 168-2. Penalties for offenses.

[Amended 3-19-1997 by L.L. No. 5-1997]

Any person, firm or corporation who or which shall violate any of the provisions of this article shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 169. VEHICLES, PROHIBITION OF

ARTICLE I. Woods Hollow Nature Preserve and Burgess-Kimball Town Park

§ 169-1. Vehicles prohibited.

§ 169-2. Vehicles in designated parking areas.

§ 169-3. Exemption for maintenance, emergency and police vehicles.

§ 169-4. Exemption for disabled persons.

§ 169-5. Severability.

§ 169-6. Penalties for offenses.

§ 169-7. When effective.

ARTICLE II. Unattended or Idling Large Machinery and Equipment

§ 169-8. Findings and intent.

§ 169-9. Definitions.

§ 169-10. Prohibited acts; report of violations.

§ 169-11. Violations; issuance of citations.

§ 169-12. Penalties for offenses.

CHAPTER 169. VEHICLES, PROHIBITION OF

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

GENERAL REFERENCES

Storage of vehicles — See Ch. 114, Art. I; and Ch. 167.

Parks and recreation — See Ch. 127.

Vehicles and traffic — See Ch. 168.

ARTICLE I. Woods Hollow Nature Preserve and Burgess-Kimball Town Park

[Adopted 12-17-1997 by L.L. No. 8-1997]

§ 169-1. Vehicles prohibited.

It shall be unlawful for any person or persons owning or operating any motorized vehicle on the Woods Hollow Nature Preserve or Burgess-Kimball Town Park except as provided herein.

§ 169-2. Vehicles in designated parking areas.

Licensed motor vehicles may be parked in areas so designated in the Woods Hollow Nature Preserve or Burgess-Kimball Town Park.

§ 169-3. Exemption for maintenance, emergency and police vehicles.

Maintenance vehicles, emergency vehicles and police vehicles are excepted from the provisions of this article.

§ 169-4. Exemption for disabled persons.

Vehicles used for disabled persons and properly registered as such are exempted from the provisions of this article. Wheelchairs and like means of transportation for disabled persons are also exempt.

§ 169-5. Severability.

The invalidity of any section, provision or portion of Local Law No. 8 shall not invalidate any other section, provision or portion thereof.

§ 169-6. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person, firm or corporation who or which shall violate any of the provisions of this article shall be guilty of an offense which shall be punishable by a fine of not more than \$250 or a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate offense.

§ 169-7. When effective.

This article shall become effective immediately upon filing in the office of the Secretary of State.

ARTICLE II. Unattended or Idling Large Machinery and Equipment

[Adopted 1-16-2002 by L.L. No. 1-2002]

§ 169-8. Findings and intent.

A. Large vehicles, machines and equipment left idling or idling and unattended are a threat to the health, safety and welfare of the citizens of the Town of Milton. Machines, equipment and vehicles of this nature include, but are not limited to, locomotives, tractor-trailer trucks and earth-moving equipment. When left idling for extended periods, these devices create a nuisance to Town residents in the form of excess noise and harmful exhaust fumes, and they also create an even greater danger to the public health and safety because of the possibility that they may be set in motion by passersby, including children.

B. In order to protect and preserve the public health, safety and welfare, the Town of Milton hereby restricts and proscribes the circumstances in which large machinery, equipment and vehicles may be left idling and unattended.

§ 169-9. Definitions.

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

EARTH MOVER

Mobile, mechanical equipment used in the excavation, displacement or transportation of earth.

IDLING

A circumstance in which an engine is running but not engaged in motion.

LOCOMOTIVE

A self-propelled engine, usually electric or diesel-powered, that pulls or pushes freight or passenger cars on railroad tracks.

MACHINERY AND EQUIPMENT

Locomotives, tractor-trailer trucks and earth movers.

TRACTOR-TRAILER TRUCKS

Trucks having a cab and no body, used for pulling large vehicles such as vans or trailers.

UNATTENDED

A circumstance in which machinery or equipment is left idling with no operator present or in control of the equipment.

§ 169-10. Prohibited acts; report of violations.

A. It shall be unlawful for any person or entity to cause or to permit any locomotive, tractor-trailer truck or earth mover to idle for more than 10 minutes or to remain idling and unattended for more than five minutes.

B. A law enforcement officer who observes idling machinery or equipment shall direct the operator to turn off the engine. In the event that the idling machinery or equipment is unattended, the officer shall turn off the engine. A private citizen who observes unattended machinery or equipment shall immediately report the circumstances to the police.

§ 169-11. Violations; issuance of citations.

A law enforcement officer shall issue a citation for violation of this article in any instance in which such officer observes idling or unattended machinery or equipment. A citation may be also be issued upon complaint of a citizen who observes idling or unattended machinery or equipment. A citation may be issued to an individual, a corporation, or both. The prosecution of any citation shall be adjudicated before the Milton Town Court. A violation of this article is classified as a misdemeanor.

§ 169-12. Penalties for offenses.

A. Where an individual is adjudged guilty of a first violation of this article, the court may impose a fine not to exceed \$350, or imprisonment for a term of not less than 15 days nor more than one year, or both. date.

B. Where an individual is adjudged guilty of a second violation of this article within a five-year period, the court may impose a fine of not less than \$350 nor more than \$700, or imprisonment for a term of not less than 15 days nor more than one year, or both.

C. Where an individual is adjudged guilty of a third violation of this article within a five-year period, the court may impose a fine of not less than \$700 nor more than \$1,000, or imprisonment for a term of not less than 15 days nor more than one year, or both.

D. Where a corporation is adjudged guilty of a violation of this article, the court may impose a fine of \$5,000.

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Attachments:

180a Zoning Map (color)
180b Town Center Design Guide
180c Rural Development Design Guidelines

CHAPTER 180. ZONING

[HISTORY: Adopted by the Town Board of the Town of Milton 9-11-2006 by L.L. No. 1-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 3.
Outdoor burning — See Ch. 72.
Farming — See Ch. 81.
Construction codes — See Ch. 85.
Flood damage prevention — See Ch. 88.
Junk and junk dealers — See Ch. 103.
Mobile homes — See Ch. 114.
Stormwater management and erosion and sediment control — See Ch. 151.
Subdivision of land — See Ch. 154.
Abandoned vehicles — See Ch. 167.
Unattended or idling large machinery and equipment — See Ch. 169, Art. II.

ARTICLE I. Title, Scope and Purpose

§ 180-1. Title.

This chapter shall be known and may be cited as the "Zoning, Town Center Design Guidelines and Rural Development Design Guidelines of the Town of Milton, Saratoga County, New York."

§ 180-2. Scope.

This chapter regulates the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of Milton and for said purposes divides the Town into zoning districts.

§ 180-3. Purpose.

This chapter is adopted pursuant to Articles 2 and 3 of the Municipal Home Rule Law, Article 16 of the Town Law and in accordance with the Town of Milton Comprehensive Plan adopted pursuant to § 272-a of the Town Law to protect and promote public health, safety, comfort, convenience, economy, aesthetics and general welfare and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of Milton.
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To provide for adequate and suitably located commercial facilities.
- D. To create a suitable system of open spaces and to protect and enhance existing green spaces wooded areas, scenic areas and water resources.
- E. To preserve the present rural character of significant portions of the Town and encourage the continuation of rural land use in these areas to the extent practicable.
- F. To regulate building and development densities in order to: assure access of light and circulation of air; facilitate the prevention and fighting of fires; prevent undue concentration of population; lessen congestion on the streets and highways; and facilitate the adequate provision of water supply and sewage disposal facilities.
- G. To improve transportation facilities and traffic circulation and provide adequate off-street parking and loading facilities.

H. To realize a development plan properly designed to conserve the use of land and provide opportunity for affordable municipal utilities and services.

I. To protect environmentally critical and/or public or private open space from incompatible development while also encouraging conservation practices and uses throughout the community.

J. To assure privacy for residences and freedom from nuisances.

K. To protect the community against unsightly, obtrusive and noisome land uses and operations.

L. To enhance community aesthetics throughout the Town in stewardship of the Town's natural beauty and environment.

ARTICLE II. Definitions and Word Usage

§ 180-4. Word usage.

Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building." The term "occupied" or "used" as applied to any given building or land shall be constructed to include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used or occupied." The word "shall" is mandatory and not optional.

§ 180-5. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meaning herein indicated:

ACCESSORY FACILITY

A facility that serves the principal use and is subordinate in area, extent and purpose to the principal use. An example of such a facility includes transmission equipment.

ACCESSORY RETAIL

A retail use which is incidental to, and is customarily found in connection with, such principal use and in the same ownership as such principal use and is operated and maintained on the same zoning lot substantially for the benefit or convenience of the employees, customers, or visitors of the principal use.

ACCESSORY STRUCTURE

A structure containing less than 750 square feet, the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include tennis courts, garages, swimming pools, garden or tool sheds, barns, greenhouses and playhouses and such elements as windmills and solar collectors. The class of structure commonly referred to as a "mobile home" shall not be utilized as an accessory structure.

ACCESSORY USE

A use subordinate or supplemental to the main use on the same lot.

ADDITION

Extension or increase in area or height of a building.

ADULT ARCADE

Premises upon which, for a consideration, one or more of the machines for viewing by five or fewer persons each are used to show film, motion pictures, videocassettes, slides or other photographic, electronic or computer generated reproductions that are characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

ADULT MARKET

Premises upon which a substantial portion (25% or more) of the merchandise offered for sale or rental consists of books, magazines, periodicals, printed matter, photographs, films, motion pictures, videocassettes, slides or other visual representations or reproductions that are characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

ADULT MOTION-PICTURE THEATER

Premises upon which, for a consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown and in which a substantial portion (25% or more) of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of anatomical areas or sexual activity.

ADULT THEATER

Premises upon which, for a consideration, the exposure of anatomical areas or sexual activity is featured.

AGRICULTURAL BUILDING

Customary farm buildings incidental to a farm operation, including farm worker housing, barns, silos, storage sheds, corn cribs, grain bins, milk houses, animal pens and similar structures.

AGRICULTURAL DISTRICT

A legally recognized geographic area formed by one or more landowners and approved by one or more government agencies, designed to keep land in agriculture.

AIRPORT

The use of land or building or structure for facilitating the landing and handling of aircraft and their passengers and freight and without limiting the generality of the foregoing; accessory uses may include ticket offices, restaurants, bars, confections, luggage-checking facilities and parcel shipping facilities.

AIRSTRIP, PRIVATE

Land used for the purpose of landing, storing, taxiing or taking-off of private aircraft.

ALCOHOLIC BEVERAGES

Includes alcohol, spirits, liquor, wine, beer, hard cider and every liquid or solid containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

ALTERATION

Any change, rearrangement or addition to a building, other than repairs; any modification in construction or in building equipment or the moving of a building or structure from one location to another.

ALTERATION, SUBSTANTIAL

Any change of use or rearrangement or addition to a building, other than repairs, or the moving of a building or structure from one location to another within the Town Center District.

ANATOMICAL AREAS

Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

ANTENNA

A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include cellular, paging and personal communication services (PCS). The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

APPLICANT

The person applying for a license, permit or other Town action under this chapter.

APPLICATION

The paperwork or forms completed to apply for a license, permit or other Town action under this chapter.

AREA AND BULK REGULATIONS

The combination of standards which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

AUTO SALES AND RENTAL

Any area of land, including structures thereon, where motor vehicles are stored or displayed for the purpose of sale or rental only.

AWNING

An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be permanent or retractable.

BAR

A business enterprise primarily engaged in the retail sale of alcoholic beverages for consumption on premises.

BASEMENT

That space of building which is partly below grade and which has more than half of its height, measured from floor to ceiling, below the average established finished grade of the ground adjoining the building.

BED-AND-BREAKFAST ESTABLISHMENT

A dwelling having a resident on premises host in a private single-family or two-family home in which at least three and not more than 10 rooms are provided for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered.

BED-AND-BREAKFAST HOME

A dwelling having a resident on premises host in a private single-family or two-family home in which at least one and not more than two rooms are provided for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained. The bed-and-breakfast home shall not have more than five occupants as lodgers.

BEST MANAGEMENT PRACTICES (BMPs)

A defined activity or a combination of defined activities that are determined to be effective, practical means (technological, economical and institutional) of preventing or reducing the amount of water pollution generated by nonpoint sources to a level compatible with water quality goals. Examples of BMPs include but are not limited to road building, soil management, channel/stream crossings, vegetation control, sediment/erosion control and buffer zones.

BUFFER ZONE

A strip of land established and suitably developed with fencing, berms or natural vegetation.

BUILDABLE AREA

The space remaining on a lot after meeting its natural constraints, including steep slopes (in excess of 15%), wetlands, floodplains, the requirements of the stream corridor overlay and the minimum open space requirements (coverage, yards and setbacks) have been met.

BUILDING

A structure wholly or partially enclosed within exterior walls or within exterior and party walls and a roof, affording shelter to persons, animals, property or business activity. See "structure."

BUILDING, ACCESSORY

See "accessory structure."

BUILDING CONTAINING A TOWN LICENSED SEXUALLY RELATED BUSINESS

A building containing a Town licensed sex-related business and also any part of a building in which such premises is contained and any part of any other building connected with such building by direct access or by a common entrance.

BUILDING COVERAGE

The amount of land covered or permitted to be covered by a building and its accessory buildings and measured in terms of a percentage of total lot area. Such coverage shall be measured on a horizontal plane at finished grade level and excludes uncovered porches, terraces and steps.

BUILDING FACADE

That portion of an exterior elevation of a building extending vertically from grade to the top of the parapet wall or eaves and horizontally across the entire width of the building elevation.

BUILDING GROUP

A group of two or more principal buildings and any buildings accessory thereto occupying a lot in one ownership and having any yard in common.

BUILDING MATERIAL SUPPLY

A retail operation selling hardware, lumber and other products used for construction and home improvement.

BUILDING PERMIT

Official authorization issued by the Zoning Enforcement Officer or Code Enforcement Official to begin construction in accordance with approved plans and in strict compliance with all applicable requirements of this chapter, the New York State Uniform Fire Prevention and Building Code and related laws, rules and regulations.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is located.

BUSINESS COMPLEX

Two or more businesses and/or offices conducted on the same lot.

CAMOUFLAGING

The construction of facilities to house or support a telecommunications tower so that the towers blend readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging are silo and barn, windmill and simulated tree.

CAMP

A parcel of land on which are located two or more cabins, tents, shelters or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, including summer colony, resort and day camp, but not including a trailer park, hotel or motel.

CANOPY

A multisided structure or architectural projection freestanding or supported by attachment to the building on one or more sides, and also supported by columns at additional points. The surface(s) may be illuminated by means of internal or external sources.

CEMETERY

The land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried, and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments, but may not include a structure for the purpose of the cremation of human remains. A cemetery may be a cemetery corporation operated by a private, not-for-profit or religious institution operating in compliance with applicable state laws.

CEMETERY, PUBLIC

Any cemetery or burial ground as defined under § 291 of the Town Law of the State of New York.

CERTIFICATE OF OCCUPANCY

Official certification issued by the Zoning Enforcement Officer or Code Enforcement Official that a premises conforms to the applicable provisions of this chapter, the New York State Uniform Fire Prevention and Building Code and other applicable regulations and may be legally used or occupied.

CESSATION OF USE

A use shall be determined by the Zoning Enforcement Officer or Code Enforcement Official to have ceased when it has been discontinued, whether with the intent to abandon such use or not.

CLEAR CUTTING

A method of harvesting where virtually all trees on a site are removed.

CLERK OF THE PLANNING BOARD

That representative or those representatives of the Planning Board, either member(s), employee(s) or consultant(s), who shall be designated to perform the duties of the Clerk of the Planning Board for purposes of this chapter.

CLUB, MEMBERSHIP

Premises of an organization of persons who meet periodically to promote some nonprofit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted except as required generally for the membership and purposes of the club.

CODE ENFORCEMENT OFFICIAL

That Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing the New York State Uniform Fire Prevention and Building Code and related regulations pertaining to the development of structures within the Town of Milton, which employee shall be certified as a Building Official by the New York State Building Codes Council.

COLLOCATION

Using existing towers, buildings or other structures for placement of antennas without the construction of a new communication tower.

COMMERCIAL FORESTRY

The cutting and removal, also known as "harvesting" or "logging," of trees from a tract of land or tracts of land totaling three acres or more in any one year, excluding, however, 20 standard cords of wood which may be cut annually by the owner for his own use.

COMMUNITY AREAS

Those areas intended for the beneficial use or enjoyment by all residents of a development, including driveways, roadways, parking areas, walkways, landscaped areas, open space and recreation areas.

COMMUNITY RESIDENCE

A resident facility for the mentally disabled operated pursuant to the New York State Mental Hygiene Law and regulations promulgated there under.

COMMUNITY WATER SYSTEM

A public water system with at least five service connections used by year-round residents or that regularly serves at least 25 year-round residents.

A. **NONCOMMUNITY WATER SYSTEM** — A public water system that provides water to people in places other than their residences.

B. **NONTRANSIENT, NONCOMMUNITY WATER SYSTEM** — A public water system that does not serve a resident population but serves at least 25 of the same persons, four hours or more per day, for four or more days per week, for 26 or more weeks.

C. **PUBLIC WATER SYSTEM** — A community, noncommunity, nontransient noncommunity water system that provides piped water to the public for human consumption. The system must have at least five service connections or regularly serve an average of at least 25 persons daily at least 60 days out of the year.

COMPREHENSIVE PLAN

A document setting forth policies for the future growth and development of a Town. Such document may be officially adopted by the Town Board and shall satisfy the requirements of §§ 263 and 272-a of the New York State Town Law.

CONDOMINIUM

A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by the owners on a proportional undivided basis. All condominium management and maintenance agreements must be filed with the Town Clerk.

CONTRACTOR'S YARD

Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles or parts thereof which are in active use by a construction contractor.

CONSERVATION EASEMENT

A deed recorded in the Saratoga County Clerk's office which contains a voluntary agreement that limits land to specific uses. Easements may apply to entire parcels of land or to specific parts of a property. Private land protected by a conservation easement remains on the tax rolls. All conservation easements must be filed with the Town Clerk. Reference to open space incentive option § 180-30.

CONVENIENCE STORE

Small commercial establishments providing frequently needed retail goods, including but not limited to grocery stores (under 5,000 square feet in floor area) and gasoline service without any of the auto related services available at a gasoline or service station.

CONVERSION

A change in use or occupancy of a building, generally by alteration or by other reorganization.

CULTURAL FACILITIES

The building and land used for the purposes of educational entertainment, including museums, libraries, art galleries, theaters for the performing arts, institutional philanthropic use and public meetings.

DAY-CARE CENTER

A facility which is not a dwelling unit in which care is provided on a regular basis to three or more children or adults for more than three hours per day per person.

DAY CARE, FAMILY GROUP

A dwelling unit which is a residence and occupied as a family residence which provides day care for seven to 12 children or adults.

DAY CARE, FAMILY

A dwelling unit which is a residence and occupied as a family residence which provides day care on a regular basis for more than three hours a day for three to six children or adults.

DENSITY

The ratio of land area per family or dwelling unit(s) on a lot.

DEVELOPMENT

Any activity other than normal agricultural, conservation or forest management activity which materially affects the existing condition of land or improvements, including but not limited to:

- A. Removal of trees or other natural cover.
- B. Substantial excavation or deposit of earth or other fill, including alteration of the banks of any stream or body of water.
- C. Construction, reconstruction, alteration or demolition of any improvement.
- D. Dumping or parking of any object or material, whether mobile, liquid or solid.
- E. Commencement of any use of the land and improvements thereto and any change in the type or intensity of such use.
- F. Commencement or change in type or intensity of any noise, light, smoke or other emission in contravention of the general performance standards stated in § 180-24 of this chapter.

DRIVE-THROUGH

A nonresidential use or an accessory use to a nonresidential use which has a need for a vehicular queue or parking spaces to accommodate persons to whom it serves or transfers products or materials outside its building, if any, or to accommodate persons consuming its service, products or materials in a vehicle on the premises.

DRIVEWAY

A private access route directly serving a parking area or serving parking spaces not directly serving more than two dwelling units and not providing a route for through traffic.

DWELLING, ACCESSORY — NONRESIDENTIAL

A dwelling unit contained in either a separate building or structure or within a new or existing building containing a principal use other than residential and is incidental, subordinate and exclusively devoted to and located on the same lot as the principal use, building or structure.

DWELLING, ACCESSORY — RESIDENTIAL

A dwelling contained either in a separate building or within or attached to a new or existing detached one-family residential dwelling and exclusively devoted to housing one or more family members.

DWELLING, MULTIPLE-FAMILY

A residential, detached, semidetached or attached building, or portion thereof, held in single ownership designed for or occupied by three or more dwelling units, such as an apartment building. A dormitory, motel, hotel, lodge, inn, nursing home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit.

DWELLING, ONE-FAMILY OR SINGLE-FAMILY

A detached building containing one dwelling unit only. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

DWELLING, ROW OR ATTACHED

A one-family dwelling unit with party walls separating it from adjacent units on both sides or on one side if an end unit, with each having separate entrances from the outside, such as a townhouse or condominium. All are classified as multifamily dwellings in terms of the District Schedule of Area and Bulk Regulations, § 180-86.

DWELLING, TWO-FAMILY

A detached or semidetached building containing two dwelling units only. The two units may have separate entrances, such as a duplex, or a single entrance, such as a two-story house with separate dwelling units on both floors.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit.

EASEMENT

An acquired right on the property of another for a specified purpose on a designated part of that property.

EMPLOYEES or NUMBER OF EMPLOYEES

For the purpose of determining off-street parking requirements, employees or number of employees shall be computed on the basis of the greatest number of persons to be employed or capable of employment during any one work period day or night.

ENVIRONMENTAL CONSERVATION LAW

The Environmental Conservation Law of the State of New York, Chapter 43-B of the Consolidated Laws.

EROSION CONTROL STRUCTURE

Diversions that include water bars and broad based dips constructed across roads and/or landings for erosion and sediment control. They catch and divert runoff into adjacent vegetated areas.

EXCAVATION

Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation from water or land thereof, or beneath the land surface, whether exposed or submerged.

FAMILY

A householder or one or more persons related by blood, marriage or adoption living together in a family-like arrangement as a single not-for-profit housekeeping unit sharing one common dwelling unit; or a group of persons headed by a person or persons responsible for providing care for a reasonable number of individuals, sharing one single dwelling unit, in a family-like arrangement, which is the functional and factual equivalent of a family of related persons. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

FARM OPERATION

The land and on-farm buildings, equipment and practices which contribute to the raising, production, preparation and marketing of crops, livestock and livestock products for gain. The farm operation includes necessary farm structures within the prescribed limits of the farm parcel and the storage of equipment as part of the farm operation. A farm operation does not include the operation of a commercial stable, or kennel.

FAST-FOOD

A type of eating establishment where food and beverages are ordered and purchased over counters and/or at a drive-through in a ready to consume state for consumption within the building, elsewhere on the premises and/or for carry or drive out whose design and method of operation includes one or both of the following characteristics: paper, plastic or other disposable containers; there are two or more cashier stations available to patrons. A restaurant, as defined in this chapter shall not be construed to be a fast-food eating establishment. A retail shop or store (such as a grocery store, a retail bakery, a retail ice cream or frozen dessert store, a retail store whose principal purpose is not food sales and any similar retail shop or store) shall not be construed to be a fast-food eating establishment.

FENCE

An unroofed enclosing structure erected for the purpose of preventing passage or view.

FLEA MARKET

A business comprising a number of separate stands or spaces, either in one building or in separate buildings on the same premises, that are rented or leased to individual dealers for the purpose of buying, selling or exchanging, generally, goods of all sorts.

FLOOD BOUNDARY AND FLOODWAY MAP

The most current official map for the Town prepared by the Flood Insurance Administration and on which is designated the boundaries of the one-hundred-year floodplain, the five-hundred-year floodplain and the regulatory floodway.

FLOODPLAIN

All land adjoining a watercourse which is likely to be flooded once every 100 years as shown on the most current and official map for the Town prepared by the Flood Insurance Administration.

FLOOR AREA, GROSS

The sum of the horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings, but not to include attached or built-in garages, porches or terraces and basements or unfinished floor area having a clear headroom of less than seven feet.

FORESTRY AND FOREST FARMING OPERATIONS

The raising, harvesting and sale of forest products including but not limited to Christmas trees, logs, lumber, posts and firewood, including the land used for the processing woodland products.

FREESTANDING COMMUNICATION TOWER

Freestanding lattice tower onto which a telecommunications device is affixed.

FRONTAGE, LOT

That side of a lot coincident with the street line. A corner lot shall be considered to have two such frontages.

FUNERAL HOME

A building designed for the purpose of furnishing funeral supplies and services to the public and includes facilities intended for the preparation of the dead human body for interment or cremation.

GARAGE, PRIVATE

An enclosed space, whether an accessory building or part of a principal building, for the storage of one or more vehicles, provided that no business, occupation or service, other than a home occupation authorized by special use permit, 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 to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE OR SERVICE STATION

Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel, or that is used or designed to be used for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. The term "gasoline or service station" may also include a convenience store, provided that the store is an integral part of the gasoline or service station.

GENERAL MUNICIPAL LAW

The General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws.

GENERAL OFFICE

Any building or part of a building in which one or more persons are employed in or conduct the management or direction of an agency, business, organization, profession or public administration, but excludes such uses as retail sale, manufacture, assembly or storage of goods or places of assembly and amusement.

GOLF COURSE

A public or private area operated for the purpose of playing or practicing golf and may include an accessory office, retail pro shop, restaurant, banquets facilities, lounge, golf driving range, caretaker's dwelling unit and golf academy.

GRADE, FINISHED

The elevation at which the finished surface of the surrounding lot, either naturally occurring or upon completion of any change in contour, intersects the walls and supports of a structure.

GUYED TOWER

Tower supported by wire anchors onto which a telecommunications device is affixed.

HAUL ROAD

Constructed road of dirt and/or gravel utilized for moving cut trees from a landing where they are loaded on a truck to an exit from the site.

HEIGHT, BUILDING

The vertical distance measured from the average elevation of the finished grade along the side of the building having the lowest finished grade to the highest point on the coping of a flat roof, to the deckline of mansard roofs or to the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections except where such features occupy an aggregate area of more than 120 square feet or 10% of the roof area, whichever shall be less, not to exceed 25% of the permitted height.

HOME OCCUPATION CLASS 1

An occupation or profession carried on wholly within a dwelling unit principally by a member of the family residing in the dwelling unit and which is clearly incidental to the use of the dwelling unit for residential purposes, which activity shall occupy no more than 500 square feet of gross floor area or 25% of the gross floor area of the dwelling, whichever shall be the more restrictive, and does not change the character thereof and which use shall be fully consistent with the performance standards as stated in home occupations § 180-31 of this chapter.

HOME OCCUPATION CLASS 2

An occupation or profession carried on in an accessory structure or elsewhere on the property by a member of the family residing in the principal dwelling unit and which is clearly incidental to the use of the dwelling unit for residential purposes and does not change the character thereof, and which use shall be fully consistent with the performance standards as stated in home occupations § 180-31 of this chapter.

HOMEOWNERS' ASSOCIATION

An organization of residential property owners, duly constituted, residing within a particular development whose major purpose is to own, preserve, maintain and provide community areas, facilities and services for the common enjoyment of the residents. All homeowners' association administration and management agreements must be filed with the Clerk of the Town of Milton.

HOSPITAL

The term "hospital" shall be deemed to include clinic, sanitarium, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of human ailments. As defined by New York State regulations, a doctor's office shall be considered a general office use.

HOTEL

A multiple dwelling or any part thereof which contains living and sleeping accommodations for transient occupancy and which may contain one or more dining rooms, and includes but is not limited to such terms as "motel," "motor court," "motor hotel," "tourist court" or "inn."

IMPERVIOUS SURFACE

Any structure, building or material, such as concrete, asphalt, brick or metal, constructed or erected on landscaped or natural buffer areas which impedes the percolation of water into the ground. Impervious surfaces do not include dirt, crushed stone or gravel surfaces.

IMPROVEMENTS

A physical change to the land or installation of certain services necessary to produce usable and desirable lots or sites from raw acreage, including but not limited to water and sewer facilities, recreation and open space areas, grading, pavement, curbs, gutters, storm sewers and drains and betterments to existing watercourses, sidewalks and other pedestrian ways, street signs, shade trees, sodding or seeding and monuments, whether such improvements are intended to be dedicated and maintained by the public or held in private ownership.

JUNKYARD

An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials, such as wastepaper, rags, scrap metal or used building materials, home furnishings, machinery or parts thereof, with or without the dismantling, processing, salvage or other use or disposition of the same. Reference junk and junk dealers in Chapter 103 of the Town Code.

JUNKYARD, MOTOR VEHICLE

An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or storage on a lot of two or more vehicles no longer in condition for legal use on the public highways, i.e., registered and inspected or parts thereof for one month or more in a residential district or three months or more in any nonresidential district shall constitute a motor vehicle junkyard. Reference junk and junk dealers in Chapter 103 of the Town Code.

KENNEL, COMMERCIAL

An establishment for the keeping, breeding and raising of domesticated animals for profit or gain, but shall not apply to the keeping of animals in a veterinarian clinic for the purpose of observation and/or recovery necessary to veterinary treatment.

LAND, CONSTRAINED

See buildable area § 180-22.

LAND, UNCONSTRAINED

See buildable area § 180-22.

LANDFILL

A lot or land area used primarily for disposal of solid waste employing an engineering method that minimizes environmental hazards by spreading and compacting alternate layers of solid waste and cover material.

LANDINGS

Open or cleared areas used for loading logs onto trucks or used for any general purpose such as for storing logs or for servicing equipment.

LICENSE

Proof of permission granted, usually in the form of a document, card, plate or tag.

LICENSEE

Any person to whom a license is issued pursuant to this chapter.

LIGHT MANUFACTURE

Assembly, treatment, processing or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare or vibration beyond their property boundaries.

LOGGING DEBRIS

Any residue associated with a harvesting operation, including undesirable tree trunks, logs and slash.

LOT

A parcel of land having defined boundaries and considered as a unit devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership and including customary accessory structures, uses, open spaces and yards, which parcel shall have frontage on a street or on such other means of access as may be deemed sufficient in accordance with the applicable provisions of §§ 280 and 280-a of the Town Law to provide suitable access as a condition precedent to the issuance of a building permit.

LOT AREA

The total land area of a lot within the property lines, excluding any area devoted to external streets, e.g., in the case of a user highway.

LOT, CORNER

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°. The point of intersection of the street right-of-way lines is the corner.

LOT DEPTH

The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured perpendicular to the lot width.

LOT LINE

The line dividing one premises from another or from a street or other public space.

LOT, NONCONFORMING

Any lot lawfully existing in single and separate ownership at the effective date of this chapter, or any amendment thereto affecting such lot, which does not conform to the dimensional regulations of this chapter for the district in which it is situated.

LOT OF RECORD

A legally existing lot at the time of adoption of this chapter, duly filed and recorded in the Saratoga County Clerk's office as either an individual parcel of land or part of an approved subdivision, in accordance with Chapter 154, Subdivision of Land, and applicable provisions of Town Law.

LOT WIDTH

The minimum horizontal distance between the side lines, measured parallel to the front right-of-way (ROW) line at the minimum building setback. See District Schedule of Area and Bulk Regulations. Editor's Note: See § 180-86.

MANUFACTURED HOME

A home built on or after June 15, 1976, bearing a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR 280. A transportable structure comprised of one or more components, each of which substantially was assembled at a manufacturing facility and is/are capable of being transported to and assembled on a home site, with or without a permanent foundation. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MEMBERSHIP CLUB

See "club, membership."

MINERAL

Any naturally formed material located on or below the surface of the earth including, but not limited to, sand, gravel, stone, peat, and topsoil.

MINIMUM OPEN SPACE

That area of a lot which shall be properly maintained with a combination of natural, not artificial, lawn, shrubs, trees and other plant materials and related ground covers.

MINING

Use of a parcel of land or contiguous parcels of land, or portions thereof, and all haulageways and all equipment above, on or below the surface of the ground for the purpose of excavating and producing minerals or water for sale or exchange or for commercial, industrial or municipal use, not including the process of preparing land for the construction of a structure for which a building permit has been issued.

MINING SUBJECT TO STATE JURISDICTION

An operation which results in the mining or proposed mining from each use of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months or an operation which results in the mining or proposed mining of over 100 cubic yards of minerals from or adjacent to any body of water not subject to the jurisdiction of the New York State Environmental Conservation Law or the Public Lands Law.

MINING NOT SUBJECT TO STATE JURISDICTION

All mining which is not defined as mining subject to state jurisdiction.

MOBILE HOME

A moveable or portable dwelling that is composed of one or more components, each of which was substantially assembled in a manufacturing facility prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, is designed to be transported to the home site on its own permanent chassis, exceeds 32 feet in length and eight feet in width and is designed to be used as a dwelling unit for year round living when connected to required utilities, and with or without a permanent foundation. Excludes travel trailers.

MOBILE HOME PARK

Any lot, parcel or tract of land or portion thereof, together with the open space and facilities required by this chapter, used, designed or maintained and having mobile home spaces as defined herein, held out for hire or lease to accommodate mobile homes as defined herein, or any premises on which two or more mobile homes are located and occupied, regardless of whether or not any compensation is provided.

MODULAR HOME

A factory manufactured dwelling unit conforming to the applicable provisions of this code and bearing insignia of approval issued by the Secretary of State of New York State. Any building designed primarily

for residential occupancy and intended or designed for permanent installation, comprised of one or more components, each of which substantially was assembled at a manufacturing facility and/is capable of being transported to the home site, which, when combined on a permanent foundation with a sloped roof, constitutes a dwelling unit which is indistinguishable from a conventionally built home.

MONOPOLE

A single pole of variable cross section onto which telecommunications devices are affixed.

MUNICIPAL HOME RULE LAW

The Municipal Home Rule Law of the State of New York, Chapter 36-a of the Consolidated Laws.

NONCOMPLYING BUILDING OR STRUCTURE

An existing building or structure which contains a use permitted in the zoning district in which it is located but which does not conform to the applicable district regulations for lot area, width or depth; front, side or rear yard; maximum height; lot coverage; parking requirements; or density after the enactment or subsequent amendment of this chapter. This condition may also be cited as "noncomplying bulk."

NONCONFORMING USE

A legal existing use which does not conform to the applicable use regulations for the zoning district in which such use is located after the enactment or subsequent amendment of this chapter.

NOT-FOR-PROFIT CORPORATION

A corporation formed or existing under the Not-For-Profit Corporation Law of New York State.

NOXIOUS USE

Any use which is dangerous, offensive or injurious by reason of the emission of dust, smoke, refuse matter, odor, gas fumes, noise or vibration in contravention of the standards and criteria established by this chapter and other applicable laws, rules, codes and regulations.

NURSERY

A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees or similar vegetation, which may include gardening tools, supplies and implements which are sold at retail from such building or lot to the general public.

OCCUPANCY

Use of a building, structure or premises.

OFFICIAL MAP

A map, adopted by the Town Board, showing streets, highways and parks heretofore laid out, adopted and established in accordance with § 270 of the Town Law.

OPEN SPACE, PRIVATE

Open space held in private ownership and protected in perpetuity by a conservation easement.

OPEN SPACE, PUBLIC

Open space dedicated to or owned by any government or governmental agency or authority, to be protected as conservation land.

OWNER

Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor trustee, lessee or other person, association, firm or corporation in control of a building, structure or premises.

PARCEL

Any tax parcel, contiguous tax parcels under single ownership or contiguous tax parcels proposed to be developed as a unit. Each tax parcel shall be identified by the Tax Map of the Town of Milton dated January 1, 2001, and single ownership shall be determined by deed filed as of January 1, 2001. No parcel as defined herein may be changed or reconfigured after January 1, 2001, for the purposes of applying or avoiding the restrictions of this chapter.

PARK, DEDICATED

Any land and/or associated structures, dedicated to or by a village, town, county or state, created and maintained by a municipality for the express use and enjoyment by the general public for recreational purposes.

PARKING AREA, OFF-STREET

For purposes of this chapter, an off-street parking area containing five or more parking spaces as required by this chapter.

PARKING SPACE, OFF-STREET

An area of land not less than nine feet by 18 feet, excluding driveways or access drives thereto, which is out of the public right-of-way and is available and adequately improved for the parking of one motor vehicle.

PART 77 SURFACES

Those imaginary surfaces in space as established by the Federal Aviation Administration for the purpose of controlling heights of objects in the airport vicinity. The imaginary surfaces incorporate the primary zone, approach area, transitional area, horizontal area and conical area as defined and delineated in the Saratoga County Airport Master Plan. The Saratoga County Airport Master Plan is available at the Town Clerk's office and the County Airport Administrative offices.

PERSON

Any individual, corporation, partnership, association, trustee or legal governmental entity.

PERSONAL SERVICE

A building, or part of a building, in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons, such as a barber's shop and hairdressing salon.

PERSONAL TRANSPORTATION SERVICES

Establishments primarily engaged in providing local and suburban transportation services (e.g., taxis, buses, limousines).

PLANNED DEVELOPMENT DISTRICT

A development in accordance with a single plan for compatible land uses and the placement of buildings which may not correspond to the bulk, yard, height and intensity of use prescribed as of right by this chapter but in accordance with the performance standards under Article IX.

PLANNING BOARD

The Planning Board of the Town of Milton, Saratoga County, New York.

PLAT

A plan, map or chart of a piece of land with actual or proposed features.

PREMISES

A lot, plot or parcel of land, together with all structures and uses thereon.

PRIVATE SCHOOL

All private, parochial, academic, technical or nursery schools.

PROTECTED STREAM

A stream protected under Article 15 of the Environmental Conservation Law (ECL). A permit is required from the New York State Department of Environmental Conservation (DEC) for any work which will disturb the streambed or its banks.

PUBLIC BUILDING/USE

Any building or use designated for municipal, civic, recreational or other public purposes, but not including proprietary or enterprise activities.

PUBLIC HEALTH LAW

The Public Health Law of the State of New York, Chapter 45 of the Consolidated Laws.

PUBLIC UTILITY USE

An installation used by a public utility to supply electric, gas, water, cable television, telephone or other utility service. Included are such facilities as electric unit substations, high voltage transmission lines, pump stations, water towers and telephone substations. Utility distribution facilities servicing customers directly are considered customary accessory uses.

RECREATION, COMMERCIAL

Facilities operated as a business and open to the public for uses such as tennis, swimming, miniature golf, driving ranges and live theater.

RELIGIOUS INSTITUTION

A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

REPAIR

Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.

RESEARCH LABORATORY

An establishment or other facility for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development.

RESTAURANT

Premises, however designated, at which food and beverages are sold for consumption largely on premises by patrons seated within a building or elsewhere on the premises. The term "restaurant" shall not include fast-food eating establishment.

RETAIL BUSINESS

A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on-premises manufacturing, processing and preparation customarily associated with department stores, food markets and similar establishments.

ROADSIDE STAND

A structure, which shall not exceed 100 square feet, where products grown or produced on the premises by the operator of the roadside stand may be sold and purchased.

RUNWAY PROTECTION ZONE OVERLAY DISTRICT

Reference § 180-6B(2).

SATELLITE ANTENNA

Any parabolic dish, antenna or other devices or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites.

SENIOR HOUSING

A residential development owned by a public agency or private nonprofit sponsor in which dwelling units are exclusively provided for elderly persons, aged 62 or older, and other members of the households which they head.

SETBACK

The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways.

SEXUAL ACTIVITY

Includes the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts; or sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or masturbation, actual or simulated; or excretory functions as part of or in connection with any of the foregoing activity.

SEXUALLY ORIENTED BUSINESS

Any commercial activity which sells, rents, shows, exhibits, or makes available for sale, rent, showing or exhibition any material or entertainment distinguished or characterized by an emphasis on depicting or description of anatomical areas or of sexual activity and shall include but not be limited to adult arcades, adult markets, adult motion-picture theaters, adult theaters and adult video rental/sale stores.

SIGN

Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols. Noncommercial flags or any flag displayed from flagpoles or staffs will not be considered to be signs.

SIGN, ANIMATED

A sign employing motion or the illusion of motion. Includes: wind activated (spinners, pinwheels, etc.), mechanically activated (characterized by repetitive motion or rotation activated by electric motor or devices), and electrically activated (producing the illusion of movement by electronic and/or illumination effects).

SIGN, AREA

A. If freestanding: The entire area of a sign on which copy and/or graphics could be placed. This area is computed geometrically to include any nonrectangular areas of the sign face. Structural components, skirting, or other architectural ornaments are not considered part of the sign area. If double-faced, only one face area will be used in calculation of sign area.

B. If wall-mounted or on a canopy or awning: The area of the sign copy or graphic elements as applied to the background. This copy area is calculated as the sum of the geometrically computed areas encompassing separate letters, words or graphic elements on that background.

SIGN, AWNING

A sign displayed on or attached flat against the surface or surfaces of an awning.

SIGN, BANNER

A flexible substrate in which copy or graphics may be displayed.

SIGN, CANOPY

A sign displayed on or attached flat against the surface or surfaces of a canopy.

SIGN, CHANGEABLE

A sign with the capability of content change by manual means or electronically by remote input.

SIGN, COPY

The graphic content and/or text message of a sign.

SIGN, DIRECTIONAL

Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

SIGN, DIRECTORY

A sign that is designed for listing of occupants of a multi-tenant facility.

SIGN, DOUBLE-FACED

A sign with two faces, commonly back to back.

SIGN, ELECTRONIC MESSAGE

Any changeable sign whose variable message capability can be electronically programmed.

SIGN, FREESTANDING

A sign that is not affixed to a building and is so constructed to be an independent unit. Included are pole signs, pylon signs and monument signs.

SIGN, OFF-PREMISES

A sign whose message content is not related to the activities conducted on the premises on which it is located.

SIGN, ON-PREMISES

A sign whose message content bears a direct relationship to the activities conducted on the premises on which it is located, or to the expression of any message by the owner or user of the premises.

SIGN, POLITICAL

A temporary sign intended to advance a political statement, cause or candidate for elected office.

SIGN, PROJECTING

- A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall.
- SIGN, REAL ESTATE**
A temporary sign advertising the sale, lease or rental of the property upon which it is located.
- SIGN, TRAILBLAZER**
A sign, specified by NYSDOT regulations, installed within a highway right-of-way, for directing off-premises traffic to a business or public location.
- SIGN, WALL**
A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the wall. Also includes signs affixed to architectural projections provided the copy area of such signs remains on a parallel plane with the building facade.
- SINGLE OWNERSHIP**
Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 30 years, regardless of any division of land into parcels for the purpose of financing.
- SITE PLAN**
That map or drawing and all related information which together constitute a complete application, submitted for review by the Planning Board in accordance with the requirements and procedure specified in Article VIII of this chapter.
- SKETCH PLAN**
A sketch of a proposed sign, structure or building showing the information required by these regulations to enable the applicant to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and the objectives of this chapter. A sketch plan shall be drawn to scale but need not have the accuracy of an engineering drawing.
- SKID TRAIL**
Trail or rough road used to move a tree from the place where it was cut to a pile or landing where it is loaded onto a truck.
- SLASH**
Felled trees, tree tops, and small branches left over from a harvesting operation.
- SPECIAL PERMIT USE**
A use which is deemed desirable for the public welfare within a given zoning district or districts, but which is potentially incompatible with other uses provided therein. The special use shall, therefore, be subject to approval by the Planning Board in accordance with the conditions set forth for such use, as well as other applicable provisions of this chapter.
- STABLES, COMMERCIAL**
Premises on which two or more horses not the property of the proprietor are boarded or on which horses are maintained commercially for hire, exhibition or sale. Any establishment where horses are kept for riding, training, driving or stabled for compensation or incidental to the operation of any club, ranch or similar establishment.
- STABLES, PRIVATE**
Premises on which is maintained not more than one horse not the property of the proprietor, and including horses of the proprietor not maintained for commercial purposes; is accessory to a farm or dwelling.
- STEALTH**
Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and trees. The term "stealth" does not necessarily exclude the use of uncamoouflaged lattice or monopole tower designs.
- STORAGE BUSINESS**
A structure or structures in which materials, goods or equipment are stored, including self-storage operations with separate storage units having individual external access, for storage of personal property. Self-storage operations with several separate structures shall all be considered together to form one primary structure for the purpose of site plan review by the Planning Board.
- STORY**
The portion of the building other than the cellar which lies between the surface of the floor and surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling or roof next above it.
- STREAM CENTER LINE**
The midpoint between the mean high water mark on each bank of the adjacent portion of river, stream, creek or tributary.
- STREAM CORRIDOR OVERLAY DISTRICT**
A district described by this chapter within which, due to special circumstances and the imposition of a special overlay designation, additional regulations and requirements apply to complement those of the underlying land use district to which such designation is added.
- STREET**

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, artery, avenue, boulevard, lane, place, drive or however otherwise, which is an existing public way or a way shown upon a subdivision plat approved by the Town Planning Board as provided by these regulations or on a plat duly filed and recorded in the office of the Saratoga County Clerk.

STREET LINE

The dividing line between a lot and a street right-of-way.

STREET RIGHT OF WAY

Strip of land in which facilities such as highway and utilities are placed.

STRUCTURE

A static construction or assembly of materials, the use or occupancy of which requires a location on the ground or attachment to an object having such a location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, signs and mobile dwellings. Structures shall not include utility poles, wire and related equipment.

SUBDIVISION

See Chapter 154, Subdivision of Land.

SWIMMING POOL

Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spa. See New York State Uniform Fire Prevention and Building Code.

TELECOMMUNICATIONS TOWER

A structure on which transmitting and/or receiving antennas are located. This includes but is not limited to freestanding towers, guyed towers, monopoles and similar structures. It is a structure intended for transmitting and/or receiving telecommunications but excluding those exclusively for governmental purposes, (including but not limited to fire, police or other dispatch communications) or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar communications.

TOWN LAW

The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

TRAILER, CAMPING

A folding structure mounted on wheels and designed for limited travel recreation and vacation use only.

TRAILER, TRAVEL

A vehicular, portable structure built on a chassis designed as a temporary one-family dwelling for travel, recreation and vacation purposes and having a body length not exceeding 32 feet and a body width not exceeding eight feet.

USE

The specific purpose for which land, a building or a building group is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, PERMITTED

A specific use noted in § 180-11, Schedule of Use Regulations, and § 180-87, District Schedule of Use Regulations, of this chapter to which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right.

USE, PRINCIPAL

The main or primary purpose or purposes for which land and/or structures are designed, arranged or intended or for which such land or structures may be occupied or maintained under this chapter.

USE, PROHIBITED

Any use which is not listed as a permitted use, special permit use or permitted accessory use in Article IV, § 180-11, Schedule of Use Regulations, and Article XV, § 180-87, District Schedule of Use Regulations, of this chapter shall be considered a prohibited use hereunder.

USE REGULATIONS

The controls which enumerate the permitted principal, permitted accessory and special permit uses within each of the zoning districts established by § 180-11 of this chapter.

VARIANCE

A modification of the use and/or area and bulk regulations of this chapter in an individual case due to the specific facts and conditions peculiar to a particular property.

VARIANCE, AREA

The authorization by the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of applicable standards. The Board of Appeals shall have the power to grant area variances. [Refer to § 180-74C(1)(b).] The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

VARIANCE, USE

The authorization by the Board of Appeals for the use of land for a purpose which is otherwise prohibited by the applicable standards. The Board of Appeals shall have the power to grant use variances when the applicable zoning regulations and restrictions have caused unnecessary hardship. [Refer to § 180-

74C(1)(a).] The Board of Appeals shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

VETERINARIAN CLINIC

A building or part of a building used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals or lodging for healthy animals on a fee basis.

WETLAND

An area of land that is characterized by hydrophytic vegetation, saturated soils or periodic inundation as delineated by the New York State Department of Environmental Conservation or the National Wetlands Inventory prepared by the United States Fish and Wildlife Service.

WHOLESALE BUSINESS

Establishments engaged in the sale of commodities in quantity, usually for resale or business use, chiefly to retailers, other businesses, industries and institutions.

YARD

An open space on the same lot, plot or parcel of land with a building or building group lying between the closest point of the front, rear or side wall of a building and the nearest lot line, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this chapter.

YARD, FRONT

A yard extending across the principal street (i.e., front lot line) of a lot measured between the side lot lines, the depth of which yard is the minimum horizontal distance between the street line and the main or principal building on the lot. Where a buildable lot is accessed by a frontage of less than the required lot width, the front yard shall be considered a side yard.

YARD, REAR

A yard extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building.

YARD, SIDE

A yard between any lot line other than the street line or rear lot line and a line drawn parallel thereto and between the front and rear yards.

ZONING BOARD OF APPEALS

The Board of Appeals of the Town of Milton as provided for in Article XIII of this chapter.

ZONING DISTRICT

An area or section of the Town described on the Zoning District Map contained within this chapter and within which uniform requirements regulate the use of land and structures and the height, bulk, density and setback of structures.

ZONING DISTRICT MAP

The map delineating the boundaries of the various districts established under this chapter which, along with the text, comprises this chapter.

ZONING ENFORCEMENT OFFICER

That Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing this chapter and related regulations pertaining to the development and the use of land within the Town of Milton.

ARTICLE III. Districts Established

§ 180-6. Enumeration of districts.

A. For the purposes of this chapter, the Town of Milton hereby establishes and divides the Town into the following nine zoning districts:

R1	Residential District
R2	Rural District
TC	Town Center District
MU	Mixed Use District
CT	Commercial Transition District
H1	Rock City Falls Hamlet District

H2	West Milton Hamlet District
A	Airport District
PD	Planned Development District

B. Overlay districts.

(1) Stream Corridor Overlay District. An additional overlay district is also hereby created, the Stream Corridor Overlay District (SC-O). The overlay district encompasses that land within 100 feet of the center line of those streams designated on the Zoning District Map.

(2) Runway Protection Zone Overlay District. The RPZ Overlay District is hereby established as an overlay district meaning it is a district overlaid upon other districts. Land within the overlay district may be used as permitted in the underlying district, subject to the additional regulations of this district. The overlay district boundary shall be coterminous with the Runway Protection Zones as delineated for each of the four runways serving Saratoga County Airport.

§ 180-7. Zoning Map.

The location and boundaries of said districts are shown on the Zoning District Map, Town of Milton. Said map, together with all explanatory matter thereon and all amendments thereto, is hereby adopted and is declared to be an appurtenant part of this chapter. Said map shall be kept up-to-date and shall be located in the Town Clerk's office for the use and benefit of the public. Certified copies of said map shall also be on file in the offices of the Town Planning Board, Zoning Board of Appeals, Zoning Enforcement Officer and Code Enforcement Official.

§ 180-8. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid zoning districts as shown on the Zoning District Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the center lines of right-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a center line or right-of-way line of such street, highway, public utility or watercourse is moved a maximum distance of 50 feet by action of a person other than the owner of the affected land area.

B. Where district boundaries are indicated as approximately following the Town or village boundary line, property lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Where district boundaries are so indicated that they are approximately parallel to the Town or village boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning District Map or as shall be determined by use of the scale shown on said map.

D. Where a district boundary line divides a single lot of record, at the time such line is established, the regulations for the less restricted portion of such lot may, at the owner's discretion and with the exception of the Stream Corridor Overlay District (SC-O), extend up to 30 feet into the more restricted portion, provided that the lot has street or highway frontage in the less restricted district.

E. In all other cases, where dimensions are not shown on the Zoning District Map, the location of the boundaries shown on said map shall be determined by use of the scale appearing thereon.

§ 180-9. Applicability of district regulations.

Except as hereinafter otherwise provided:

A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged for any purpose except in conformance with the regulations herein specified for the district in which it is located.

B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.

C. No yard or lot existing at the time of the passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter, with such lots established in full accordance with the requirements of Chapter 154, Subdivision of Land.

D. No loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use, except as otherwise provided for in this chapter.

E. No off-street parking or loading space shall be so reduced in area that it does not meet the minimum requirements of this chapter.

F. Within each district, the regulations set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

§ 180-10. (Reserved)

ARTICLE IV. Use Regulations

§ 180-11. Schedule of Use Regulations.

A. The general use regulations in each land use district are set forth in the following § 180-87, District Schedule of Use Regulations. This schedule is supplemented, as appropriate, by other provisions of this chapter.

B. All changes in use, new uses or substantial alteration to structures in Town Center after the date of adoption of this chapter are subject to the site plan review provisions provided in Article VIII of this chapter.

C. Any use not listed specifically or through a similar use as a permitted, special permit or accessory use in the attached § 180-87, District Schedule of Use Regulations, shall be considered a prohibited use under this chapter.

ARTICLE V. Area and Bulk Regulations

§ 180-12. Schedule of Area and Bulk Regulations.

The general area and bulk regulations in each zoning district are set forth in the following § 180-86, District Schedule of Area and Bulk Regulations. This schedule is supplemented, as appropriate, by other provisions of this chapter. NOTE: R20s in the schedule below refers to the open space incentive option in accordance with § 180-30.

§ 180-13. Existing lots of record.

Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed lot area or lot width if such lot was created after August 2, 1972, and the lot is part of a plat approved by the Town of Milton Planning Board in accordance with Chapter 154, Subdivision of Land, and filed in the office of the Saratoga County Clerk in a timely manner pursuant to the Town Law; or if such lot existed at the time of adoption of the Town's initial Zoning Ordinance on October 9, 1972, provided that:

A. Such lot does not adjoin any other lot, lots or land held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.

B. Such lot may not be used for more than one permitted principle use and its associated accessory structures.

C. Such use shall satisfy all applicable requirements of the Town of Milton and the New York State Departments of Health and Environmental Conservation for potable water supply and sewage disposal facilities.

D. Except for lot area and lot width, all other area and bulk regulations for that district shall be met for any proposed use.

§ 180-13.1. R2 single lot exemption.

Single-lot exemption in the R2 District. The owner of any parcel of at least five acres held in separate ownership from the surrounding parcels prior to June 20, 2001, may apply to the Planning Board for an exemption to subdivide one lot of at least two acres.

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 and other dimensional 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 shall submit a plat meeting all of the technical requirements for such plat established herein.

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 Milton Zoning Code."

D. The Planning Board Secretary shall maintain a map and record of all parcels that have received the benefits of this one-time, single-lot exemption provision.

§ 180-14. Minimum lot area per dwelling unit.

A. In all districts where residences are permitted, a lot held in single ownership may only be improved for residential use in accordance with the minimum lot area and related bulk regulations for the district as set forth in the § 180-86, District Schedule of Area and Bulk Regulations, except as provided in §§ 180-13 and 180-13.1 above regarding existing lots of record and single lot exemptions.

B. More specifically, if two or more principal residential structures or dwelling units are located on the same lot, except for an accessory dwelling authorized by a special use permit, the minimum lot area per dwelling unit requirement must be complied with, and all other requirements of this chapter and other applicable laws, rules and regulations must be strictly met. Further, a residential lot of required or greater than required area as set forth in this chapter shall not be reduced in area for transfer of ownership if such lot so divided will form two or more lots, any of which shall be less than the minimum lot area required for the district in which the lot or lots are situated.

§ 180-15. Height exceptions.

A. To the extent that such does not interfere with state or federal regulations applicable to required airport clear zones, the height limitations set forth in the § 180-86, District Schedule of Area and Bulk Regulations, shall not be applicable to the following:

(1) Satellite and cellular antennas (see § 180-39.1, Telecommunications towers and satellite antennas).

(2) Flagpoles, radio or television antennas, transmission towers or cables, windmills, agricultural barns and silos and similar features, any of which shall be restricted to a maximum height of 50 feet above average finished grade at its base.

(3) Spires, belfries, chimneys, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, solar collectors, air-conditioning units or similar structures which in their aggregate coverage occupy no more than 120 square feet or 10% of the roof area of the building, whichever is smaller, of which they are a part. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended.

B. No structure or other exception shall be used as a place for habitation or for advertising not otherwise authorized by this chapter.

§ 180-16. Corner lots.

A. Required front yards. On a corner lot, each street frontage shall be deemed to be a front street line, and the required yard along each such lot line shall be a required front yard; however, the above notwithstanding, for the purposes of this chapter no lot shall be interpreted to have more than two front yards regardless of how such lot is located or configured. The Zoning Enforcement Officer, in consultation with the owner, shall establish which of the remaining yards shall be the required side yard and the required rear yard for purposes of this chapter.

B. Obstructions at street intersections. At all street intersections, no obstructions to vision, such as a fence, wall, hedge, structure or planting over three feet in height, as measured above the finished grade, if any, or above the existing road level, shall be erected or installed and maintained on any lot within the triangle formed by the intersecting street lines, or their projections where corners are rounded, and a straight line joining said street lines at points which are 30 feet distant from their point of intersection measured along said street lines and/or projections.

§ 180-17. Architectural features and accessory structures.

A. The following architectural features of a building may extend into a required yard, subject to limitations provided herein:

(1) Ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required yard.

(2) Chimneys or pilasters.

(3) Open arbors or trellises.

(4) Unroofed steps, patios or terraces not less than 20 feet from the highway right-of-way nor less than 10 feet from any side or rear lot line, provided that the building complies with the yard requirements of this chapter.

(5) Awnings or movable canopies not to exceed 10 feet in height nor projecting more than six feet into any required yard.

(6) Retaining walls, fences or masonry walls, except as limited by § 180-16B, Corner lots: Obstruction at street intersections, or § 180-27, Fences and walls, of this chapter.

(7) Open fire escapes on the side or rear of a building and extending not more than eight feet from the principal building nor closer than five feet to any lot line.

B. The following accessory structures may be located in any side or rear yard, subject to the limitations stated herein:

(1) Private outdoor tennis courts, in-ground or above ground swimming pools, whirlpools, spas or hot tubs not less than 15 feet from the side or rear lot line and fully consistent with the provisions of § 180-34 of this chapter.

(2) Permitted accessory structures, as defined in § 180-5 of this chapter, provided that:

(a) Structures shall not exceed 20 feet in height in any residence district.

(b) Structures shall be set back no less than 10 feet from any lot line nor less than 12 feet from the principal building or a distance equal to the height of the accessory building, whichever is greater.

(c) All such structures in the aggregate shall not occupy more than 30% of any required yard.

(d) Structures shall not project closer to the fronting street than the principal building on the lot or a distance of 60 feet, whichever shall be less.

(e) A maximum of three such accessory structures, other than a permitted sign or agricultural buildings in conjunction with farm operations, shall be permitted on an individual lot in a residential district. In the event that the lot exceeds five acres, additional accessory structures may be sited if a special use permit is granted in accordance with Special Permit Uses, Article VII of this chapter.

C. A single portable accessory building with a maximum floor area of 125 square feet may be installed or constructed and utilized without the issuance of a building permit or certificate of occupancy, provided that:

(1) The structure does not have a permanent foundation.

(2) The structure is not served by any utility such as electricity, gas or plumbing.

(3) The walls of the structure do not exceed eight feet in height and the highest point of the roof does not exceed 12 feet in height measured from grade.

(4) The structure is never used for human habitation.

(5) All other requirements of this chapter related to accessory structures are fully met.

D. Fences and walls may be located in required yard areas where in full compliance with the standards provided within § 180-27 of this chapter.

§ 180-18. Distance between principal buildings on the same lot.

Except in the Town Center District, where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot than the height of the taller of said buildings.

§ 180-19. Required modifications for substandard rights-of-way.

On streets, roads or highways with less than a 50 feet right-of-way, the front setback shall be measured perpendicularly from the center line of the existing right-of-way, with 25 feet added to the required front yard setback to establish the building line.

§ 180-20. Minimum lot frontage.

All lots proposed for building purposes in the Town at Milton shall have a minimum lot frontage of 50 feet. Said lot frontage shall be measured along the right-of-way of any dedicated Town, county or New York State highway or along a line 24.75 feet from the center line of any user highway. The width of any lot shall not be less than 50 feet throughout its entire depth leading to the buildable portion of the lot, i.e., that portion of the lot with at least the minimum prescribed lot width. See § 180-86, District Schedule of Area and Bulk Regulations.

§ 180-21. Transition requirements between districts.

Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restrictive zoning district, there shall be provided along both sides of such abutting lot line or lines side or rear yards equal to those required in the more restrictive zoning district.

§ 180-22. Wetlands, floodplains, steep slopes and streams.

A. In all districts, the buildable area and all minimum front, side and rear yard requirements must be satisfied by measurement wholly on unconstrained land.

B. Unconstrained land shall not include areas within a designated wetland, as delineated by the New York State Department of Environmental Conservation (including the required one-hundred-foot buffer) or the National Wetlands Inventory prepared by the United States Fish and Wildlife Service, or which lies under water or which is on slopes in excess of 15% or which is within the one-hundred-year floodplain or is included in the delineated Stream Corridor Overlay (SCO) District. In determining the locations of wetlands, the Planning Board may require that the wetlands be flagged during an on-site wetland delineation by a professional engineer, surveyor or a wetland biologist.

C. The provisions of Chapter 88, Flood Damage Prevention, are hereby incorporated by reference to be made a part of this section.

ARTICLE VI. Supplemental Regulations

§ 180-23. Applicability.

The following supplementary regulations are applicable to all zoning districts within the Town of Milton unless otherwise provided herein.

§ 180-24. General performance standards.

No use shall be permitted that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions or other local, state and federal laws, rules or regulations.

A. Noise.

(1) No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category stated below when measured at or within the property boundary of the receiving land use:

Receiving Land Use Category	Sound Level Limit (dBa)
Residential zones (R1, R2, MU, H1 and H2)	55
Commercial zones (TC, CT, and A)	62

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

B. Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases that would not normally be associated with a residential or agricultural premises shall be disseminated beyond the boundaries or the lot where such use is located.

C. Glare and heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. Special efforts shall be required, such as the planting of vegetation and the installation of light shields, to alleviate the impact of objectionable or offensive light and glare produced by exterior sources on neighboring residential properties or public thoroughfares.

D. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, common or private sewage disposal system, stream or into the ground, except in strict conformance with the standards approved by the New York State Departments of Health and Environmental Conservation or other duly empowered agency.

E. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

F. Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, as well as the provisions of the National Fire Protection Association (NFPA) Code, shall be fully observed.

G. Maintenance of developed lots. All open portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a dust-free and erosion-resistant condition by suitable landscaping with trees, shrubs, grasses or other planted ground cover or by paving with asphalt, concrete, washed stone or other suitable material. Required yard areas shall be planned and maintained in such a manner as to provide an inoffensive setting which is consistent with the general use of the area.

H. Commercial vehicles.

(1) Vehicles exceeding 9,000 pounds loaded or unloaded shall not be kept in any residential district unless the vehicle is stored in a fully enclosed building which meets the other provisions of this chapter.

(2) Vehicles designed for the transport or storage of flammable materials, explosive materials or pesticides, including chemical fertilizers, shall not be kept on residential lots longer than necessary for the delivery or application of the commercial service.

I. All excavation undertaken for any reason must employ best management practices to prevent stormwater runoff.

§ 180-25. Off-street parking and loading standards.

In all districts, at the time any new building or structure is erected or any existing building or structure is subject to a substantial alteration or a change in use, off-street parking and loading space shall be provided in accordance with the minimum standards set forth below.

A. In the Town Center (TC) District, the Town finds that large and highly visible parking areas will interfere with pedestrian accessibility and reduce the quality of life. The Town also finds that excessive parking requirements can prevent desirable enterprises from locating in the Town Center where the provision of the off-street parking required by a code based on type and square footage a businesses will hinder the goals of the Town's Comprehensive Plan or contradict the Town of Milton Town Center Design Guidelines. However, the Town also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards and inconvenience. In order to balance the need for adequate parking with the need to minimize harm resulting from requiring excessive parking within the Town Center, the off-street parking requirements for nonresidential uses shall be established by the Planning Board on a case-by-case basis in the course of reviewing applications for site plan and special permit approvals. The number and layout of parking spaces shall be based on the need to protect public safety and convenience while incorporating the guidelines provided by the Town of Milton Town Center Design Guidelines. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed use. In determining the parking requirements for any proposed use in the Town Center, the Board shall also consider:

(1) The maximum number of persons who would be driving to the use as employees, customers, clients, members, students or other users at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand.

(2) The size of the structure(s) and the site.

(3) The scenic or historic sensitivity of the site.

(4) The availability of safely usable on-street parking.

(5) The availability of off-site off-street parking within 400 feet that is open to the public, owned or controlled by the applicant or available on a shared-use basis, provided that the applicant dedicates needed off-site land for public parking or demonstrates a deeded right to shared use.

(6) The availability and practicality of off-site off-street parking provided by a shuttle service or other public transportation.

(7) Standards used in generally accepted traffic engineering and planning manuals; however, such standards shall be used as a guide only and should be viewed as likely to require excessive numbers of parking spaces.

B. Required number of off-street parking spaces in all other districts except the Town Center.

(1) The minimum number of off-street parking spaces stated below shall be required in addition to one off-street parking space for each company vehicle associated with commercial, business or light industrial uses.

Off Street Parking

Use	Number of Spaces
Residential uses	
1-family, 2-family or multifamily dwellings	2 per dwelling unit
General uses	
Membership clubs, public buildings and religious institutions	1 per 4 seats or 60 square feet
Hospital	1 for each two beds
Private school	1 per 12 classroom seats
Cultural facilities	1 for each 400 square feet of gross floor area
Daycare facility	1 per 3 children, plus 1 per employee
Business uses	
Bar and/or restaurant	1 per 3 seats or per 50 square feet of service area
Commercial recreation	4 per alley, tee, court, table or similar measure or 1 space per 200 square feet of such use, whichever is greater
Gasoline service station	At least 10, plus 1 per employee
General office	1 per 150 square feet of office floor area for first 1,500 square feet and 1 space per 250 square feet thereafter
Hotel	1 per guest room, plus necessary spaces for employees
Retail business	1 per 175 square feet of retail/service floor area
Light industrial uses	1 per employee on the largest shift, plus necessary

Off Street Parking

Use

Number of Spaces

spaces for visitors and company vehicles

(2) For uses not specifically listed, the requirement shall be the same as for the most similar use listed, as determined by the Planning Board at the time of special permit and/or site plan reviews as provided for in Articles VII and VIII, respectively, of this chapter.

(3) In the case of a combination of uses on a single parcel, the requirement for off-street parking spaces shall be the sum of the requirements for the various individual uses, unless it can be established by the applicant, to the satisfaction of the Planning Board, that staggered hours of use would permit reduction of this requirement.

C. Design standards for off-street parking spaces.

(1) Areas which may be considered as meeting off-street parking space requirements may include a garage, carport or other properly developed areas available for parking but shall not include a public street.

(2) No parking area shall encroach on any portion of a required front yard or within 25 feet of any public right-of-way, whichever shall be the less restrictive. Open parking may, however, encroach on a required side or rear yard to within five feet of a property line, except that if parking associated with a nonresidential use is abutting an existing residential use or a residential district, a minimum 15 feet of separation shall be maintained.

(3) In any residential district, required parking spaces shall be fully provided in the side or rear yard of the same lot and shall not encroach on any required front yards.

(4) In all districts, each parking space provided shall be at least nine feet wide and 18 feet in length. Each space shall have direct and usable driveway access to a street and adequate maneuvering area between spaces in accordance with proper site engineering standards, including the following:

(a) Parallel curb parking: end-to-end measurement of 24 feet with twelve-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.

(b) Thirty-degree parking: thirteen-foot aisle width for one-directional flow and twenty-six-foot aisle for two-directional flow.

(c) Forty-five degree parking: sixteen-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.

(d) Sixty-degree parking: twenty-one-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.

(e) Perpendicular parking: twenty-six-foot aisle width for one-directional and two-directional flow.

(5) All parking areas shall be suitably drained, graded, surfaced and maintained. Except for one- or two-family dwellings, parking lot surfacing requirements shall be established by the Planning Board under site plan review, as provided for in Article VIII of this chapter, with particular consideration given to the number of vehicles accommodated and the proposed intensity and season(s) of use. All paved parking areas shall be suitably marked to indicate individual parking spaces, maneuvering areas, entrances and exits.

D. Required off-street loading berths. Off-street loading which is designed logically, conveniently located for bulk pickups and deliveries, scaled to anticipated delivery vehicles and accessible to said vehicles when required off-street parking spaces are filled shall be considered for all commercial and light industrial uses and provided as deemed necessary by the Planning Board during site plan review in accordance with Article VIII of this chapter.

§ 180-26. Signs.

Purpose and intent. The purpose of this section is to promote and protect the public health, welfare and safety by regulating signs of all types within the Town. It is recognized that signs serve a vital; communicative function by allowing residents and visitors to readily ascertain the availability and function of facilities that serve their needs. It is the purpose of this code to optimize the communicative value of signs within the landscape by providing an orderly and equitable means for their establishment, protect property values while establishing an attractive economic and business climate, prevent confusion with regard to traffic safety and preserve the scenic and natural beauty of the community.

A. General standards: No sign permitted, temporary or directional, shall be erected, relocated or maintained in any zoning district except in accordance with the provisions stated herein:

(1) At all times, sign(s) must be maintained in a proper state of repair in full compliance with New York State Uniform Fire Prevention and Building Code, Electrical Code and reasonable property maintenance standards. When any sign becomes insecure or is deemed unsafe by the Code Enforcement Official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this chapter, the owner thereof shall upon written notice forthwith and in any case not more than 10 days make such sign conform to the provisions of this chapter, or shall remove it. If within 10 days the order is not complied with, the Code Enforcement Official may remove or cause such sign to be removed at the expense of the owner and/or user of the sign.

(2) No signs shall attempt or appear to regulate, warn or direct highway traffic or to imitate or resemble official traffic signs, signals or devices.

(3) No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

(4) No sign shall project over property lines or be located within public right-of-way. Signs projecting over walkways must be at a minimum clearance of 10 feet from grade. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to clearance limitations imposed by the Town.

(5) Animated signs are permitted in CT, TC and A Zones only. Changeable signs are permitted in CT, TC and A Zones as well as for permitted on-residential uses located in R1, R2, H1, H2 and MU Zones.

(6) Any sign legally existing at the time of the passage of this chapter that does not conform in use location, height or size with the regulations shall be considered a nonconforming use and may continue in such status until such time as it is either abandoned or removed by its owner or agent. Any structural changes to the sign(s) will require compliance with § 180-68 of this code.

(7) Temporary signs, unless otherwise regulated by specific provisions of this chapter, shall be subject to the following regulations:

(a) Except for those temporary signs whose time of display is specifically addressed elsewhere in this chapter, no temporary sign or banner shall be permitted to be displayed for a period in excess of 90 days in any one period of 365.

(b) Except for those temporary signs whose size is specifically addressed elsewhere in this chapter, the size of any temporary sign shall not exceed the size permitted for any permanent sign of like configuration or type in a given zone.

(c) Any temporary sign which is electrically energized or that contains any electrical device must conform to the same requirements that relate to permanent electric signs under this chapter.

B. Exempt signs (requiring no permit):

(1) Historical markers, tablets, statues, memorial signs and plaques, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar

material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet.

(2) Flags and insignia of any government.

(3) On-premises directional signs for the convenience of the general public, identifying parking areas, fire zones, entrances and exits and similar signs, not exceeding four square feet in face area and no more than six feet in height above finished grade. Wall-mounted directories of building tenants not to exceed six square feet.

(4) Nonilluminated warning, private drive, posted or no trespassing signs not exceeding two square feet per face.

(5) Address numbers: for structures in residential districts, a sign no to exceed 1 1/2 square feet in area mounted on the house or mailbox. For structures in a nonresidential district, a sign identifying only the street name and number not exceeding four square feet when placed on a building or 1 1/2 square feet when placed on a mailbox.

(6) The following temporary signs are permitted without application for and issuance of a permit:

(a) Construction signs, limited to one unlighted sign not to exceed 32 square feet in surface area and identifying the parties involved in the construction on the premises, but not including the advertisement of any product. Such signs shall be removed prior to the issuance of a certificate of occupancy.

(b) Event signs, not exceeding 32 square feet in surface area, displayed on private property and limited to one such event sign per premises. Event signs, including political signs, may announce a campaign, drive or event of a political, civic, philanthropic, educational or religious organization and are to be removed within five days after the event.

(c) Real estate signs, located on the premises for sale or lease, not exceeding four square feet per side in a residential zone or 10 square feet per side in any commercial zone. All such signs shall be removed immediately upon sale or lease of the property.

C. Permitted signs. Upon filing of an application and payment of the required sign permit fee, in accordance with a schedule established and reviewed annually by the Town Board, and the issuance of a sign permit by the Code Enforcement Official the following signs shall be permitted in accordance with the identified standards related to number, size and location:

(1) For permitted home occupations in all districts, a single sign not exceeding four square feet in total surface area and identifying the occupation conducted on the premises. Unless attached to the principal structure, no such sign shall be located closer than 10 feet to the front property line nor closer than 20 feet to any other property line.

(2) For nonresidential uses within the R1, R2 and MU Districts, where the speed limit is less than 45 mph a single freestanding sign not exceeding 12 square feet in surface area per side is allowed per street frontage and shall not extend into the front right-of-way. A second freestanding sign is allowed when a parcel has two street frontages and a second entrance, in which case a freestanding sign may be located at the second entrance. Where the speed limit is over 45 mph, a single freestanding sign not exceeding 20 square feet in surface area is allowed per street frontage. A second freestanding sign is allowed when a parcel has two street frontages and a second entrance, in which case a freestanding sign may be located at the second entrance. Freestanding signs shall not exceed 10 feet in height above finished grade and cannot be closer than 20 feet to any side property line and shall not extend into the front right-of-way. One wall sign not exceeding 10% of the area of the facade upon which it is placed up to a maximum of 20 square feet is also allowed per street frontage. Within a business complex (shopping center, strip mall or other) each tenant or owner is allowed a wall sign not exceeding 10% of the facade separately leased or owned, up to a maximum of 20 square feet.

(3) For nonresidential uses within the TC, CT and A Districts, where the speed limit is less than 45 mph, one freestanding sign, not exceeding 40 square feet is allowed per street frontage and shall not extend into the front right-of-way. A second freestanding sign is allowed when a parcel has two street frontages and second entrance, in which case a freestanding sign may be located at the second entrance. In locations where the

speed limit is 45 mph or greater, one freestanding sign not exceeding 75 square feet is allowed per street frontage. A second freestanding sign is allowed when a parcel has two street frontages and a second entrance, in which case freestanding signs may be located at the second entrance. Freestanding signs shall not exceed 20 feet in height above finished grade and cannot be closer than 20 feet to any side property line and shall not extend into the front right-of-way. One wall sign not exceeding 15% of the area of the facade upon which it is placed or a maximum of 150 square feet shall be allowed per street frontage. Within a business complex (shopping center, strip mall or other) each tenant or owner is allowed a wall sign not exceeding 15% of the facade separately leased or owned, up to a maximum of 150 square feet.

(4) For nonresidential uses within H1 and H2 Districts, where the speed limit is less than 45 mph, one freestanding sign, not exceeding 20 square feet, is allowed per street frontage. A second freestanding sign is allowed when a parcel has two street frontages and a second entrance, in which case a freestanding sign may be located at the second entrance. In locations where the speed limit is 45 mph or greater, one freestanding sign not exceeding 32 square feet is allowed per street frontage. A second freestanding sign is allowed when a parcel has two street frontages and a second entrance, in which case a freestanding sign may be located at the second entrance. Freestanding signs shall not exceed 15 feet in height from finished grade and be no closer than 20 feet to any side property line and shall not extend into the front right-of-way. One wall sign not exceeding 15% of the FACADE on which it is placed or a maximum of 100 square feet shall be allowed per street frontage. Within a business complex (shopping center, strip mall or other) each tenant or owner is allowed a wall sign not exceeding 15% of the facade up to a maximum of 100 square feet.

(5) Canopy signs and awning signs are considered as part of the square footage limitations for wall signs in a given zone. A business may have both a wall sign and an awning/canopy sign but the total sign area may not exceed the allowable size for the wall. Text on awnings or canopies shall be limited to legal name and/or primary service or product.

(6) Off-premises signs. Businesses and public destinations relating to, but isolated from primary routes of travel shall be permitted a maximum of two directional signs as a special permit use, subject to the provisions of Article VII of this chapter, the issuance of a sign permit and the following additional requirements. Specifications for these "trailblazer" wayfinding signs are designed to conform to the NYS Department of Transportation standards of signs used on NYS highways for the same purpose and are available from the Building Department. Installation of these signs in the public right-of-way requires approval from the governing state, county or Town highway official.

(a) In locations with more than one approved "trailblazer" directional sign, all such signs shall be affixed to a common standard so as to present a neat and orderly appearance.

(b) No other off-premises signs are permitted.

D. Temporary signs. Signs which advertise or display short-term message (i.e., GRAND OPENING, UNDER NEW MANAGEMENT, HOLIDAY SALE) are permitted to be displayed for a period of up to 12 consecutive calendar days with the following provisions:

(1) All regulations as listed in the general standards section shall also apply to temporary signs. No temporary sign shall be larger than the dimension allowed for a permanent sign of the same type, in a given zone.

(2) The following temporary signs are prohibited:

(a) A-frame style or sandwich boards signs.

(b) Signs mounted on trailers or other portable devices.

(3) Types of temporary signs allowed:

(a) Temporary wall signs.

(b) Temporary freestanding signs.

§ 180-27. Fences and walls.

A. In the R1, R2, TC, MU, CT, H1 and H2 Districts, fences and walls shall not exceed six feet in height when erected in a required side or rear yard nor exceed four feet in height when erected within 25 feet of the front lot line or highway right-of-way, except agricultural fencing which may be eight feet in height.

B. In the Airport (A) District, fences and walls shall not exceed eight feet in height, except that on a residential district boundary line such fences or walls shall be limited to six feet in height.

C. In any district, all such fences and walls shall additionally conform to the requirements of § 180-16B as it pertains to corner lots where special sight clearance considerations are necessary to protect traffic safety.

D. The use of barb wire shall be prohibited in all districts, except for agriculture uses and where deemed permitted necessary for security or public safety.

§ 180-28. Excavation as part of site preparation.

Except as provided in § 180-42L, Mining, nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to construction of a building for which a building permit has been issued or to move such material from one part of a premises to another part of the same premises when such excavation or removal is clearly incidental to the approved building construction and/or site development and necessary for improving the property for a use permitted in the zoning district in which the property is located. No such material may, however, be sold for export from the site. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered within the first growing season following the start of such operation.

§ 180-28.1. Standards within the Runway Protection Zone Overlay District (RPZ).

The purpose of this district is to acknowledge the unique aspects of the Saratoga County Airport and to encourage compatible land uses adjacent to the airport for the purposes of promoting the public health, safety, and general welfare of the residents and aviation users.

A. All new construction, improvement or substantial alterations in the RPZ Overlay shall be subject to site plan review.

B. Use limitations. In addition to the use limitations and regulations for the zoning district over which the Runway Protection Zone Overlay District is located, the following use limitations shall apply:

(1) No use, building or structure shall be permitted or constructed within the Runway Protection Zone except accessory activities such as off-street parking facilities, landscaping and agricultural storage buildings. Golf courses are a permitted activity if a wildlife hazard assessment determines that it will not provide an environment attractive to birds.

(2) No single-family and two-family dwelling unit structures shall be located on the parcel within the RPZ boundary.

(3) No use, building or structure shall be permitted that promotes large concentrations or bulk storage of flammable substances or materials.

(4) The public assembly of people and other uses or activities that allow public concentration of people such as multifamily dwellings, hospitals, schools, theaters, office buildings, shopping centers, restaurants and manufacturing facilities shall be prohibited.

C. Uses lawfully permitted and established prior to the adoption of the Runway Protection Zone Overlay District may be maintained, repaired or reconstructed in accordance with the provisions of Article X of this chapter.

D. Site plan requirements.

(1) The site plan review standards outlined in § 180-53C associated with the Federal Aviation Administrations Part 77 Surfaces guidelines shall apply to all development in this overlay district.

(2) An applicant for a building, structure, use, subdivision, site plan, or other development activity shall submit the following information in addition to the application materials as set forth in the Town's zoning, subdivision and site planning review requirements:

(a) The site plan shall clearly delineate the location of the proposed project in relation to the Runway Protection Zone.

(b) The location and height of all proposed buildings, structures and natural vegetation as measured from the airport surface shall be identified.

E. Notification procedures. Any subdivision of land located wholly or partially within this delineated boundary shall have a fair disclosure agreement and covenant recorded with the subdivision stating that the property, or a portion thereof, is located in an area where a variety of aviation activity occurs. Such activities may include but are not limited to noise, vibration, hours of operation and other associated activities. As a condition of approval, the owner would be required to notify prospective buyers about the presence of the airport.

§ 180-29. Standards within the Stream Corridor Overlay District (SCO).

A. The Town of Milton finds that special protection of the shorelines of its streams, wetlands and flood zones is necessary to preserve their scenic character and water quality, remaining and existing historic mill site structures and equipment, as well as reducing the risk of damage from flooding. Within the Stream Corridor Overlay District and within 100 feet of the center line of any Department of Environmental Conservation (DEC) classified stream or federal or state classified wetland and flood zones, the underlying land use district rules shall remain in effect, except as modified below in this section.

B. In addition to the requirements of this chapter, applicants shall comply with all requirements of the New York State Department of Environmental Conservation and the United States Army Corps of Engineers.

(1) All development in excess of 200 square feet or clear cutting of more than 5,000 square feet of vegetation over a five-year period, or grading or other alteration of more than 5,000 square feet of the natural landscape within any one-year period shall require a special use permit as provided by Article VII of this chapter. This requirement shall not apply to permitted agricultural uses or to the repair and maintenance of existing structures existing at the time of adoption of this chapter. Further, any demolition or altering of remaining historic mill site structures and equipment along the stream corridor shall require a review and recommendation by an Historic Structures and Places Review Panel and shall also require a special use permit as provided by Article VII of this chapter.

(2) The Planning Board may grant such approval only if it finds that the proposed activity:

(a) Will not result in degradation of scenic character or the compromising of an historic and/or cultural resource except for documented safety issues with pictures and measured drawings of such resource provided for the Historian's Office, and will be aesthetically compatible with its surroundings.

(b) Will not result in erosion or stream or lake pollution from surface or subsurface runoff. In making such determination, the Planning Board shall consider slopes, drainage patterns, water entry points, soil erosivity, depth to bedrock and high water table, historic significance and other relevant factors.

(c) Will employ the best management practices (BMPs) available.

(3) Shoreline structures and setbacks.

(a) No structure or improvement other than a stationary dock, which shall not be anchored to an existing or remaining historic mill structure or equipment, shall be built or expanded within 100 feet of the center line or within the one-hundred-year floodplain.

(b) No expansion of existing residences located within 100 feet of the center line shall be permitted.

(c) All stationary docks shall be constructed with a minimum side setback of 20 feet from the adjacent property line.

(d) Stationary docks shall be constructed to withstand the forces of flowing water, wave washes and ice.

(e) No stationary dock shall be constructed or placed in a manner that will interfere with normal navigation or access to adjacent land or docks.

(f) No change of grade shall be permitted within 100 feet of the center line without site plan approval, including a stabilization and planting plan.

(g) All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.

(h) No storage of materials or equipment that are buoyant, flammable, explosive or could otherwise be injurious to human, animal or plant life shall be permitted.

(4) Removal of vegetation.

(a) The removal of vegetation, including trees, shall be permitted only if the following standards are met:

[1] Within 100 feet of the center line: not more than 30% of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period; and

[2] Within 10 feet of the shoreline the shorefront may be cleared of vegetation on any individual lot following the guidelines below.

Minimum Shoreline (feet)	Clearing Percentage*	Maximum Clearing Allowed* (feet)
100 to 300	20%	60
301 to 600	15%	90
601 to 1,000	12%	120
1,001+	10%	200

* The amount of shoreline which can be cleared within the above parameters is contingent upon the stream configuration and the considerations noted in above sections § 180-29B(2)(a) through (c).

(b) The above cutting standards shall not prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that presents safety or health hazards.

(5) Plans shall be submitted showing such information as may be necessary to determine the suitability of the particular site for the proposed development or use, which information shall include but not be limited to the following:

(a) The location of the lot or construction site in relation to affected watercourses or other bodies of water, boundaries of the Stream Corridor Overlay District, topography of the site with elevations in relation to mean sea level, existing and proposed buildings and other structures, existing or remaining historic mill structures or equipment, fill, drainage facilities and the location and description of any materials proposed to be stored within the SC-O District on either a permanent or temporary basis incidental with the proposed project.

(b) Elevation in relation to mean sea level of the lowest floor, including basement, of all existing and proposed structures.

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

(d) All applications for the construction of waterfront structures shall be accompanied by a certificate acceptable to the reviewing board or official that all materials to be used in such construction are free of leachable toxic substances. Pressure treated lumber shall be deemed to be free of leachable toxic substances.

§ 180-30. Open space incentive option.

The Town of Milton finds that conventional subdivision of land in the Town encourages development patterns that are detrimental to Milton's rural character. The purpose of the open space incentive option is to allow future subdivision in the Town of Milton to be creatively designed so that new homes are located in the landscape in a way that protects the rural character of Milton and its historic structures and places. The Town of Milton's Rural Development Design Guidelines (Appendix B Editor's Note: The guidelines are included at the end of this chapter.) shall be used to assist the Planning Board and the applicant in understanding appropriate open space incentive subdivision design. The open space incentive option provides the Planning Board with the ability to increase the maximum density of the R2 Zoning District in return for permanent open space protection, allowing the protection of the rural landscape and natural resources and historic and/or cultural resources.

A. Site capacity.

(1) Under the open space incentive option, the maximum density for the R2 Zoning District remains 0.2 dwelling units (du's) per acre -- the equivalent of one house per five acres of land. The Planning Board may grant a density bonus of up to 50% above the maximum density (in terms of the number of dwelling units) as long as a minimum of 50% of the original land becomes permanently protected open space, including historic and/or cultural resources.

(2) To calculate the potential number of residential lots which may be allowed under the incentive option, first multiply the total number of acres in the original parcel by the maximum number of dwelling units per acre allowed in the R2 District. For example, if you have 50 acres, multiply 50 by 0.2. The result is 10 dwelling units. The Planning Board may then grant up to a 50% bonus (in terms of the number of dwelling units) in addition to the original 10 units. In this case, 50% of 10 units equals five additional units. NOTE: When this calculation results in a fraction, the number shall be rounded down to the nearest whole number, for example, 50% of 9 = 4.5, however for this purpose the result shall be four additional units. The potential number of dwelling units that may be permitted by the Planning Board is now 15 as long as a minimum of 25 acres (50% of the original parcel) remains permanently protected open space including historic and/or cultural resources.

(3) For the purposes of determining potential density, the parcel shall not be restricted by the site's topographic, geologic and hydrological characteristics, and it may include areas subject to flooding or comprised of designated wetlands, ponds, streams or steep slopes.

(4) This maximum number of permissible dwelling units shall be the number of potential dwelling units that meet the requirements specified within the § 180-86, District Schedule of Area and Bulk Regulations, for the R2os District and the requirements of Chapter 154, Subdivision of Land, for the provision of streets and other required facilities and improvements. The number of permissible dwelling units may be fewer than the number of potential dwelling units.

(5) The final plat, submitted for approval to the Planning Board, shall bear the following notation: "This plat was created under the open space incentive option of the Town of Milton Zoning Code, and any further subdivision of these lots is hereby prohibited."

B. Parcels in the R2 District consisting of 10 acres or more may be eligible for the open space incentive density bonus assuming the applicant meets the following conditions and limitations to the Planning Board's satisfaction:

(1) Selection of permanent conservation area.

(a) Conservation of important natural, historic and/or cultural and scenic resources shall be the starting point for the design of subdivisions using the open space incentive option. Protection of wetlands,

floodplains, steep slopes and streams as described in § 180-22 shall be the guiding principle in designating a subdivision's conservation area. Additional lands and historic and/or cultural sites and places that contribute to the unique character of the parcel to be subdivided may also be included in the subdivision's conservation area. A minimum of 50% of the original parcel shall be designated for permanent conservation.

(b) The selection of land to be designated as the conservation area shall be made by the applicant and the Planning Board during sketch plat review.

(c) The land ultimately designated for conservation shall be subject to the approval of the Planning Board.

(d) The Planning Board and the applicant shall use the Rural Development Design Guidelines (Appendix B Editor's Note: The guidelines are included at the end of this chapter.) to identify appropriate conservation lands. The Planning Board shall make its decision based upon consideration of the Rural Development Design Guidelines (Appendix B) and on the Town's desire to conserve its important open space and historic and/or cultural resources, including, but not limited to:

[1] Existing farms.

[2] Land suitable for agricultural use.

[3] Land for recreational uses including potential trail linkages to adjoining lands.

[4] Environmentally sensitive lands.

[5] Lands that are inappropriate for development.

[6] Lands that adjoin other conservation lands and larger tracts of land which have the potential to create continuous networks of open space.

[7] Rural character of the surrounding area.

[8] Scenic rural roads and views.

[9] Historic and cultural resources such as but not limited to, existing and remaining mill site structures and equipment, district schools, churches, homesteads, farmsteads, cemeteries, early industries, businesses and stores and community organizations.

(e) Land designated as conservation shall be limited to the following uses:

[1] Farm operation land. Farm operation land, for the purposes of this section, shall not include agricultural buildings except fences.

[2] Public open space.

[3] Private open space.

[4] Forestry or forest farming operations with an approved management plan that is on file with the Town Clerk.

(2) Selection of development area shall not be based on the destruction or demolition of any historic and/or cultural resources as determined by an Historic Structures and Places Review Commission except for documented safety issues with pictures and measured drawings submitted to the Historian's Office.

(a) Once land designated for conservation has been selected, the land within a parcel to be designated for development shall be selected by the applicant and the Planning Board during sketch plat review.

(b) The Rural Development Design Guidelines (Appendix B Editor's Note: The guidelines are included at the end of this chapter.) shall be used to assist the Planning Board and the applicant in identifying appropriate lands for development on the site.

(c) The land designated for development shall be subject to the approval of the Planning Board. The Planning Board shall make its decision based upon consideration of the Rural Development Design Guidelines (Appendix B) and based on the Town's desire to:

[1] Avoid locating buildings in open fields. Preference will be to locate structures at the edges of fields along more heavily vegetated areas.

[2] Site buildings so that they do not protrude above treetops and the crestlines of hills. Buildings shall be sited so as to use existing vegetation to buffer the view of new structures from preexisting public places and roads.

[3] Retain and reuse existing farm roads and country lanes instead of constructing new roads or driveways.

[4] Minimize clearing of vegetation at the edge of existing roads, clearing only as much as necessary to create a driveway entrance with adequate sight distance.

[5] Minimize the disturbance of natural features of the landscape.

[6] Minimize the number of curb cuts on existing Town, county and state roads.

[7] Use curves in the driveway and new roads to increase the screening of buildings.

[8] Consider the potential impact of new homes on existing neighbors when new structures are located.

[9] Avoid locating new homes near existing farms and farmlands.

[10] Build new homes only on lands that are most suitable for development and associated wells and septic systems.

C. Conservation lands.

(1) Conservation lands may be held in private ownership, by a land trust or, if proposed for public ownership, shall be dedicated to the Town of Milton, Saratoga County, or the State of New York.

(2) Conservation areas in private ownership.

(a) Where conservation lands result from the application of open space incentive zoning requirements, or are otherwise existing, and which are not dedicated to the Town, they shall be described in an appropriate recordable instrument (a conservation easement) executed by the owner and delivered to the Town of Milton. The Town of Milton shall not grant final approval for any development under this section until the recordable instrument is received by the Town.

(b) If the Town so requests, it shall be named, on all such conservation easements, as either a coholder of the easement or a third party enforcer.

(c) The aforesaid conservation easement shall be created in accordance with Title 3, Article 49 of the New York Environmental Conservation Law, § 49-0301, Declarations of Policy and Statement of Purpose, et seq.

(d) Conservation lands shall also be so designated on the Official Map of the Town of Milton.

(e) Where the conservation land is contained in a separate individual parcel or parcels, which is owned jointly by two or more private owners, a provision shall be made for a homeowners' association or a similar mechanism for the long-term stewardship of the conservation land.

§ 180-31. Home occupations.

A. A home occupation may only be conducted within a dwelling which is a bona fide residence of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use. For purposes of this chapter, a home occupation occurring fully within the dwelling unit shall be considered a permitted Class 1 home occupation; those home occupations occurring wholly or partially in an accessory building shall be considered Class 2 home occupations which may only be authorized by special use permit in accordance with Article VII of this chapter.

B. The business use of residential property shall be allowed when the business activity will be compatible with the other uses allowed pursuant to the District Schedule of Use Regulations, § 180-87 and when such use will maintain the character of the neighborhood; ensure the peace, privacy, quiet and dignity of the area; and avoid excessive noise, traffic, nuisance, fire hazard and other adverse effects of business uses.

C. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes.

D. Home occupations shall be conducted in a manner which does not give the outward appearance of a business. Any new construction undertaken to accommodate the home occupation activity shall also be wholly consistent with the character of a residential premises. Home occupations must not infringe on the privacy of neighbors or their quiet and peaceful enjoyment of their property.

E. Home occupations shall be limited to two per dwelling unit, provided that combined impacts of both shall satisfy these standards.

F. Home occupations shall be conducted only by members of the family residing in the dwelling unit.

G. Home occupations shall allow no more than two nonresident assistants, interns or employees at any one time per home occupation.

H. Home occupations shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling above and beyond the parking already required by § 180-25.

I. Home occupations that generate pedestrian or vehicular visits must provide adequate parking in a manner and style that does not diminish the residential quality of the neighborhood.

J. Home occupations shall only have one sign. Illuminated signs are prohibited. The sign shall not exceed four square feet in area in compliance with § 180-26.

K. Home occupations shall be conducted either within the home (Class 1) or outbuilding (Class 2), and such use shall not alter the external appearance from a residential character.

L. Home occupations shall not generate auto and truck traffic that would exceed the volume of traffic that would otherwise be generated by typical residential use.

M. Home occupations shall not create offensive noise, vibration, smoke, electrical interference, dust, odors, heat or light.

N. Except for articles produced on the premises and other articles customarily associated with the product produced or the service provided on the premises, no stock-in-trade shall be displayed or sold on the premises.

O. No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted in the front yard of the premises. Such goods, equipment or materials may be displayed or stored elsewhere on the property if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that any such outdoor storage does not occur within 50 feet of an adjacent residential premises.

P. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of their profession, trade or business.

§ 180-32. Water supply and sewage disposal.

No person shall undertake to construct any new building or structure intended for human occupancy, whether a principal or an accessory structure, within the Town of Milton without first meeting the requirements for a system or facilities for both a potable water supply and the separate disposal of sewage, domestic or trade wastes in accordance with the applicable regulations of the Town of Milton and the New York State Departments of Health and Environmental Conservation.

§ 180-33. Sanitary disposal areas and facilities.

No dump, landfill, septage disposal site or other sanitary disposal area or facility shall be permitted within the Town of Milton except where owned or leased and operated by the Town of Milton through its own forces or on a contract basis. Any such area or facility shall be subject to a DEC permit and shall be operated and maintained in strict accordance with such permit and any further requirements established by the Town Planning Board.

§ 180-34. Swimming pools.

Any outdoor swimming pool, whirlpool, spa or hot tub, as defined within § 180-5 of this chapter, shall be subject to the following safety measures to the extent required by the New York State Uniform Fire Prevention and Building Code:

A. The outdoor swimming pool, spa, whirlpool or hot tub shall be enclosed on all sides by a security fence not less than four feet nor more than six feet in height or, in the case of a whirlpool or hot tub, a securely locked cover shall be provided.

B. Such security fence, as may be applicable, shall be provided with a locking gate to prevent accidental entry or unauthorized use of the outdoor swimming pool, whirlpool or hot tub.

§ 180-35. Solar access.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). To the extent practicable, and in accordance with Town Law § 263, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of this chapter.

§ 180-36. Required screening for nonresidential uses.

Any enclosed or unenclosed commercial or light industrial use permitted by this chapter shall be provided with a fence, screen and/or landscaping sufficient to obscure objectionable aspects of such use from view from adjoining properties or public rights-of-way.

A. Any use which is not conducted within a completely enclosed building, including but not limited to storage yards, contractors' yards and parking lots, and which use abuts, is adjacent to or located within a residential zoning district or fronts a public right-of-way shall be obscured from view from such residential zoning districts and public rights-of-way in an effective manner.

B. Adequate plans for the installation of required fences, screens and landscaping shall be reviewed by the Town Planning Board in accordance with the provisions of Articles VII and VIII of this chapter, with it specifically provided that the retention and enhancement of existing vegetation, the introduction of substantial new vegetation and the introduction of earthen berming shall be considered the preferred means to satisfy these screening requirements.

C. Any required fences, screens and landscaping installed in accordance with this chapter shall be maintained in good order to achieve the objectives stated herein. Failure to maintain fencing or to replace dead or diseased landscaping shall be considered a chargeable violation of this chapter.

§ 180-37. Farm operations.

A. Buildings or structures for permitted fowl or livestock shall be located not less than 75 feet from any residential lot line and no fenced area for such fowl or livestock shall be closer than 100 feet to an existing residential structure. The foregoing conditions apply only when the farm operation does not precede the residential structures.

B. The storage of manure or other dust- or odor-producing substances shall be adequately screened from the view of adjacent properties and located not less than 200 feet from any lot line, stream or other water body or well providing a source of potable water.

§ 180-38. Farm animals on nonfarm operation parcels.

A. In all districts on any nonfarm operation parcels, except in the R2 District, the keeping of fully grown chickens, ducks, geese or other fowl shall be prohibited.

B. In all districts on nonfarm operation parcels, there shall not be more than one adult or fully grown horse, cow, hog, beef cattle, sheep, goat or other four-legged domestic-type farm animal or combination thereof for every two acres of land.

§ 180-38.1. Manufactured homes.

A manufactured home may be built on a private individual lot and used as a one family dwelling in accordance with this chapter as follows:

A. The manufactured home is newly constructed or certified by a professional designated by the Town of Milton Code Enforcement Official.

B. The manufactured home is no less than 24 feet in width.

C. The manufactured home is installed on a permanent foundation and has a sloped roof of no less than 4/12 pitch.

D. The utilities (electrical, plumbing, heating, air-conditioning) are comparable to those required for an on-site constructed building.

E. No more than one manufactured home can be built/installed on a private lot.

F. The Area and Bulk Regulation (§ 180-86) shall be met.

§ 180-39. Mobile homes.

A. It shall be unlawful for any person to park a mobile home on any public or private property except in accordance with this chapter as follows:

(1) In an approved mobile home park. All manufactured homes added to existing or expanding parks shall be required to have a manufacturing date which is not older than 10 years.

(2) In an approved mobile home sales lot.

(3) Mobile homes on individual lots existing at the time of adoption of this chapter may be replaced for any reason, including damage or destruction by fire or natural disaster, up to and including the last day of December 2006. After that date, all mobile homes on individual lots shall be considered nonconforming structures and shall be subject to the provisions of Article X, Nonconforming Uses and Structures. After January 1, 2007, a mobile home may be replaced with a manufactured home. (See § 180-38.1)

B. Mobile home parks. No person shall expand an existing mobile home park within the Town of Milton unless a special permit has first been issued by the Planning Board pursuant to this chapter.

C. Expansion of existing mobile home parks shall be limited to:

- (1) Existing mobile home parks in the R2 Zone.
- (2) A one-time only 20% maximum increase, measured by the number of mobile home units, from the number of units existing at the time of adoption of this chapter.

D. A special permit for park expansion shall be approved only where orderly development can be undertaken in harmony with development of the surrounding area in terms of:

- (1) Traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery services and adequacy of landscaping and buffering.
- (2) Park expansions shall be on generally level to gently rolling topography over an area of sufficient size to allow development without substantial alteration or disturbance of existing natural features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcroppings.
- (3) Parks shall be free from adverse, unsafe or unhealthful conditions, including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare or toxic or volatile substances.
- (4) The Planning Board may require any improvements to the existing park area as may be necessary to protect the health, safety and welfare of park residents, and/or improvements to the existing park area to provide benefit to the community as a whole, in return for its approval of a special permit for expansion of an existing mobile home park.
- (5) All manufactured homes added to new, existing or expanded parks shall be required to have a manufacturing date which is not older than 10 years.

§ 180-39.1. Telecommunication towers and satellite antennas.

The purpose of this section is to allow for telecommunications installations while providing for the health, safety and aesthetic character of the Town consistent with applicable federal and state law in accordance with the Town's Comprehensive Plan. This section is intended to regulate the placement, construction and modification of towers and telecommunications facilities while not unreasonably interfering with the development of the telecommunications industry.

A. Specifically, this section is intended to:

- (1) Regulate the location of the towers and telecommunications facilities in the Town.
- (2) Minimize adverse visual impacts of towers and telecommunications facilities through careful design, siting, landscaping, and innovative stealth techniques.
- (3) Promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
- (4) Promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities.
- (5) Avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound.
- (6) Ensure that towers and telecommunications facilities are compatible with surrounding land uses.

B. Approval of telecommunications facilities. Telecommunications towers and accessory facilities shall be permitted in specified zoning districts upon issuance of a special use permit by the Town Planning Board as provided in Article VII and in conformity with the provisions of this section, and the granting of site plan approval in accordance with Article VII. No telecommunications tower shall hereafter be erected, used, moved, reconstructed, changed or altered except after the granting of a special use permit. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with this section.

C. Site location. A proposed location shall receive approval from the Planning Board following satisfaction of the following requirements:

- (1) Documentation of the need for the use of the site proposed.
- (2) A completed visual environmental assessment form (visual EAF), including a simulated photographic visualization of the site, with particular attention to visibility from key view points identified on the visual EAF. The Planning Board may require a more detailed visual analysis based on the results of the visual EAF.

D. Collocation and use of preexisting structures.

(1) Applicants are encouraged to provide their towers for use by other carriers at a reasonable fair market value. Additionally, where such collocation is unavailable, location of antennas on preexisting structures shall be considered by the applicant. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for collocation with existing facilities and the use of other preexisting structures as an alternative to a new construction.

(2) An applicant intending to collocate with an existing tower shall be required to obtain a building permit from the Town of Milton and to document intent from an existing tower owner to collocate.

(3) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure collocation with existing towers as well as documenting capacity for future collocation for the proposed tower. Written requests and responses for collocation shall be provided.

(4) The applicant must examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for additional facilities. This requirement may be waived by the Planning Board, provided that the applicant demonstrates that future shared usage of the proposed facility is not feasible and/or an unnecessary burden, based upon:

- (a) The number of Federal Communications Commission (FCC) licenses potentially available for the area.
- (b) The number of existing and potential licenses without tower spaces/sites.
- (c) Available spaces on existing and approved towers.
- (d) Potential adverse visual impact by a tower designed for collocation.

E. Height. The Planning Board shall approve, subject to the limitations set forth below, the height of each proposed telecommunications tower. In reviewing such issue, the Planning Board shall consider the minimum height necessary for the applicant's needs and may also take into consideration the potential for collocation in approving or requiring additional height above the minimum necessary for the applicant's needs. The maximum height for telecommunications towers permitted under this section, including any antennas, extensions or other devices extending above the tower, measured from the finished grade immediately surrounding the site or building, shall be 150 feet.

F. Setbacks. Telecommunications towers and antennas shall comply with all existing setbacks within the affected zone. Additional setbacks may be required by the Planning Board to contain on site substantially all icefall or debris from tower failure. Setbacks shall apply to all tower parts, including guy-wire anchors, and to any accessory facilities.

G. Visibility and aesthetics.

(1) Stealth and camouflaged telecommunications facilities are encouraged and preferred when designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and trees.

(2) Monopoles or guyed towers shall be preferred to freestanding communication towers.

(3) 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 tree line and painted gray, green or black below the surrounding tree lines, unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(4) Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with the natural surroundings.

(5) No telecommunications tower, antennas or accessory facility shall contain any signs or advertising devices.

(6) Existing on-site vegetation shall be preserved to the maximum extent possible. Clear cutting of all trees in a single contiguous area shall be minimized to the maximum extent possible.

(7) Screening. Deciduous or evergreen tree planting may be required to screen portions of the tower and accessory facilities from nearby residential property as well as from public sites. Where the site abuts residential or public property, including streets, 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, with the plant height to include the height of the berm.

H. Access.

(1) Access may be required to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be sufficient to accommodate the intended use. Construction of pervious roadways (crushed stone, gravel, etc.) is preferred. At all times road construction shall minimize ground disturbance and vegetation cutting to within the bottom of fill, the top of cut or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.

(2) All telecommunications towers and accessory facilities and guy anchors, if applicable, shall be enclosed by a fence, of the immediate area surrounding the structure, not less than six feet in height or otherwise sufficiently protected from trespassing and vandalism.

I. Radio frequency effects. It is recognized that the Telecommunications Act of 1996, Public Law 104-104, § 704, prohibits the regulation of cellular and personal communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Planning Board may, however, impose a condition on the applicant that the communications antennas be operated only at FCC-designated frequencies and power levels.

J. The Planning 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 permit and/or site plan.

K. Removal of facilities; bond.

(1) Any applicant installing a telecommunications tower, antennas and/or accessory facility within the Town shall remove any and all such structures immediately upon the discontinuance of use, shall reasonably restore the site and shall incur all expenses therefor.

(2) As security for the performance of the requirements set forth above, the applicant shall, upon the granting of approval under this section and prior to the installation of any facilities, execute and file with the Town Clerk of the Town of Milton a bond or other undertaking which shall be approved as to form, manner of execution and sufficiency for surety by the Town Board and shall be with a solvent surety corporation. Such bond or undertaking shall be conditioned upon the faithful performance of the provisions of Subsection K(1) above and, in the event of default, the bond or undertaking shall be forfeited to the Town of Milton, which shall be entitled to maintain an action thereon. The bond or undertaking shall remain in full force and effect until the removal of the telecommunications tower, antennas and/or accessory facilities and site restoration. The value of the bond shall be set by the Planning Board and shall be equal to the cost of demolition and restoration of the site.

L. Applicant build-out plan.

(1) As part of any application in accordance with this section, the applicant shall submit to the Planning Board a build-out plan setting forth the applicant's current facilities within the Town and adjoining municipalities, together with the applicant's intentions for additional facilities within the Town and adjoining municipalities for the ensuing 24 months, and shall also certify whether any and all existing facilities of the applicant are in active use and are necessary for its telecommunications operations.

(2) The aforesaid build-out plan shall include a statement as to how the proposed facility will supplement, detract from or coordinate with existing telecommunications towers in the Town and contiguous jurisdiction, any changes proposed within the following twenty-four-month period, including a build-out plan for new locations, and the discontinuance or relocation of existing facilities.

(3) A similar build-out plan and certification of use of existing facilities shall be thereafter submitted by such applicant upon any further application for any additional facilities.

M. Exceptions. The provisions of this section shall not apply to the following:

(1) Individual, scientific and medical equipment as regulated by the FCC in 47 CFR 18.

(2) Military and government radar antennas and associated communication towers for navigational purposes as regulated by 47 CFR 87.

(3) Radio transceivers normally handheld or installed in a vehicle, such as an automobile, truck, trailer or watercraft.

(4) A radio frequency machine which is designed and marketed as a consumer product, such as a microwave oven and radio-controlled toys.

(5) Lawful or approved uses existing prior to the effective date of these regulations, including the repair and maintenance of existing communications towers and antennas.

(6) Antennas used solely for the residential household television and radio reception in accordance with this chapter.

(7) Satellite antennas one meter or less in diameter and building-mounted in commercial districts and ground-mounted in residential districts, regardless of the zoning district in which it is located.

§ 180-39.2. Sexually oriented businesses.

A. Findings. Based upon a comprehensive study of the adverse secondary impacts of adult use establishments as documented in accordance with the ruling of the United States Supreme Court in the matter of the Renton v. Play Time Theaters, Inc. [475 U.S. 41(1986)] and commissioned by the Town Board of the Town of Milton, the Town of Milton finds that:

(1) There are adverse secondary impacts associated with the establishment and operation of sexually oriented businesses within a community.

(2) Among these adverse secondary impacts are a deterioration in the local quality of life; an adverse effect upon local property values; an adverse effect upon local economic viability; an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby; an increase in traffic, noise, litter and nuisance; criminal and illicit sexual behavior, a threat to the health and safety of children and young adults; and an undermining of the established sense of community.

(3) These adverse secondary impacts of the establishment and operation of sexually oriented businesses are a threat to the general health, safety and economic viability of the community.

(4) The unregulated establishment and operation of sexually oriented businesses would lead to the widespread imposition of adverse secondary impacts upon the residents, businesses, economic viability, property values and quality of life of the Town and would therefore be detrimental to the general health, safety and economic viability of the community.

(5) The United States Constitution and the Constitution and laws of the State of New York grant to the Town of Milton the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of sexually oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.

B. Purpose. The purpose of this chapter is to regulate the location and operation of sexually oriented businesses within the Town of Milton. The restrictions, regulations and provisions contained in this chapter are enacted by the Town Board for the protection, health, welfare and safety of the people of the Town of Milton. It is the express intent of the Town of Milton in adopting this section to:

(1) Ameliorate, mitigate, reduce or prevent the widespread and unregulated imposition of the adverse secondary impacts of sexually oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.

(2) To protect the right of free expression guaranteed by the United States Constitution and the New York State Constitution as may be expressed and presented in the form of goods and services offered by sexually oriented businesses.

C. It is not the intent of the Town of Milton in adopting this section to:

(1) Deny any person the right of free expression guaranteed by the United States Constitution and the New York State Constitution as may be expressed and presented in the form of goods and services offered by sexually oriented businesses; or

(2) To impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by sexually oriented businesses beyond those granted to the Town under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression. These constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by sexually oriented businesses; or

(3) To impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the United States Constitution and the New York State Constitution as may be expressed and presented in the form of goods and services offered by sexually oriented businesses, beyond those granted to the Town under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or

(4) To estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the United States Constitution and the New York State Constitution as may be expressed and presented in the form of goods and services offered by sexually oriented businesses.

D. Sexually oriented business, generally.

(1) No person shall operate a sexually oriented business within the Town of Milton without first obtaining a license from the Town Board and then a special permit from the Planning Board.

(2) The Town Board shall have the following functions, powers and duties:

(a) After a public hearing, to issue or refuse to issue an initial license provided for in this chapter; and without a public hearing, to issue or refuse to issue a renewal license provided for in this chapter.

(b) After a public hearing, to revoke, cancel or suspend any license provided for in this chapter and/or to impose a civil penalty against a licensee for cause and after a hearing.

(c) To inspect or provide for the inspection of any premises upon which a sexually oriented business is operated.

(d) To prescribe forms of applications for initial and renewal licenses under this chapter and all reports which it deems necessary to be made by any licensee.

E. License.

(1) Any person may apply to the Town Board for a license to operate a sexually oriented business or for a renewal thereof within the districts specified in the District Schedule of Use Regulations provided in § 180-87.

(2) Such license shall contain a description of the licensed premises and in form and substance shall be a license to the person therein specifically designated to operate a sexually oriented business on the premises therein specifically licensed.

(3) Such license shall be valid for a period of one year from the date it is issued.

(4) The annual license fee shall be set on the fee schedule established and annually reviewed by the Town Board.

(5) No license shall be granted under this chapter for any premises which are located within a distance of:

(a) 1,500 feet from a public or private school (grades preschool through 12), church or other house of worship, public playground, public swimming area, public park or day-care center.

(b) 1,000 feet from a private residence.

(c) 500 feet from any other sexually oriented business.

(6) No license shall be granted under this chapter to the following persons:

(a) A person who is under 21 years of age.

(b) A person who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) A partnership or corporation unless each member of the partnership or each of the principal officers and directors of the corporation is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, and is not under 21 years of age.

(d) A person who has had any license issued under this chapter revoked for cause until the expiration of two years from the date of such conviction or revocation.

(e) A partnership or corporation if any partner, officer or director has had any license revoked for cause until the expiration of two years from the date of such conviction or revocation.

(7) No license shall be granted for any premises unless the applicant shall be the owner thereof or shall be in possession of said premises under a lease, in writing, specifying the leasees' intent to operate a sexually operated business for a term not less than the license period.

F. License application procedure.

(1) Applications shall be in writing and verified and shall contain such information as the Town Board shall require and be submitted on forms provided for that purpose by the Town Board. Such application shall be accompanied by a certified check, bank officer's check or draft or money order for the amount required by this chapter for such license and the application filing fee. In case of applications for renewals, the Town Board may dispense with such information as it deems unnecessary in view of the information contained in the application made for the initial license.

(2) The application filing fee for an initial license and a renewal license shall be found on the fee schedule established and annually reviewed by the Town Board.

(3) The application for an initial license or a renewal license must be filed with the Town Board at a regular meeting thereof.

(4) At its regular meeting next following the meeting at which the application for an initial license was filed, the Town Board shall designate a date upon which it will hold a public hearing for the purpose of hearing all interested persons. Said public hearing shall be held not more than 62 days after the meeting of the Town Board at which the date therefor was designated. Notice of said public hearing shall be published in the official newspapers of the Town not less than 20 days prior to the date upon which said public hearing is noticed to be held. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(5) Not more than 62 days following the date of said public hearing, the Town Board shall decide to grant or to deny the application. The decision of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules, provided that the Article 78 proceeding is commenced within 30 days of the date upon which a decision of the Town Board is filed with the Town Clerk. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(6) At its regular meeting next following the meeting at which the application for a renewal license was filed, the Town Board shall decide to grant or to deny the application. The decision of the Town Board shall be in writing and shall set forth the reasons for its decision and shall be filed with the Town Clerk. The decision of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules, provided that the Article 78 proceeding is commenced within 30 days of the date upon which the decision of the Town Board is filed with the Town Clerk.

(7) If there be any change, after the granting of any license, in any of the facts required to be set forth in the application therefor, a supplemental statement giving notice of such change, duly verified, shall be filed with the Town Board within 10 days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license and the imposition of a civil penalty against the licensee. In giving any notice or taking any action in reference to a licensee or licensed premises, the Town Board may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury.

G. Provisions governing licenses.

(1) No licensee shall sell, deliver or give away or cause or permit or procure to be sold, delivered or given away any alcohol beverage for consumption on or off the licensed premises.

(2) The licensed premises shall not be open for business or operated during Sunday or on any other day from 2:00 a.m. to 11:00 a.m.

(3) No licensee shall permit or suffer any person under the age of 21 years to enter or remain in the licensed premises.

(4) No licensee shall employ or hire or suffer or permit any person under the age of 21 years to work in the premises.

(5) No licensee shall suffer or permit any gambling in the licensed premises.

(6) A license issued to any person pursuant to this chapter for any licensed premises shall not be transferable to any other person or to any other premises or to any other part of the building containing the licensed premises. It shall be available only to the person therein specified and only for the premises licensed and no other.

H. Revocation of license for cause. Any license issued pursuant to this chapter may be revoked, canceled or suspended and/or a civil penalty may be imposed against the licensee for the following causes:

(1) If the licensee violates any provision of this chapter.

(2) If the licensee transfers, assigns or hypothecates the license.

(3) If the applicant makes any false statement in the application.

I. Procedure for revocation. The Town Board may, on its own initiative or on verified complaint of any person, institute proceedings to revoke, cancel or suspend any license issued under this chapter and/or to impose a civil penalty against the licensee after hearing at which the licensee shall be given the opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed by the Town Board. The decision of the Town Board shall be in writing and shall set forth the reasons for its decision and shall be filed with the Town Clerk. The decision of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules, provided that the Article 78 proceeding is commenced within 30 days of the date upon which the decision of the Town Board is filed with the Town Clerk.

§ 180-39.3. Forestry and forest farming operations.

The purpose of this chapter is promote the health and safety of the residents of the Town of Milton by protecting the natural environment, Town resources and Town roadways affected by timber harvesting. The Town recognizes that the timber resource in the Town is a renewable resource of significant value and may be harvested. The Town also recognizes that if timber harvesting practices are poorly carried out they can result in significant environmental and aesthetic damage to the land and to adjacent lands and waters. Further, logging equipment, trucks and traffic generated has the potential to severely damage Town rights-of-way; thus this section is intended to regulate those harvesting activities that most readily affect the environment and Town roadways, such as stream crossings and the location of landings, haul roads, and skid trails and travel of equipment utilized in a logging operation.

A. General provisions. All commercial forestry operations shall apply to the Town of Milton Building Department for a temporary permit. Approval of commercial forestry operations shall require the following:

(1) A management plan that includes the following information:

(a) The name and address of the property owner and a copy of the signed contract between the commercial harvester and property owner authorizing the forestry operation.

(b) The name and address of the harvester (logger) or purchaser.

(c) Location of site on a Tax Map, United States Geological Survey (USGS) topographic map and United States Department of Agriculture (USDA) Soils Survey Map.

(d) Site plan at a scale of one inch equals 200 feet or another suitable scale based on the size of the affected area. The plan shall include:

[1] Work areas.

[2] Loading areas.

[3] Haul roads.

[4] Landings and stream crossings.

(e) The approximate acreage to be cut, the approximate number of trees to be harvested and the approximate dates upon which such harvesting activity will occur.

(f) A description of the type of harvesting activity, diameter limit cutting (the minimum diameter and height measurement shall be designated), thinning or selection cutting, in which case the method of selection shall be explained.

(g) A statement of the steps to be taken:

[1] To mitigate and control environmental damage; assessment of the impacts to wetland areas.

[2] Plans for the cleanup and reclamation of the property.

[3] For soil erosion and stormwater control structures and the measures used for the protection of streams and slopes.

[4] To assure that culverts and Town roads are protected from damage caused by the logging operation and from the transportation of timber, including compliance with truck weight limitations.

[5] To protect wild life habitats, the applicant shall provide written correspondence from the DEC as to the existence of threatened or endangered species.

[6] Measures to preserve aesthetic values, including buffers along scenic roads and neighborhoods.

[7] Reclamation and repair of landings, haul roads, parking areas and public roads.

B. Exemptions. These provisions shall not apply to the following:

(1) Harvesting of trees and firewood for the personal use of the property owner on the same site.

(2) Reasonable site clearing preparatory to construction of a building for which a building permit has been issued.

(3) Clearing of land for rights-of-way for utilities.

(4) Clearing and maintenance of land for agricultural purposes.

(5) Harvesting of Christmas trees.

(6) Any other removal of timber from a lot in quantities less than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet, as measured by the international one-fourth-inch log rule, within any given calendar year.

(7) Properties in state programs exempted. Lands anywhere in the Town which are enrolled under § 480-a of the New York State Real Property Tax Law, and its predecessor, the Fisher Forest Act, are exempted from these provisions, provided that:

(a) A copy of a valid certificate of approval of enrollment in either § 480-a or the Fisher Forest Act is presented to the Zoning Enforcement Officer prior to the commencement of any commercial logging operations.

(b) A copy of the renewal forms certifying continued enrollment of a parcel in the § 480-a program is filed annually in years of active logging with the Zoning Enforcement Officer.

(c) A copy of file maps and a management plan from Fisher Forest Act or § 480-a, is submitted in conjunction with a certificate of approval.

(d) Subsection C(3), (4) and (5), pertaining to setback and hours of operations, are complied with in full, irrespective of the requirements of § 480-a, or the Fisher Forest Act.

C. Standards for commercial forestry operations.

(1) All commercial forestry operations shall be managed and conducted in accordance with the New York Timber Harvesting Guidelines and the New York State Forestry Best Management Practices for Water Quality which shall be enforceable by the Town of Milton Zoning Enforcement Officer hereunder as standards for commercial forestry operations in the Town of Milton.

(2) The Zoning Enforcement Officer shall be authorized and have the right in the performance of duties to enter upon any property proposed to be harvested to make such inspections as are necessary to determine satisfactory compliance with the provisions of this chapter. Owners, agents or harvesters on a property being harvested shall be responsible for allowing walking access to appropriate parts of the premises within their control to the Zoning Enforcement Officer acting in accordance with the requirements of this provision. It shall be the duty of the Zoning Enforcement Officer to investigate all complaints made under this chapter and to take appropriate legal action on all violations of this chapter.

(3) Except as noted below, no landings shall be located within the Stream Corridor Overlay District or within 100 feet of Town, state or federally designated scenic trails and public buildings. No landing shall be located in low spots or poorly drained areas.

(4) All landing areas, off-street parking for logging equipment and vehicles shall be located on the logging site not less than 100 feet from any street or property line unless greater or lesser distances are required due to the unique character of the site.

(5) Hours of operation.

(a) No harvesting, cutting or removal of products shall take place before 7:00 a.m. or after 7:00 p.m. Monday through Friday or before 8:00 a.m. or after 5:00 p.m. Saturday, Sunday and legal holidays.

(b) No harvesting, cutting or removal of products shall take place within 500 feet of the lot line of an adjacent residential property on which residential buildings are located on Saturdays, Sundays or legal holidays. This restriction may be waived upon written authorization from the property owner of the adjacent residential property, but nothing restricts the property owner from rescinding the authorization.

(6) Clear cutting as a method of harvesting forest products is prohibited unless clearly justified in the management plan and supported by the requirements of sound forest management.

(7) Access. Where a proposed commercial logging operation is to use or develop an access onto a Town highway, such proposal shall be referred to the Town Highway Superintendent who shall approve such access, subject to the following conditions and any other conditions as indicated prior to approval of the commercial forestry permit.

(a) No skidding of timber shall be permitted across Town highways as part of the logging operation at any time.

(b) The Town highway shall be cleared of dirt, mud and vegetation debris on a daily basis to the satisfaction of the Town Highway Superintendent.

(c) The logging contractor or operator shall be held responsible for any damage to the pavement shoulder or drainage facilities of the Town highway, and the Town Highway Superintendent shall inspect the commercial forestry operation on a frequent basis to determine if such damage has occurred. The Highway Superintendent shall approve the location and construction of the landing area.

(d) All debris located within 50 feet of any public right-of-way shall be cleared and removed by the applicant.

(e) The Town of Milton Highway Superintendent may issue any appropriate directive to prevent or repair damage to any Town road or bridge caused by the commercial forestry operation. Commercial forestry operations having access onto a state highway or county road shall have the access reviewed and approved by either the State Department of Transportation or the County Department of Public Works, and such access shall adhere to the conditions, including performance guaranties, that these agencies may require.

(8) Performance bond. A performance bond or certified check shall be posted with the Town Clerk by the logger in the amount of \$1,000 per acre of land up to an amount not to exceed \$5,000 in order to assure compliance with the provisions of this chapter. In lieu of the foregoing requirements, the logger may, subject to the approval of the Town Board, file with the Town Clerk a general undertaking of indemnity in a form to be approved by the Town Board. Upon completion of such harvesting activities and the compliance with all provisions of this chapter, as certified by a written statement from the Enforcement Officer attesting to such compliance, such bond shall be returned. In case of noncompliance with this chapter, the Town Board shall utilize such bond or such portion thereof as may be necessary to correct such noncompliance.

§ 180-39.4. Design and maintenance standards within Town Center District.

A. General provisions. All development and improvements within the Town Center District shall include the construction of sidewalks, curbing, stormwater drainage, streetlighting and street trees pursuant to the following standards.

B. Design standards.

(1) Sidewalks:

(a) Shall be constructed of a minimum of 3,500 psi reinforced concrete.

(b) Shall be five feet in width and a minimum of four inches in thickness.

(c) Shall be placed five feet inside of curb.

(d) All exposed surfaces shall be sloped sufficiently to shed water, towards the Town right-of-way at 1/4 inch per foot cross pitch. Class B broom finish shall be applied and joints should align with curbing joints or at five-foot intervals.

(e) Subbase shall be compacted to a minimum of 95% modified proctor maximum density; all unstable and unsuitable areas shall be excavated and replaced with a suitable and compacted subbase material.

(2) Curbing:

(a) Shall be constructed of a minimum of 4,000 psi concrete.

(b) Shall be poured in place concrete.

(c) Shall be six inches in width and 24 in height with a six-inch reveal from the finish top of curb to finish pavement (in most cases top of curb will be approximately one inch above crown of road).

(d) Subbase shall be compacted to a minimum of 95% modified proctor maximum density; all unstable and unsuitable areas shall be excavated and replaced with a suitable compacted subbase material.

(e) Shall be located 20 feet from center line of roadway to front face of curbing.

(3) Streetlighting:

(a) Fixture to be Hanover Lantern Model No. 1972BP:

[1] Finish: Verde.

[2] Panels: Clear Polycarbonate.

[3] Voltage: 120.

[4] Wattage: 100 HPS.

[5] Post: Model No. 729; 10 feet in height.

[6] Photo eye: required for continuous dusk-to-dawn operation.

(b) Conduit must be provided at all fixtures and at curb cut crossing to facilitate in series wiring for future lighting district.

(c) Location to be approximately 75 feet on center along streets and placed between curbing and sidewalks.

(4) Street trees:

(a) Tree(s) to be little leaf linden with two-and-one-half-inch to three-inch caliper.

(b) Location to be approximately 40 feet on center along streets and placed between curbing and sidewalks.

(5) Drainage. Where practical, drainage provisions for conveying stormwater from roofs and impervious surfaces on the premises shall be handled in site. For all uses, installing curbs or where stormwater has to be conveyed off site, a storm sewer shall be deemed available when such sewer is within 500 feet of the premises, on which the use is located, measuring along the street and a connection can be made lawfully there to.

C. Maintenance standards.

(1) Sidewalk maintenance:

(a) It shall be unlawful for any occupant of any building in the Town Center District to permit the sidewalks in front of the premises owned and/or occupied by same, to become, in any manner, obstructed by the accumulation of snow, ice and dirt thereon, and such occupant or owner shall remove the snow, ice or dirt from such sidewalk for the whole width thereof within eight hours after any fall of snow which shall cease in the daytime and before 12:00 noon of the day following any such fall of snow and before any such fall of snow shall obtain the depth of 12 inches and, in case the snow and ice become so congealed that the same cannot be removed without injury to the pavement, to cause such snow and ice to be sprinkled with sand or an appropriate ice-melter and also at all other times to keep such sidewalks free and clear from all dirt, filth or other.

(b) In the event that the occupant or owner of the adjoining premises fails to comply with the provision of this section and, by reason of such failure, injuries to persons and/or damage to property results, and in such event such occupant or owner shall be liable for such injuries or damages.

(c) In case of damage or deterioration the occupant or owner must repair or replace within 30 days from the date of notification from the Zoning Enforcement Official.

(2) Prohibited uses:

(a) No person shall cause any vehicle to obstruct the free use of any sidewalk or crosswalk within the Town Center District.

(b) No person shall push, ride or draw any vehicle except a baby carriage or invalid chair upon the sidewalk within the Town Center District.

(c) No person shall encumber the street or sidewalks in the Town Center District with boxes, barrels, crates, display signs, wares, merchandise or any material whatever.

(3) Streetlighting maintenance:

(a) In case of bulb failure, the occupant or owner must replace the bulb within 10 days of bulb failure.

(b) In case of damage to fixture or pole, the occupant or owner must show proof of ordering of appropriate part(s) within 10 days of damage and repair must be made within 30 days of damage.

(4) Street tree maintenance. Occupant or owner must maintain trees in a healthy condition. In case of damage, disease or death of the tree(s), the occupant or owner must replace within 30 days from the date of notification from the Zoning Enforcement Official.

(5) Enforcement. It shall be the duty of the zoning enforcement official to see that the provisions of § 180-39.4, hereof are complied with and in case of failure on the part of any occupant or owner, after notice from the Zoning Enforcement Official, to comply with the provisions, the penalties from § 180-72 shall apply.

D. Flexibility. The Planning Board shall have the power to vary or modify the placement of sidewalks, curbing, stormwater drainage, streetlights and street trees due to physical constraints or aesthetics so long as such modifications are with sound planning and engineering considerations. Where installation of sidewalks, curbing, stormwater drainage, streetlights and street trees is not practical at the time of construction or reconstruction, the Planning Board shall require the establishment of an escrow account, or other instrumentality, in the amount of full construction costs to be installed at a later date.

§ 180-39.5. Stormwater control.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

A. Definitions. The terms used in L.L. No. 2-2006 or in documents prepared or reviewed under L.L. No. 2-2006 shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY

The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

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

BUILDING

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

CHANNEL

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

CLEARING

Any activity that removes the vegetative surface cover.

CONTRACTOR

Any person or entity actually doing and/or completing the work on behalf of a developer, property owner, or other third party.

DEDICATION

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

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

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

DEVELOPER

A person or entity which undertakes land development activities.

EROSION CONTROL MANUAL

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

GRADING

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

IMPERVIOUS COVER

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

INDUSTRIAL STORMWATER PERMIT

A state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation." Jurisdictional wetlands shall also include those designated by state and federal regulations and guidelines.

LAND DEVELOPMENT ACTIVITY

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

LANDOWNER

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

MAINTENANCE AGREEMENT

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

NONPOINT SOURCE POLLUTION

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

PHASING

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

POLLUTANT OF CONCERN

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

PROJECT

Any land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

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

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

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

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped, either temporarily, or permanently.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

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

STORMWATER MANAGEMENT

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

STORMWATER MANAGEMENT FACILITY

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

STORMWATER MANAGEMENT OFFICER

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

STORMWATER MANAGEMENT PRACTICES (SMPs)

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

STORMWATER POLLUTION PREVENTION PLAN (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

(1) Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(2) Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

B. Stormwater pollution prevention plans.

(1) Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed or approved until the appropriate board or designated officer in the Town has received a satisfactory, complete, and acceptable stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

(2) Contents of stormwater pollution prevention plans.

(a) All SWPPPs shall provide the following background information and erosion and sediment controls:

[1] Background information about the scope of the project, including location, type and size of project.

[2] Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s).

[3] Description of the soil(s) present at the site.

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

[5] Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.

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

[7] Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout.

[8] A site map/construction drawing(s) specifying location(s), size(s), and length(s) of each erosion and sediment control practice.

[9] Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.

[10] Temporary practices that will be converted to permanent control measures.

[11] Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.

[12] Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.

[13] Name(s) of the receiving water(s).

[14] Delineation of SWPPP implementation responsibilities for each part of the site.

[15] Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

[16] Any existing data that describes the stormwater runoff at the site.

(b) Land development activities as defined in Subsection A of this this and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection B(2)(c) below as applicable.

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

[2] Condition B: Stormwater runoff from land development activities disturbing five or more acres.

[3] Condition C: Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(c) SWPP requirements for Condition A, B and C:

- [1] All information in Subsection B(2)(a) of this section;
- [2] Description of each post-construction stormwater management practice;
- [3] Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- [4] Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- [5] Comparison of post-development stormwater runoff conditions with pre-development conditions;
- [6] Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- [7] Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
- [8] Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- [9] Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Subsection D of this section.

(3) Plan certification. The SWPP shall be prepared by a landscape architect or professional engineer, acceptable to the Town, and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements of this chapter.

(4) 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.

(5) Contractor certification.

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

- (c) The certification statement(s) shall become part of the SWPPP for the land development activity.

(6) 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.

C. Performance and design criteria for stormwater management and erosion and sediment control. All land development activities shall be subject to the following performance and design criteria:

- (1) Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are

designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by L.L. No. 2-2006: Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.

(a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").

(b) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

(2) 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. Maintenance and repair of stormwater facilities.

(1) Maintenance during construction.

(a) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced 50%.

(b) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

(2) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Milton to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by Town Engineer and by the legal counsel for the Town.

(3) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D, shall be operated and maintained to achieve the goals of L.L. No. 2-2006. Proper operation and maintenance also includes as a minimum, the following:

(a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of L.L. No. 2-2006.

(b) Written procedures for operation and maintenance and training new maintenance personnel.

(c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Subsection C(2) of this section.

(4) Maintenance agreements. The Town of Milton shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of Chapter 151 entitled Sample Stormwater

Control Facility Maintenance Agreement. The Town of Milton, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

E. Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of L.L. No. 2-2006 shall be judged invalid by a court or competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of L.L. No. 2-2006.

ARTICLE VII. Special Permit Uses

§ 180-40. Approval by Planning Board.

All special permit uses cited in the District Schedule of Use Regulations, § 180-87 in Article IV of this chapter, shall be subject to review and approval by the Planning Board in accordance with the standards and procedures included herein. In all cases where this chapter requires such special use permit authorization by the Planning Board, no building permit or certificate of occupancy shall be issued by the Zoning Enforcement Officer except upon authorization of and in full conformity with plans approved by the Planning Board.

§ 180-40.1. Effect of site plan approval.

Site plan approval by the Planning Board is a required step for all uses in the special permit processes in all districts and shall be carried out either prior to or in conjunction with the special permit procedures. The site plan approval process shall be a critical factor in determining the propriety of granting a special permit.

§ 180-41. General considerations.

In authorizing any special permit use, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and that of the immediate neighborhood in particular. The Planning Board shall also take in strict account the specific conditions set forth in this section for certain uses, applicable supplementary regulations stated in Article VI of this chapter and the following general objectives for any use requiring authorization by the Planning Board:

- A. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to existing and future streets providing access shall be in harmony with the orderly development of the district.
- B. The propriety of sidewalks as an integral component of the transportation infrastructure in the Town Center shall be considered, as should bike or multipurpose trails in all districts.
- C. The location, nature and height of the buildings, walls and fences and the nature and intensity of intended operations will not discourage the appropriate development and use of adjacent land and buildings nor impair the value thereof.
- D. All proposed traffic accessways shall be adequate but not excessive in number, be adequate in width, grade, alignment and visibility, be sufficiently separated from street intersections and places of public assembly and meet similar safety considerations.
- E. Adequate provision for safe and accessible parking and loading spaces shall be provided.
- F. All off-street parking and all service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall, to the extent practicable, include the preservation of existing trees to the maximum extent possible.
- G. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.

H. Plans for public address systems and lighting for outdoor facilities shall be submitted to and approved by the Planning Board.

I. The character and appearance of the proposed use, buildings, structures and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would the operations of any permitted principal use and shall not adversely affect the general welfare of the inhabitants of the Town of Milton.

J. In the Town Center (TC) District, the Planning Board shall refer to the Town Center Guidelines. Editor's Note: The guidelines are included at the end of this chapter.

K. The use of best management practices shall be followed to insure the protection of streams, steep slopes, wetlands, floodplains and other natural features.

§ 180-42. Specific standards for certain uses.

In addition to the general standards stated above and the site plan review considerations stated in § 180-53 of this chapter, the following specific standards shall be complied with for the particular special permit uses cited below:

A. Camp.

- (1) The minimum lot area shall be 15 acres.
- (2) Such cabins or cottages shall be designed for one family only, with not more than two such dwelling units permitted per gross acre, i.e., a maximum gross density of two dwelling units per acre.
- (3) The net density shall not exceed four such dwelling units per acre.
- (4) All such dwelling units shall be serviced by a community water system and common sewage disposal system satisfactory to the New York State Departments of Health and Environmental Conservation.
- (5) No building or recreational facility associated with such development shall be located nearer than 100 feet to any lot line and shall be effectively screened from adjacent properties.
- (6) Open space areas shall be set aside and maintained for recreational facilities such as swimming pools, court games or other active or passive recreational activities for patron use.

B. Cellular and satellite antennas, provided that the proposed use meets the criteria specified in § 180-39.1.

C. Cemetery.

- (1) No burial or memorial plats or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or wall or landscaped strip at least six feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plats of less than six feet in height may be located as close as 25 feet to any residential lot line.
- (2) Include a survey and proposed deed of the cemetery or burial ground within or abutting parcel providing a metes and bounds description to the cemetery or burial ground and an access easement from a public street.
- (3) An enclosure along the boundaries of the cemetery or burial grounds, defining the boundaries, built of materials which may be reasonably be expected to survive 75 years.
- (4) All burials are undertaken in strict accordance with applicable regulations of the New York State Departments of State, Health and Environmental Conservation.

D. Commercial radio and television.

(1) The proposed location and structure height will not interfere with the approach zone to any airport.

(2) The dimensions of the site are such that the distances in all directions from the base of the proposed transmission tower to the edge of the property exceed by 20% the height of the tower.

E. Commercial kennels.

(1) Buildings or structures, including fenced runs and similar outdoor areas, shall be located not less than 100 feet from any lot line nor within 300 feet of the nearest neighboring residential structure and/or solid fencing.

(2) The facility shall be screened from neighboring properties and public rights-of-way by natural vegetation.

F. Dwelling, accessory: nonresidential. A single accessory dwelling: nonresidential meeting the following standards shall be considered to be part of a principal use other-than-residential building and covered by the District Schedule of Use Regulations (§ 180-87) and District Schedule of Area and Bulk Regulations (§ 180-86) for other-than-residential principal use buildings or structures.

(1) The explicit written approval of the Zoning Enforcement Officer or Code Enforcement Official shall be obtained for the design, location, access and other safety-related elements of one such dwelling unit per building in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code.

(2) No such dwelling unit shall be permitted over filling stations, stores retailing flammable or fume-producing goods, or any other establishment which the Zoning Enforcement Officer or Code Enforcement Official determines to pose a greater than average built-in risk.

(3) The habitable floor area of such dwelling unit shall be at least 500 square feet. The dwelling unit shall not be located on the first floor of the building, and the dwelling unit shall contain all services for safe and convenient habitation.

(4) Approval has been granted by the New York State Departments of Health and Environmental Conservation or the Town of Milton, as applicable, for any required on-site sanitary or water supply system, including, as may be applicable, a determination that the existing on-site water supply and sewage disposal facilities are sufficient to accommodate the additional demands of the additional unit where conversion is proposed.

(5) The dwelling unit shall have a separate access to the outside of the building which must be distinct from the access to uses on the first floor.

(6) Each dwelling unit shall have two designated off-street parking spaces meeting the standards of this chapter and conveniently located for access to the dwelling unit.

G. Dwelling, accessory: residential.

(1) The conversion of any existing residence or construction of a new residence to accommodate an accessory dwelling unit as defined herein and in § 180-5 is limited to one accessory unit per principal dwelling.

(2) Each principal residence and accessory unit is, at the time of building a new building or conversion of an existing dwelling, on a single lot with lot area and lot width and setbacks of no less than the minimum specified in District Schedule of Area and Bulk Regulations (§ 180-86) for a one-family dwelling. Accessory apartments not meeting these requirements shall be considered to be separate dwelling units and shall meet the use, area and bulk requirements of the zoning district where located.

(3) Both units are self-contained, with separate cooking, sleeping and sanitary facilities for use by the occupant(s).

(4) The total floor area of the accessory apartment shall be a maximum of 800 square feet.

(5) The accessory apartment shall be occupied by a family member and shall not be rented, either at the time of construction or any future time.

(6) The creation of the accessory apartment shall not alter the single-family character of the property. The following standards shall be met in creating the unit:

(a) The accessory apartment shall not be clearly identifiable from the exterior as a result of the design of the structure.

(b) The accessory apartment, if on the ground floor, shall have an exterior exit located on either the side or the rear of the house.

(c) The accessory apartment shall be accessible, by interior means, from the remaining portion of the single-family residence.

(d) The utilities (electric service, gas service, etc.) for the accessory apartment shall be combined with the existing utilities. Separate utilities shall not be allowed.

(e) The accessory apartment shall bear the same street address as the principal residence.

(7) If the accessory dwelling unit is in another structure, such as over a garage, Subsections G(6)(b) and (c) above do not apply.

(8) Parking in the R1, R2 and MU District as required for an accessory unit/principal residence is a minimum of two spaces per dwelling unit on site and is designed and located to be convenient without encroaching on any yard/setback area.

(9) Approval has been granted by the New York State Department of Health and Environmental Conservation or the Town of Milton, as applicable, for any required on-site sanitary or water supply system, including, as may be applicable, a determination that the existing on-site water supply or sewage disposal facilities are sufficient to accommodate the additional demands of the additional unit where conversion is proposed.

H. Dwelling, two-family.

(1) The conversion of any existing residence or construction of a new residence to accommodate two dwelling units as defined herein and in § 180-5 is limited to two dwellings per principal structure.

(2) A two-family dwelling may have two dwellings next to each other with a firewall between (duplex) or have the dwelling units on two separate floors with necessary fire protection between floors.

(3) Each two-family residence structure is, at the time of building a new building or converting an existing dwelling, on a single lot with lot area and lot width and setbacks of no less than the minimum specified in District Schedule of Area and Bulk Regulations, § 180-86 for each dwelling.

(4) Both units are self-contained, with separate cooking, sleeping and sanitary facilities and separate utilities for use by the occupant(s).

(5) Parking in the R1, R2 and MU District as required for an accessory unit/principal residence is a minimum of two spaces per dwelling unit on site and is designed and located to be convenient without encroaching on any yard/setback area.

(6) Approval has been granted by the New York State Departments of Health and Environmental Conservation or the Town of Milton, as applicable, for any required on-site sanitary or water supply system, including, as may be applicable, a determination that the existing on-site water supply and sewage disposal facilities are sufficient to accommodate the additional demands of both dwelling units.

I. Gasoline or service station.

(1) No such establishment shall be located within 200 feet of any school, church, public library, theater, hospital, park, playground or other public gathering place designed for occupation by more than 50 people.

(2) No such establishment shall be located within 200 feet of any state-designated wetlands, or within 500 feet of the Stream Corridor Overlay District or any public water supply.

(3) The area of use by motor vehicles, including display and storage, except access drives thereto, as well as any structures, shall not encroach on any required yard area.

(4) No fuel pump shall be located within 25 feet of any lot line or within the required side or front yard, whichever shall be more restrictive. The station layout shall eliminate the necessity of any vehicle backing into a public right-of-way.

(5) Each station shall be limited to two curb cuts with each having an unrestricted width of not less than 18 feet nor more than 30 feet and be located no closer than 15 feet to any side lot line.

(6) Gasoline or flammable oils in bulk shall be stored in accordance with New York State Department of Environmental Conservation regulations and may not be closer than 25 feet to any lot or street line.

(7) All major repair work and storage of materials, supplies and parts shall be located within a structure completely enclosed on all sides, but not to be construed as meaning that the doors on any repair shop must be kept closed at all times.

(8) Suitable year-round buffering and landscaping shall be provided in all rear and side yards.

(9) Those establishments which sell gasoline in combination with a convenience store shall:

(a) Ensure that adequate parking is available on site for customers making purchases at the store but not buying gasoline. This parking area shall be located in such a manner that it does not interfere with the safe entry and exit of vehicles purchasing gasoline.

(b) Provide an enclosed trash dumpster or disposal of stock packings removed by store employees and trash receptacles for customer use on the premises.

(c) Maintain no outdoor displays of merchandise which interfere with the safe flow of traffic and pedestrians.

(d) Locate all vending machines on the side of the building.

(e) Direct all rooftop heating/ventilation/air-conditioning or refrigeration units away from adjacent residential properties.

J. Home occupation, Class 2 (occurring within an accessory building or elsewhere outdoors on the residential premises), in the districts defined in the District Schedule of Use Regulations (§ 180-87) within the limitations specified in § 180-31 and the definition found in § 180-5 of this chapter.

K. Hotel.

(1) The minimum lot area shown on the District Schedule of Area and Bulk Regulations (§ 180-86) for the zoning district in which the hotel or motel is located shall be increased by 100% for each eight guest rooms or part thereof provided.

(2) The minimum side and rear yard setback requirements shown on the District Schedule of Area and Bulk Regulations (§ 180-86) for the zoning district in which the hotel is located shall be doubled if such yard abuts property in a residential district.

(3) The minimum front, side and rear yard setback requirements for off-street parking areas shall be similarly doubled if such yard abuts property in a residential district.

(4) All uses integral to the hotel shall either be clearly accessory to the hotel or shall be permitted uses or special permit uses within the zoning district in which the hotel is proposed. Integral accessory uses shall generally be limited to the following: meeting rooms, restaurant and dining facilities, recreational facilities, such as swimming pools and tennis courts, and small personal service/retail shops fully within the hotel selling newspapers, magazines, tobacco, small gifts and similar items.

L. Mining.

(1) The mining of less than 750 cubic yards of minerals within 12 successive calendar months, does not require a permit. Applications for permits may be submitted for annual terms running from one to five years but not to exceed five years. Mining permits shall expire at the end of their terms in accordance with their issue and expiration dates and may be renewed upon application to the Planning Board at least 30 days prior to the expiration date of the permit. A renewal application shall be submitted on forms provided by the Planning and Building Department. A permit application for mining shall be as part of the special permit process and shall be submitted to the Planning Board on forms provided by the Building Department.

(2) Permits for mining subject to state jurisdiction. A permit applicant for mining subject to state jurisdiction shall submit copies of all applications and other materials required by the New York State Department of Environmental Conservation (DEC) in connection with its application for a Mined Land Reclamation Law permit. Editor's Note: See Environmental Conservation Law § 23-2701 et seq. In determining whether to grant or deny a permit application, the Planning Board shall consider all of the following conditions as well as the applicable special permit criteria set forth in Article VII herein:

(a) Ingress and egress to public thoroughfares shall be controlled by the Town.

(b) Routing of mineral transport vehicles on roads shall be controlled by the Town.

(c) Requirements and conditions as specified in the permit issued by DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control and hours of operation.

(d) Enforcement of reclamation requirements contained in DEC permits issued pursuant to the Mined Land Reclamation Law. Editor's Note: See Environmental Conservation Law § 23-2701 et seq.

(3) Permits for mining not subject to state jurisdiction. In determining whether to grant or deny a permit application, the Planning Board shall consider all of the following conditions as well as the applicable special permit criteria:

(a) The mining operation and operations accessory thereto may not be detrimental to the appropriate and orderly development of any district in which it is situated or impair the value thereof.

(b) The proposed operation shall not contribute to soil erosion by water and/or wind, nor shall it adversely affect soil fertility, drainage, and lateral support of abutting land or other properties. Noise, smoke, dust, odor and other potential hazards shall be controlled.

(c) All mining operations and operations accessory thereto shall be made only in accordance with approved plans. These plans shall show the location of the site and its relation to neighboring properties and roads within 500 feet of the site, area to be excavated, existing slopes, proposed slopes after excavation, proposed level of any impounded water, plans for erosion control and location of access drives to the site.

(d) No excavation above or below grade shall be closer than 300 feet to any street line or other property line. No excavation shall be closer than 500 feet to the boundary line of a zoning district within which excavation is not permitted.

(e) The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material except where a suitable retaining wall, as shown on approved plans, is built to provide lateral support.

(f) Fences, barricades or landscaped berms shall be erected to protect pedestrians and vehicles. All open pits shall be enclosed by fencing until they are refilled. The uphill side of side hill excavations shall be permanently fenced.

(g) Storage piles of materials, including waste materials, shall not be located closer to property lines than is permitted for excavation. After completion of excavation operations, waste materials shall be used in filling all open pits. Piles of excess waste materials shall be leveled.

(h) No excavation operations shall take place between the hours of 7:00 p.m. and 7:00 a.m.

(i) The processing of such resource shall be limited to the washing, separating or grading of the excavated mineral.

(j) A reclamation plan, which describes the operations to be performed by the permit applicant to reclaim the land to be mined over the life of the mine. The reclamation plan shall include maps, plans, the schedule for reclamation, written material and other documents as required by the Planning Board. Prior to submitting the reclamation plan, the applicant shall submit the plan for a review by the local office of the Natural Resource Conservation Service for their report which shall be submitted with the plan. Where topsoil is removed, sufficient arable soil shall be set aside and shall be respread after the operation with a layer of earth two feet deep or the original thickness, whichever is less, and capable of supporting vegetation. Fill shall be of a suitable material approved by the Planning Board.

(k) A performance bond shall be posted with the Town Board in an amount and form to be determined by the Board, insuring conformance to approved plans and all applicable regulations, including, but not limited to, reclamation costs. The Town Board shall set a reasonable time limit for such bond, not to exceed five years, except in the case of continuing excavation operations where a bond must be renewed or extended with the permit renewal or in the case of ceased operations where a bond must be renewed or extended to cover the life of the implementation of the reclamation plan.

M. Mobile home park expansion, provided that the proposed use meets the criteria specified in § 180-39.

N. Public utility use.

(1) The proposed location is necessary for public convenience and service which could not be equally provided if the station or structure were located in a district where it would be a permitted use under this chapter.

(2) The station or structure shall, whenever situated within a residential district, have the exterior appearance of a residential building.

(3) Suitable landscaping, including screening from public roadways and neighboring residential properties, is provided.

O. Roadside stand.

(1) Such stands are located not less than 20 feet from any street line.

(2) Such stands are solely used for display and sale of agricultural products grown or produced exclusively on the premises by the operator of the roadside stand.

(3) A single sign is limited to eight square feet and is located not less than five feet from any street line.

P. Sexually oriented businesses, provided that the proposed use meets the criteria specified in § 180-39.2.

§ 180-43. (Reserved)

§ 180-44. Special permit application procedure.

The Planning Board shall review and act on all special permit uses in accordance with the procedure specified herein:

A. Application and fee. All applications must be by the property owner or their agent and made to the Planning Board, shall be in writing on forms and in accordance with the schedule prescribed by the Board and shall be accompanied by the following:

- (1) A sketch site plan as otherwise required in § 180-51D of this chapter.
- (2) Such additional information as is required for certain uses under § 180-42 and under Article IV of this chapter.
- (3) Payment of the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.
- (4) Either a short or full environmental assessment form, or an environmental impact statement, as required by the Environmental Conservation Law.
- (5) In the case where the applicant is not the property owner, permission of property owner in written form.

B. Public notice and hearing.

(1) The Planning Board shall fix a reasonable time and place for a public hearing on any such special permit application, of which hearing date the applicant shall be given notice and at which hearing he shall appear in person or by agent. The Board shall additionally provide notice as follows:

(a) By publishing at least five business days prior to the date thereof a legal notice in the official newspaper of the Town.

(b) By requiring the Secretary of the Planning Board to provide notice of the public hearing and data regarding the substance of the application to the owners of all property abutting that property held by the applicant and all other owners within 300 feet of the land involved in such application. Notice shall be provided by first class mail at least five business days prior to the hearing, with compliance with the notification procedure certified to by the Secretary.

(2) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

(3) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying a special permit application.

(4) If the land involved in the application lies within 500 feet of the boundary of any other municipality, the Secretary of the Planning Board shall also submit at least five business days prior to the public hearing to the Municipal Clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

C. Required referral. A full statement of any special use permit application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Saratoga County Planning Board for its review. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from said County Planning Board or 30 days have elapsed since the Town Planning Board received such full statement.

D. Decisions. Every decision of the Town Planning Board with respect to a special use permit application shall be made by resolution within 90 days of the completed application to the Planning Board or within 62 days of the public hearing, whichever shall first occur, which resolution shall clearly state the decision and any conditions attached thereto. The Planning Board resolution shall be accompanied by written findings documenting a reasoned elaboration of the provisions of this chapter and the Town Comprehensive Plan. Each such decision shall be filed in the office of the Town Clerk within 10 business days thereof.

§ 180-45. Reimbursable costs.

Reimbursable costs incurred by the Town Planning Board for private consultation fees or other extraordinary expense in connection with the review of special use permit applications shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in § 180-44 herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.

§ 180-46. Effect of special use permit approval.

A. No building permit shall be issued for any structure regulated by this section until such special use permit has received Town Planning Board approval and a copy of a resolution to that effect has been presented to the Zoning Enforcement Officer.

B. No certificate of occupancy shall be issued for any structure or use of land covered by this section until the structure is completed or the land developed in strict accordance with the Town Planning Board resolution of special permit approval and applicable requirements of this chapter.

C. Any use for which a special permit may be granted shall be deemed a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.

D. The Town Planning Board may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon specific determination by the Town Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted for full compliance by the applicant prior to revocation of the special use permit.

E. The granting of a special use permit shall not be held to constitute a representation, guaranty or warranty of any kind by the Town of Milton or by any official or employee thereof regarding the practicability or safety of any structure or use or the proper functioning of the proposed facilities and plans and shall not be held to create a liability upon or cause of action against such public body, official or employee for any damage that may result pursuant to such development or use.

§ 180-47. Expiration.

A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use permit activity is not commenced and diligently pursued within six months of the date of issuance of the special use permit or if the special use ceases for more than one year for any reason.

§ 180-48. Revocation.

In all instances, including those cited in § 180-46D above, a special use permit may be revoked by the Town Planning Board after public hearing if it is found and determined that there has been a substantial failure to comply with any of the terms, conditions, limitations and requirements imposed by said permit.

§ 180-49. Appeals.

Any person or persons jointly or severally aggrieved by any decision of the Town Planning Board on a special use permit application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the actions must be initiated as therein provided within 30 days after the filing of the Board's decision in the office of the Town Clerk.

ARTICLE VIII. Site Plan Review and Approval

§ 180-50. Where site plan required.

A. In accordance with Article IV, Use Regulations, prior to the issuance of a building permit or certificate of occupancy in any district, except for a one-family dwelling and related accessory or general agricultural uses permitted by either right or special use permit, including home occupations, the Zoning Enforcement Officer or Code Enforcement Official shall require the preparation of a site plan.

B. All new uses or alterations in the Town Center District shall require site plan review by the Planning Board, and such review shall be conducted subject to the Town Center Design Guidelines incorporated here by reference. Editor's Note: The guidelines are included at the end of this chapter.

C. If, upon review of such site plan, the Zoning Enforcement Officer shall determine that the proposed action does not result in an increase in the number of parking spaces required for the proposed use by this chapter and does not increase the gross floor area by more than 25% or 1,200 square feet from the gross floor area that previously existed or was authorized by the existing approved site plan for the site, the Zoning Enforcement Officer may approve such site plan and no further review shall be required, or the Zoning Enforcement Officer may refer such proposed action to the Town Planning Board for site plan review and approval in accordance with § 274-a of the Town Law and the standards and procedures set forth in this chapter if, in the Zoning Enforcement Officer's opinion, the proposed action involves a change in the use of the site or site characteristics which may require further review by the Town Planning Board.

D. In all other cases, the Zoning Enforcement Officer shall refer the applicant to the Town Planning Board for site plan review and approval in accordance with § 274-a of the Town Law and the standards and procedures set forth in this chapter.

§ 180-51. Plan conferences.

A. A preplan conference between the Zoning Enforcement Officer and the applicant shall be held to discuss the application requirements and the applicability of the site plan review and approval procedure to the intended development for which the building permit or certificate of occupancy or use is sought.

B. The Town Planning Board shall conduct a plan conference and make its determination based upon review of the project's scope and the basic land use and site design concept, as shown by the sketch plan drawn to scale, and accompanying statements provided by the applicant and describing, at a reasonable level of detail, what is proposed.

C. At the plan conference, the Town Planning Board shall, with the advice of its Zoning Enforcement Officer and its designated consultant, take one of three actions:

(1) Determine that the project is limited in scope with compatible land use, site and building design characteristics, thus requiring no further review under this chapter, with such determination restricted to applications including the establishment of permitted uses within existing complying structures or the limited modification of existing conforming uses and complying structures wherein no substantial site improvements are either required or proposed.

(2) Determine that the project does require full review under this chapter, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of site plan submission requirements in accordance with § 180-52 of this chapter.

(3) Require additional information prior to making a determination regarding the applicability of the site plan review and approval procedure.

D. In order to assist the Town Planning Board in its determination, the applicant shall submit, as may be requested by the Planning Board, the further data discussed below during the plan conference:

(1) An area map keyed to the real property Tax Maps showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 300 feet of the boundaries thereof.

(2) A map of site topography at no more than ten-foot contour intervals.

§ 180-52. Application for site plan approval.

An application for site plan approval shall be made, in writing, to the Town Planning Board and shall be accompanied by 15 prints of a site plan which includes information drawn from the following checklist of items, as determined necessary by the Zoning Enforcement Officer and the Town Planning Board at the time of the plan conference, and which is provided on a drawing certified by a licensed engineer, architect, landscape architect and/or land surveyor:

A. Site plan checklist. The site plan shall include:

- (1) The title of the drawing, including the name and address of applicant and person(s) responsible for preparation of such drawing, the property owner (if different) and the tax parcel identification number.
- (2) North arrow, scale and date.
- (3) Accurate boundaries of the property plotted to scale.
- (4) Existing watercourses, wetlands and floodplains.
- (5) Grading and drainage plans showing existing and proposed contours at an appropriate interval to be specified by the Town Planning Board at the sketch plan conference with two-foot contour intervals and soils data generally required on that portion of any site proposed for development where general site grades exceed 5% or where there may be susceptibility to erosion, flooding or ponding.
- (6) The location, proposed use and height of all buildings.
- (7) The location, design and construction materials of all parking and loading areas with ingress and egress drives thereto.
- (8) Provision for vehicular, pedestrian and bicycle access.
- (9) The location of outdoor storage.
- (10) The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (11) The description of the method of sewage disposal and location, design and construction materials of such facilities.
- (12) The description of the method of securing water supply and stormwater collection and the location, design and construction materials of such facilities.
- (13) The location of fire and other emergency zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.
- (14) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (15) The location/delineation of any wetlands, floodplains, steep slopes and streams as required under § 180-22.
- (16) The location, size and design and construction materials of all proposed signage.
- (17) The location and proposed development of all buffer areas, including indication of existing vegetative cover.
- (18) The location and design of outdoor lighting facilities, including data regarding, when appropriate, lighting levels both within the site and at the site's boundaries, if adjacent to residential development.

(19) Designation of the amount of building area proposed for retail sales, office use or similar commercial activity.

(20) General landscaping plans and planting schedules.

(21) Identification of any public cemetery or burial ground within or abutting the parcel as defined by Town Law § 291, or any other applicable state law.

(22) Record of application for and approval status of all necessary permits from federal, state and county officials.

(23) Identification of any federal, state or county permits required for the projects execution, including contacts and addresses at the applicable regulatory agencies.

(24) Other elements integral to the proposed development as considered necessary by the Town Planning Board, including the identification of any state or county permits required for the project's execution.

B. Required fee. An application for site plan review and approval shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.

C. Environmental review. An application for site plan review and approval shall also be accompanied by a short or full EAF, or a draft EIS, as required by the Environmental Conservation Law.

D. Stormwater pollution prevention plan. A stormwater pollution prevention plan consistent with the requirements of Chapter 151, Stormwater Management and Erosion and Sediment Control, and § 180-39.5 of this chapter shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in § 180-39.5 of this chapter. The approved site plan shall be consistent with the provisions of Chapter 151, Stormwater Management and Erosion and Sediment Control, and § 180-39.5 of this chapter.

[Added 10-25-2006 by L.L. No. 2-2006 Editor's Note: L.L. No. 2-2006 consists of Ch. 151, Stormwater Management and Erosion and Sediment Control, Subdivision of Land §§ 154-9.1, 154-21C, 154-22K and 154-23C, and Zoning §§ 180-39.5 and 180-52D.]

§ 180-53. Planning Board review of site plan.

The Town Planning Board's review of a site plan shall include, as appropriate, but is not limited to the following:

A. General considerations.

(1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, channelization structures and other traffic controls.

(2) Adequacy and arrangement of pedestrian traffic access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian convenience.

(3) The location, arrangement, appearance and sufficiency of off-street parking and loading facilities. Turning radius of the largest anticipated vehicle shall be shown.

(4) The location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.

(5) Adequacy of stormwater and drainage facilities.

(6) Adequacy of water supply and sewage disposal facilities.

(7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(8) The adequacy of usable open space of play areas and informal recreation.

(9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

(10) Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.

(11) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion or in the vicinity of wetlands, streams or similar natural features.

(12) Compatibility of building design with existing characteristics of the neighborhood.

(13) Protection of streams, wetlands, floodplains, steep slopes and other topographical features.

(14) Protection and public access to public cemeteries and burial grounds as defined in § 291 of the Town Law and other applicable state law. In reviewing site plans involving a public cemetery or burial ground, the Planning Board shall employ the standards as outlined in § 154-13B of the Code of the Town of Milton.

B. In the Town Center District, the site plan shall also include evidence of the applicant's effort to conform to the Town of Milton Town Center Design Guidelines (Appendix A Editor's Note: The guidelines are included at the end of this chapter.).

C. The Town should apply the following criteria as part of their site plan review prior to the issuance of a building permit for improvements within the Part 77 Surfaces:

(1) All development proposals shall be required to provide a completed FAA Form 7460-1, Notice of Proposed Construction or Alteration, to determine potential impacts to airport airspace. If the Building Department determines the proposal may impact airport airspace, the Building Department shall advise the county personnel responsible for the overall management and operation of the airport to determine what, if any, FAA notification and review must be obtained prior to approval for construction.

(2) Except as necessary and incidental to airport operations, no building, structure or object of natural growth shall be constructed, altered or allowed to grow so as to project or otherwise penetrate the airspace surfaces.

(3) No use shall be made of any land that will cause electrical interference with navigational signals or radio communications at the airport or with the radio or electrical communications between the airport and aircraft.

(4) No use, building or structure shall emit emissions of fly ash, dust, vapor, gases or other forms of emissions that may conflict with any planned operations of the airport.

(5) No use shall be permitted that will foster an increase in bird population and thereby increase the likelihood of a bird impact problem.

(6) No structure, device or other object shall be placed or erected that makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of the pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft.

(7) The Town may permit objects that exceed the height limitations as special exceptions if the Federal Aviation Administration (FAA) has stated in writing that they will not constitute an undue hazard to aviation, and provided that the objects are marked in accordance with the requirements of the FAA.

(8) Uses lawfully permitted and established prior to the adoption of these provisions may be maintained, repaired or reconstructed in accordance with the nonconforming use and structure provisions of the Zoning Code. However, no structure or object shall be expanded that will allow it to project or penetrate the airspace surfaces or otherwise increase the likelihood of hazards to aviation operations.

D. Consultant review. In its review, the Town Planning Board shall consult with the Zoning Enforcement Officer, Superintendent of Highways, other local and county officials and its designated private consultants, in addition to representatives of state agencies, including but not limited to the State Departments of Transportation, Health and Environmental Conservation.

E. Public hearing. The Town Planning Board may conduct a public hearing on the application for site plan approval. The public hearing shall be conducted within 62 days of the receipt of the completed application and shall be advertised in the official newspaper of the Town at least five business days before the public hearing.

F. Required referral. Prior to taking action on the site plan, the Town Planning Board shall refer the site plan, when applicable, to the Saratoga County Planning Board for advisory review and a report in accordance with Consolidated Laws of New York State, Town Law §§ 239-l and 239-m.

§ 180-54. Planning Board action on site plan.

Within 62 days of the receipt of a completed application for site plan approval or within 62 days of the conduct of a public hearing, whichever shall last occur, the Town Planning Board shall act on the site plan application.

A. Action by resolution.

(1) The Town Planning Board shall act by resolution to either approve, disapprove or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's office and delivered or mailed to the applicant within five business days of the Town Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Town Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submission requirements stated herein.

(2) If the Town Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Town Planning Board may recommend further study of the site plan and resubmission to the Town Planning Board after it has been revised or redesigned.

B. Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Town Planning Board, the applicant shall within six months, submit six prints. The site plan submitted for stamping shall conform strictly to the site plan approved by the Town Planning Board, except that it shall further incorporate any revisions or other modifications required by the Town Planning Board and shall be accompanied by the following additional information:

(1) A record of application for and approval status of all necessary permits from federal, state and county officials.

(2) Detailed sizing and final material specifications of all required improvements.

(3) An estimated project construction schedule and, if a performance guaranty is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate.

C. Effect of stamping by the Town Planning Board. Upon stamping and signing by the Chairman, the Town Planning Board shall forward a copy of the approved site plan to the Zoning Enforcement Officer and the applicant. The Zoning Enforcement Officer may then issue a building permit or certificate of occupancy if the project conforms to all other applicable requirements.

§ 180-55. Reimbursable costs.

Reasonable costs incurred by the Town Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in § 180-52 herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.

§ 180-56. Performance guaranty.

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified within § 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guaranty shall be determined by the Town Planning Board after consultation with the Town Attorney, the Zoning Enforcement Officer, other local officials or its designated private consultants.

§ 180-57. Inspection of improvements.

The Zoning Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town's private consultants and other local officials and agencies, as may be appropriate for multifamily residential, institutional, commercial and light industrial projects, which may include the creation of as-built drawings.

§ 180-58. Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with either another procedure in this chapter, the requirements of the Chapter 154, Subdivision of Land, or the requirements of the State Environmental Quality Review Act, Editor's Note: See Environmental Conservation Law § 8-0101 et seq. the Town Planning Board may integrate, if it deems appropriate and to the extent of its authority under law, site plan review as required by this chapter with the procedural and/or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Town Planning Board and the applicant, reasonable modification of the time schedules otherwise stated in this chapter or in said related regulations or requirements.

§ 180-59. Relief from decisions.

Any person or persons jointly or severally aggrieved by any decision of the Town Planning Board on a site plan approval application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within 30 days after the filing of the Town Planning Board's decision in the office of the Town Clerk.

ARTICLE IX. Planned Development District

§ 180-60. Intent and objectives.

A. The planned development procedure provides a flexible land use and design regulation through the use of performance criteria so that development may be matched with sensitivity to the unique characteristics of its site and innovative development techniques may be accommodated that might not otherwise be possible through strict application of standard land use regulation and subdivision requirements. The conventional use, area, bulk and density specifications set forth by other sections of this chapter are intended to be replaced by the approved PD District plan, which then becomes the basis legislatively established by the Town Board for detailed design, review and control of subsequent development.

B. While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with the Town of Milton Comprehensive Plan, municipal service capability and the purposes of this chapter, as specified in § 180-3, shall ensure the general welfare through equal treatment under the law as well as precise control of aspects of the development as approved.

C. While reviewing planned development districts, the Town Board shall consider the health, safety and welfare of the residents of the Town of Milton, as well as the aesthetics of all proposed improvements. The Town Board

shall use the provisions of the special permit, and site plan sections of this chapter and the Town of Milton Comprehensive Plan to help guide their consideration of all planned development districts.

§ 180-61. General criteria.

The legislative determination to establish a Planned Development District shall be based upon the following standards:

A. Location. A Planned Development (PD) District, except for senior housing, may be established in any districts in the Town of Milton, but only if the objectives and provisions of this chapter are satisfied as determined by the Planning Board and the Town Board. Location of senior housing planned developments are subject to the Schedule of Use Regulations. Editor's Note: See § 180-87, District Schedule of Use Regulations.

B. Development areas.

(1) The minimum development area required to qualify for a Planned Development District in the case of residential use shall be 50 contiguous acres of land.

(2) The minimum development area required to qualify for a Planned Development District in the case of business or light industrial uses, as classified by the District Schedule of Use Regulations, § 180-86, shall be 15 contiguous acres.

(3) The minimum development area required to qualify for a Planned Development District for senior housing shall have a minimum of 2.5 contiguous acres.

(4) The calculation of such land area shall not include existing streets, easements, parks or otherwise dedicated land or acreage or lands undevelopable by reasons of topography, drainage, occurrence of wetlands, periodic inundation by floodwaters or adverse subsoil conditions. Sites proposed for development for two or more use classifications shall consist of the aggregate of the gross land areas required for each use.

C. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple ownership, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.

D. Permitted uses in PD Districts. All uses within an area designated as a PD District are determined by the provisions of this section and the approved plan of the project concerned.

(1) For a PD District involving mixed uses, such as a residential development with associated service uses, the following shall apply:

(a) Residences may be of any variety of type and density as appropriate within the intent and objectives of this PD District regulation.

(b) Private garages, storage spaces and recreational and community facilities shall be permitted as appropriate within the Planned Development District.

(c) Commercial, service and other nonresidential accessory uses may be permitted or required where such are scaled to serve the residents of the PD District and, as necessary, the surrounding community.

(2) Based upon a market analysis, commercial, service, light industrial and other nonresidential uses may be permitted as principal uses if integral to the design of the PD District and if such uses are supportive to the PD District and the community population in terms of work force, design and character and if such uses are consistent with the Town's planning and development objectives. Consideration shall be given to the project as it exists in its community setting to determine the appropriateness of such use.

E. Intensity of residential land use. The residential density allowed within the Planned Development District shall be determined by the approved Planned Development District site plan. Where a Planned Development

District occurs by rezoning of a prior residential district as established by this chapter, the gross density may be increased by 50% of that otherwise permitted in the § 180-86, District Schedule of Area and Bulk Regulations, for the prior residential district, provided that, if deemed desirable by the Town Board, not less than 15% of the dwelling units within the proposed planned development are affordable housing units, as statistically documented by the Town's planning consultant. Residential Planned Development Districts are ineligible for the open space incentive available to residential development in the R2 District.

F. Water supply and sewage disposal. Any planned development including residential uses shall be served by a community water system and sewage disposal facilities in accordance with the requirements of the Town of Milton and the New York State Departments of Health and Environmental Conservation.

G. Open space requirements for residential, commercial, industrial or mixed-use planned developments.

(1) Residential. Common open space totaling not less than 40% of the total tract of a residential Planned Development District shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports and other features. A homeowners' association or similar mechanism for the long-term ownership and maintenance of this common open space shall be provided, subject to the approval of the Town Planning Board, and the grant of a conservation easement to further ensure the protection of this open space may be required.

(2) Commercial, industrial or mixed-use. Common open space totaling not less than 33% of the total tract of a commercial, industrial or mixed-use Planned Development District shall be provided in perpetuity, and not less than 25% of each area or division within a commercial, industrial or mixed-use Planned Development District shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas and other features. The developer, a small manager, tenants' association or similar mechanism shall be provided for the long-term ownership and maintenance of the common open space, subject to the approval of the Planning Board, and the grant of a conservation easement to further ensure the protection of this open space may be required.

§ 180-62. Review and approval procedure.

A. Application. Application for establishment of a Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the Environmental Conservation Law. The Town Board shall refer the application to the Planning Board and, if necessary, its designated planning and engineering consultants for review and recommendation within 30 days of the date of application. The Planning Board shall require the applicant to furnish basic site data pertaining to the boundaries of the proposed Planned Development District, existing zoning, the topography and subsoil conditions and such land use and utility and access plans as may be required by the Town Planning Board for a reasonable understanding of the nature and character of the proposed development.

B. Town Planning Board review.

(1) In its review of the application, the Town Planning Board shall generally follow the procedure established within Chapter 154, Subdivision of Land, for preliminary plat review of a major subdivision. The Town Planning Board shall additionally consider, among other factors, the following:

- (a) The need for the proposed land use or uses at the proposed location.
- (b) The existing character of the neighborhood in which the use or uses would be located.
- (c) The location of principal and accessory buildings on the site in relation to one another.
- (d) The pedestrian circulation and open space configuration in relation to structures.
- (e) The traffic circulation features within the site and the amount, location and access to vehicular parking areas.
- (f) Location in relation to the Stream Corridor Overlay, steep slopes, wetlands and flood zones.

(g) The availability of adequate water and provisions for sewage disposal on site, erosion control and stormwater management.

(h) Maintenance, safety, impact on neighbors and aesthetics.

(i) Compatibility of the proposal to the Town's Comprehensive Plan, Town Center Master Plan and this chapter.

(2) The Town Planning Board may recommend at this stage such changes in the proposed PD District plans that it deems necessary to protect established or permitted uses in the vicinity, promote and protect the orderly growth and sound development of the Town and otherwise meet the requirements of this chapter.

(3) The Town Planning Board shall recommend approval, approval with modifications or disapproval to the Town Board of such PD District application and shall report its findings to the Town Board within 62 days following the date of referral from said Board.

C. Town Board action. Upon receipt of the Town Planning Board's report, the Town Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment. The procedure followed shall be as specified in Article XIV of this chapter. In particular, any application for creation of a Planned Development District shall be considered a Type 1 action under SEQR.

D. Revisions to PDD.

(1) Minor variances (setbacks, etc.), with the approval of the Town Board, may be reviewed and granted by the Zoning Board of Appeals.

(2) Major revisions to the PDD: Reference §§ 180-79 through 180-82.

§ 180-63. Relationship to other provisions.

A. Upon approval of the Planned Development District by the Town Board, application shall be made within 180 days for approval of all or some portion of the intended development, in accordance with the more specific review requirements of Chapter 154, Subdivision of Land, the site plan review and approval procedure contained in Article VIII herein and other applicable regulations.

B. Any planned development district properly created prior to June 20, 2001, shall remain in full force and effect subject to the conditions and requirements expressed in its approval by the Town Board.

C. Additional performance requirements which may have been specified by the Town Board in its PD District approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, shall also be strictly enforced, with the Town Board acting to return the property to its prior zoning district classification unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.

§ 180-64. Conditions to run with land.

All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

ARTICLE X. Nonconforming Uses and Structures

§ 180-65. Applicability.

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this chapter, to all buildings and uses that may become nonconforming or noncomplying by reason of any subsequent

amendment to this chapter and the Zoning District Map which is a part thereof and to all complying buildings housing nonconforming uses.

§ 180-66. (Reserved)

§ 180-67. Nonconforming uses.

A. Expansion. Nonconforming use shall not be enlarged or extended beyond the area occupied by such use at the time of the adoption of this chapter.

B. Relocation. A nonconforming use may not be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use.

C. Modification. A nonconforming use shall not be changed to any other nonconforming use. A nonconforming use shall not be changed to any other use within the same use category as shown on the District Schedule of Use Regulations (§ 180-87) without prior approval by the Board of Appeals and then only to a use which, as determined by the Board of Appeals, is of the same or a more restricted nature.

D. Destruction. If any building or structure in which a nonconforming use is conducted is hereafter removed or destroyed by fire, wind, explosion, structural failure or other natural cause to the extent of 50% or more of its true market value at the time of such damage, as adjusted from assessed value based upon State Board of Equalization rates, it shall not be repaired or rebuilt unless a special permit is granted by the Planning Board.

E. Discontinuance. If a nonconforming use is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use on that premises shall conform to the regulations of the district in which it is located.

§ 180-68. Nonconforming buildings or structures.

A. Additions or alterations.

(1) A nonconforming building or structure shall not be added to or enlarged in any manner unless such nonconforming building or structure, and the use thereof, is made to conform to all the regulations of the district in which it is located.

(2) A nonconforming building or structure may not be altered except to create a conforming building or structure.

B. Maintenance and repairs.

(1) A nonconforming building or structure is hereby required to be maintained in such condition as shall be made that it will not constitute a danger to the safety, health or general welfare of the public.

(2) No structural alterations shall be made to any nonconforming building or structure unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a nonconforming building or structure in sound condition.

C. Discontinuance.

(1) A building or structure or a portion thereof shall be deemed discontinued if the building or structure is vacant for 12 months or if there is a manifestation of a clear intent on the part of the owner to abandon the nonconforming building or structure.

(2) If deemed discontinued, such building or structure shall not be reestablished, and any subsequent use shall not commence until the building or structure is brought into conformity with the provisions of the district in which the premises are located.

D. Restoration. A nonconforming building or structure destroyed or damaged by fire, wind, explosion, structural failure or other natural cause to the extent of 50% or more of its replacement value at the time of such damage shall not be repaired or rebuilt unless the appropriate variances are granted by the Board of Appeals.

§ 180-69. Validity of building and zoning permits and subdivision approvals.

A. A permit for a building, structure or use which does not comply with the provisions of this chapter will only be valid if it has been lawfully granted and under which construction has been started or a substantial change of position, expenditure or incurrence of obligation has occurred and which has been diligently pursued before the adoption of this chapter. Construction of such building or structure must be completed, or use initiated, within 18 months from the time of the adoption or amendment of this chapter.

B. Subdivisions that have been granted preliminary or final plat approvals under Chapter 154 of the Town of Milton Code which would otherwise be noncomplying with Chapter 180 or Chapter 154 of the Code shall be allowed to continue to be developed as approved so long as the final subdivision approval, when and if granted, is filed in the office of the Saratoga County Clerk pursuant to the Town Law.

ARTICLE XI. Administration and Enforcement

§ 180-70. Enforcement official; right to inspect.

A. The Zoning Enforcement Officer shall administer and enforce all provisions of this chapter, except where otherwise specifically provided herein. Whenever any permit is required, the same shall be applied for and shall be issued in the first instance from the Office of the Zoning Enforcement Officer in accordance with the requirements of this chapter and other applicable Town, county and state regulations governing building construction and the issuance of building permits.

B. Except for residential uses, the Zoning Enforcement Officer shall have the right to enter upon, examine and inspect or cause to be entered, examined and inspected any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Zoning Enforcement Officer.

§ 180-71. Powers and duties of the enforcement official.

In addition to all other authority conferred by law, the Zoning Enforcement Officer shall have the following powers and duties with respect to this chapter:

A. Issuance of building permits.

(1) Except as provided in § 180-17C of this chapter as pertains to portable and other minor accessory structures, no development shall be commenced and no building or structure shall be erected, altered, reconstructed or enlarged and no excavation for any building begun nor shall substantial alteration of or additions to facilities such as sewage disposal systems, electrical systems, water supply systems, including plumbing or drainage facilities and drinking water well creation be undertaken until the Zoning Enforcement Officer or Code Enforcement Official has issued a building permit stating that the proposed use and structure comply with all applicable provisions of this chapter.

(2) All building permit applications shall be accompanied by three copies of a plot plan or an approved site plan, if applicable, drawn to scale and accurately dimensioned, showing the location of all existing and proposed structures on the lot and such other information as may be required by the Zoning Enforcement Officer to determine compliance with this chapter and other applicable regulations. One copy of such plan, when approved by the Zoning Enforcement Officer, shall be returned to the applicant upon payment of the required building permit fee. Said fee shall be in accordance with the fee schedule reviewed and established annually by the Town Board.

B. Issuance of certificates of occupancy.

(1) Except as provided in § 180-17C of this chapter, no use shall be established on land, use and structure occupied or otherwise used until the Zoning Enforcement Officer or Code Enforcement Official has issued a

certificate of occupancy stating that the use, land and structure comply with all applicable provisions of this chapter.

(2) More particularly, no building permit or certificate of occupancy shall be issued for any special use of a building or land requiring special permit or site plan approval by the Town Planning Board unless and until such special use permit or site plan approval has been granted by the Town Planning Board. Every certificate of occupancy for which special permit or site plan approval has been granted or in connection with which a variance has been granted by the Board of Appeals shall contain a detailed statement of any condition to which the same is subject and include, by attachment, a copy of such Board of Appeals or Town Planning Board decision.

C. Issuance of notices of violation. Whenever, in the opinion of the Zoning Enforcement Officer, after proper examination and inspection, there appears to exist a violation of any provisions of this chapter or of any rule or regulation adopted pursuant thereto, he shall, on his own initiative, serve a written notice upon the appropriate person or persons responsible for such alleged violation. Such notice shall inform the recipient of the nature and specific details of such alleged violation and the date of compliance by which the alleged violation must be remedied or removed, which date shall be not more than 20 days from the date of notice.

D. Issuance of stop orders. Whenever the Zoning Enforcement Officer has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this chapter, not in conformity with any applications made, permit granted or other approval issued hereunder or in an unsafe or dangerous manner, the Zoning Enforcement Officer shall promptly notify the appropriate person or persons responsible to suspend work on any such building or structure or the use of any such land. Such persons shall forthwith suspend such activity until such time that the stop order has been rescinded by the Zoning Enforcement Officer or Code Enforcement Official. Such order and notice shall be in writing and shall state the conditions under which the work or use may be resumed by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction or premises in use. In addition, a copy of the same shall be sent to the person or persons responsible by certified mail.

E. Taking of emergency action. If, in the opinion of the Zoning Enforcement Officer, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to other persons, the Zoning Enforcement Officer may direct such violation be immediately remedied or may take direct action on his own initiative to abate the hazard. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Zoning Enforcement Officer shall keep on file an affidavit stating, with fairness and accuracy, the items of expense and date of execution of action taken and is furthermore authorized to institute a suit, after Town Board approval, against the person liable for such expenses, in order to recover said costs.

§ 180-72. Penalties for offenses.

A. Civil penalty.

(1) As provided by § 268 of the Town Law, violation of any provision or requirement of this chapter or violation of any statement, plan application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine as follows:

(a) For a first offense, by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both.

(b) For a second offense, both of which were committed within a period of five years, by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both.

(c) For a third or subsequent offense, all of which occurred within a period of five years, by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.

(2) However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(3) The owner, general agent or contractor of a building premises or part thereof where such violation has been committed or does exist and any agent, contractor, builder, architect, corporation or other person who commits or takes part or assists in such violation shall be liable for such an offense. All such penalties shall be collectible by and in the name of the Town. Each and every week that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be given, in writing, by the Zoning Enforcement Officer or Code Enforcement Official and shall be served by either certified mail or personal service.

B. Court action. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting an appropriate legal action or proceedings in a court of competent jurisdiction to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion or maintenance of use or to restrain by injunction, correct or abate a violation or prevent the illegal occupancy of a building, land or premises.

C. Citizen action. If the Zoning Enforcement Officer or Code Enforcement Official fails or refuses to act upon or refer a violation of this chapter to the Town Attorney for legal action in accordance with the provisions stated herein within a ten-day calendar period following written request by any taxpayer to so proceed or if the Town Attorney fails to promptly initiate a legal action or proceedings, then any three or more residents and/or property owners within the Town of Milton may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain, by injunction, the violation of this chapter.

D. Individual action. Nothing contained herein shall in any way restrict the right of an aggrieved individual to institute an appropriate legal action or proceedings on his/her own behalf for equitable relief or for damages alleged to have been suffered as a result of the violation of this chapter.

§ 180-73. Status of existing violations.

No building permit or certificate of occupancy required by this chapter shall be issued by the Zoning Enforcement Officer or Code Enforcement Official pertaining to any premises on which there exists a violation of this chapter or any related Town regulation which governs either building construction or the use of land and structures within the Town of Milton.

ARTICLE XII. Planning Board

§ 180-73.1. Powers and duties.

A. The responsibilities of the Planning Board are as follows:

- (1) Reviewing subdivision applications.
- (2) Reviewing site plans.
- (3) Reviewing applications for special use permits.
- (4) Preparation of changes to the Comprehensive Land Use Plan (unless the Town Board creates a separate committee for this purpose) and review of proposed amendments to this chapter.
- (5) Any other matter that the Town Board shall, by amendment to this chapter, decide to vest as responsibilities of the Planning Board.

B. In carrying out these functions, the Planning Board shall have all of the powers described in § 274-a of the Town Law related to site plan review; § 274-b of the Town Law related to approval of special use permits; and §§ 276, 277, 278 and 279 of the Town Law related to review of subdivision plats.

§ 180-73.2. Creation and appointment.

A. The Town Board is authorized to create a Planning Board consisting of seven members and shall, by resolution, appoint the members of such Board and designate the Chairperson. In the absence of a Chairperson, the Planning Board may designate a member to serve as Chairperson. All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Board may

determine. Such Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(1) The Town Board may provide for the compensation of Planning Board members.

(2) The Town Board may make such appropriation as it may see fit for Planning Board expenses. The Planning Board shall have the power and authority to employ experts, clerks and a Secretary and to pay for their services and to provide for such other expenses as may be necessary and proper.

(3) The Town Board shall require Planning Board members to complete training and continuing education courses in accordance with the provisions provided below.

B. Terms of members.

(1) The terms of members of the Board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the Board.

(2) Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

(3) If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

C. Minimum attendance requirements. No Planning Board member shall be absent from more than two meetings in any one calendar year. Meetings shall include regular and special meetings of the Board. Legitimate medical and personal excuses communicated to the Board Chair prior to the meeting shall be excused.

D. Training and continuing education. Every member of the Planning Board shall annually attend one or more training or continuing education course, or the equivalent of four hours, related to the work of the Planning Board. The Chair of the Planning Board shall approve and document all training and continuing education. The Town Board shall pay the reasonable expense of such training or continuing education.

E. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.

F. The Planning Board may review and make recommendations on a proposed Town Comprehensive Plan or amendment thereto. In addition, the Planning Board shall have full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the Town as it seems desirable, provided that the total expenditures of said board shall not exceed the appropriation provided therefor.

G. Alternate members.

(1) The Town Board may establish alternate Planning Board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest only.

(2) Alternate members of the Planning Board shall be appointed by resolution of the Town Board, for terms established by the Town Board. The Chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest 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 Planning Board meeting at which the substitution is made.

H. All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

ARTICLE XIII. Zoning Board of Appeals

§ 180-74. Powers and duties.

A. Appeals. The Board of Appeals shall perform the duties and powers prescribed by the laws of New York State and by this chapter in connection with requests for variances from this chapter and appeals to review any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this chapter. Unless otherwise provided by this chapter, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative officials charged with the enforcement of this chapter.

B. Administrative review. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, interpretation or determination of any such administrative official or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town. The Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this chapter. In so doing, the Board of Appeals shall have all of the powers of such officials in granting relief in the form of reversal, modification, affirmation, interpretation or determination.

C. Variances.

(1) The Board of Appeals shall have the power to vary or modify the application of this chapter. Upon appeal for a variance and after public notice and hearing, the Board of Appeals may grant such variances relating to the use, area, construction or alteration of structures or use of land so that the spirit of this chapter is observed, public safety and welfare secured and substantial justice done.

(a) Use variances.

[1] Use variances shall not be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:

[a] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

[b] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

[c] That the requested use variance, if granted, will not alter the essential character of the neighborhood.

[d] That the alleged hardship has not been self-created.

[2] The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proved by the applicant and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(b) Area variances.

[1] In its consideration of area variances, the Board of Appeals shall take into account the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:

[a] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[b] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

[c] Whether the requested area variance is substantial.

[d] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

[e] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

[2] The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(2) Imposition of conditions. The Board of Appeals shall, in the granting of use variances and/or area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the Town of Milton.

§ 180-75. Creation, appointment and organization.

A. The Town Board, pursuant to the powers granted by this chapter, shall appoint a Board of Appeals consisting of five members and shall designate the Chairperson thereof. In the absence of a Chairperson, the Board of Appeals may designate a member to serve as Acting Chairperson. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(1) The Town Board may provide for the compensation of Board of Appeals members.

(2) The Town Board may provide for compensation to be paid to experts, clerks and a Secretary and provide for such other expenses as may be necessary and proper.

(3) The Town Board shall require Board of Appeals members to complete training and continuing education courses in accordance with requirements for the training of such members.

B. Terms of members first appointed.

(1) In the creation of a new Board of Appeals, or the reestablishment of terms of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a term which shall be equal in years to the number of members of the Board.

(2) Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

(3) If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

C. Minimum attendance requirements. No member of the Board of Appeals shall be absent from more than two meetings in any one calendar year. Meetings shall include regular and special meetings of the Board. Legitimate medical and personal excuses communicated to the Board Chair prior to the meeting shall be excused.

D. Training and continuing education. Every member of the Board of Appeals shall annually attend one or more training or continuing education course, or the equivalent of four hours, related to the work of the Board of Appeals. The Chair of the Zoning Board of Appeals shall approve and document all training and continuing education. The Town Board shall pay the reasonable expense of such training or continuing education.

E. Decreasing membership. The Town Board may, by local law or ordinance, decrease the number of members of the Board of Appeals to three to take effect upon the next two expirations of terms. However, no incumbent shall be removed from office except upon the expiration of his or her term.

F. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Board of Appeals for cause. Any Board of Appeals member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.

G. Alternate members.

(1) The Town Board may establish alternate Board of Appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest only.

(2) Alternate members of the Board of Appeals shall be appointed by resolution of the Town Board, for terms established by the Town Board. The Chairperson of the Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest 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 Board of Appeals meeting at which the substitution is made.

H. All provisions of this section relating to Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

§ 180-76. Procedures.

In its quasi-judicial role, the Board of Appeals shall act in strict accordance with the procedure specified by § 267-a of the Town Law and this chapter.

A. Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of three members, but in order to reverse a decision of the Zoning Enforcement Officer or authorize a variance, an affirmative vote of at least three members shall be required. A favorable vote of a majority plus one, i.e., of at least four members, shall also be required if the action taken by the Board of Appeals is contrary to an advisory recommendation received from the Saratoga County Planning Board under the provisions of § 239-m of the General Municipal Law. The Board shall keep accurate minutes of its proceedings, documenting fully all findings and showing the vote of each member upon each question. All meetings of the Board of Appeals shall be open to the public, except in accordance with the executive session of the Open Meetings Law. Editor's Note: See Public Officers Law § 101 et seq.

B. Application and fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, within 62 days of the action appealed from and shall be accompanied by the applicable fee in accordance with the fee schedule annually reviewed and established by the Town Board. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the ground on which it is claimed that such variance should be granted. Each application shall also be accompanied by a short or full environmental assessment form, or DEIS, as required by the Environmental Conservation Law.

C. Public notice and hearing.

(1) The Board shall fix a reasonable time and place for a public hearing on any such appeal or application, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent. The Board shall additionally provide notice as follows:

(a) By publishing at least five business days prior to the date thereof a legal notice in the official newspaper of the Town.

(b) By requiring that the Secretary of the Board of Appeals provide notice at least five business days prior to the date thereof of the substance of every appeal for a variance, together with a notice of the hearing thereon, by mailing such to the owners of all property abutting that of the applicant and all other owners within 300 feet, or such additional distances as the Board of Appeals may deem advisable, of the boundaries of the land involved in the appeal. Compliance with this notification procedure shall be certified to by the Secretary.

(2) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

(3) Provided that there has been substantial compliance with this provision, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in either granting or denying an appeal for a variance from a specific provision of this chapter.

(4) If the land involved in the appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit at least five business days prior to the public hearing to the Municipal Clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.

D. Required referral. A full statement of any appeal that meets the specific referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Saratoga County Planning Board for its review. No action shall be taken by the Board of Appeals on such appeal until an advisory recommendation has been received from said County Planning Board or 30 days have elapsed since the County Planning Board received such full statement.

E. Decisions. Every decision of the Board of Appeals on an appeal or request shall be made within 62 days of the close of the hearing by the Board of Appeals, shall be recorded in accordance with standard forms adopted by the Board of Appeals and shall fully set forth the circumstances of the case and contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board of Appeals, with such decision being filed in the office of the Town Clerk within five business days thereof. The Board of Appeals shall also notify the Zoning Enforcement Officer or Code Enforcement Official, the Secretary of the Town Planning Board and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven days thereof with the Saratoga County Planning Board.

F. Attachment of conditions. In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of the Board of Appeals to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter and the criteria for granting relief stated in § 180-74C.

G. Expiration of approval. Construction of use must be commenced within one year from the date of granting a variance, and all work must be completed within two years. If work is not completed within two years, the applicant must apply for an extension not to exceed one year from the Board of Appeals. No additional filing fee will be charged.

H. Strict construction. All provisions of this chapter pertaining to the Board of Appeals shall be strictly construed. The Board of Appeals, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed, no applicant or appellant shall be deprived of the right of application or appeal.

§ 180-77. Appeal to stay proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and on due cause shown.

§ 180-78. Relief from decisions.

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provision of Article 78, except that the action must be initiated as therein provided within 30 days after the filing of the Board's decision in the office of the Town Clerk.

ARTICLE XIV. Amendment, Interpretation and Application

§ 180-79. Authority to amend.

This chapter or any part thereof, including the Zoning District Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Town Board in the manner provided by §§ 264 and 265 of the Town Law.

§ 180-80. Procedure for initiation of amendment.

An amendment to this chapter may be initiated in one of three ways:

A. By the Town Board upon its own motion.

B. By resolution of the Town Planning Board, filed with the Town Clerk, wherein certain changes to or repeal of certain provisions of this chapter are recommended, in which case it shall be the responsibility of the Town Board to act on such proposed amendment within 90 days of the time such resolution is filed by the Town Planning Board in the office of the Town Clerk.

C. By petition duly signed and acknowledged from the owners of 50% or more of the frontage in any zoning district or part thereof requesting an amendment, supplement or change in the regulations prescribed for such zoning district or part thereof, in which case it shall be the duty of the Town Board to act upon such petition for amendment within 90 days of the time such petition is filed by the petitioners in the office of the Town Clerk. Said petition shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.

§ 180-81. Report of the Planning Board.

A. All proposed amendments, supplements or changes to this chapter or the Town of Milton Comprehensive Plan originating by petition or by motion of the Town Board shall be referred to the Town Planning Board for a report and recommendation thereon. In undertaking such review, the Town Planning Board shall make inquiries and provide recommendations concerning the matters specified below:

(1) Whether such change is consistent with the purposes embodied in this chapter as applied to the particular zoning districts concerned.

(2) Which areas and establishments in the Town will be directly affected by such change and in what way will they be affected.

(3) Whether adequate public service and other support facilities exist or can be created to serve the needs of any additional development that may occur as a result of such change.

(4) The indirect implications of such change in its effect on other regulations.

(5) Whether such proposed amendment is consistent with the underlying objectives of this chapter.

B. The Town Planning Board shall submit its report within 30 days after receiving such referral from the Town Board. Failure of the Town Planning Board to report within the required time period shall be deemed to be a recommendation of approval of the proposed amendment.

§ 180-82. Procedure of Town Board.

A. Public notice and hearing. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:

(1) By publishing a notice at least 10 days prior to the time of such hearing in the official newspaper of the Town specifying:

(a) The nature of the proposed amendment.

(b) The specific land or land use district affected.

(c) The date, time and place where the public hearing shall occur.

(2) By providing a copy of such notice of any proposed change or amendment which will affect property within 500 feet of any other municipality to the Clerk of such municipality at least 10 days prior to the date of such public hearing.

B. Required referral. The Town Board shall transmit a full statement of any proposed amendment, whether a map amendment or a text amendment, that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Saratoga County Planning Board for its review and recommendation. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the Saratoga County Planning Board or 30 days have elapsed since said Saratoga County Planning Board received such full statement.

C. Compliance with SEQRA. Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status and environmental significance of the proposed amendment in accordance with Article 8 of the Environmental Conservation Law.

D. Town Board action. The Town Board may approve any such proposed amendment by a majority vote of said Board, except that a favorable vote of at least four members of the Town Board, i.e., a majority plus one, shall be required if:

(1) Action being taken is contrary to the advisory recommendation received from the Saratoga County Planning Board under the provisions of §§ 239-l and 239-m of the General Municipal Law; or

(2) In accordance with the provisions of § 265 of the Town Law, a protest petition against such amendment has been duly signed and acknowledged by the owners of at least 20% of the land area included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or that directly opposite thereto, extending 100 feet from the street frontage of such opposite land.

§ 180-83. Conflict with other provisions.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this chapter are inconsistent with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions or those imposing the higher standards shall govern.

§ 180-84. Effect on existing violations.

No site plan or special permit shall be approved nor building permit or certificate of occupancy issued nor variance granted under this chapter for any premises upon which there is an existing violation of this chapter or any related Town, county or state regulation governing either building construction or the use of land and structures within the Town of Milton. This limitation does not, however, prohibit such an approval, issuance or grant with respect to a legal nonconforming use or legal noncomplying structure.

§ 180-85. Periodic review.

From time to time the Town Board shall conduct a review of the effectiveness of the provisions of this chapter, including the location of zoning district boundaries.

ARTICLE XV. Schedules

§ 180-86. District Schedule of Area and Bulk Regulations.

Town of Milton

District Schedule of Area and Bulk Regulations

NOTE: R2os in the schedule below refers to the open space incentive option in accordance with § 180-30.

	R1	R2	R2os	TC	MU	CT	H1	H2	A
Maximum density (without sewer and water) dwelling unit per acre	1	0.2	0.2 ¹	1	1	X	1	1	X
Maximum density (with sewer and water) dwelling unit per acre	2	X	X	16 ²	16	X	3	3	X
Minimum lot area ³ (acres)	0.5	5	1	X	0.25	1	1	1	2
Maximum structure coverage	20%	10%	10%	75%	50%	20%	40%	40%	20%
Maximum impervious surface	50%	25%	25%	90%	75%	75%	60%	60%	75%
Maximum structure height (feet)	35	35	35	50 ⁶	35	35	35	35	35
Minimum lot width (feet)	100	200	100	X	75	150	50	50	300
Minimum front yard ⁴	50	150	50 ⁵	10	30	75	15	15	75
Maximum front yard	X	X	X	15 ⁷	X	X	X	X	X
Minimum side yard (feet)	20	50	20 ⁵	X	25	25	12	12	50
Minimum rear yard (feet)	50	75	75 ⁵	20	30	50	50	50	75

NOTES:

- ¹ A bonus of up to 50% above the maximum density (in terms of the number of dwelling units) may be granted by the Planning Board in accordance with § 180-30, Open space incentive option.
- ² Intended maximum density for apartment building. Actual density may be significantly less based on site plan review process, including consideration of compatibility with residential abutters.
- ³ Actual lot area may be significantly larger based on the maximum dwelling unit density.
- ⁴ Notwithstanding the setback provisions established above, structures in the residential districts may be built anywhere within the setbacks of the two adjacent structures on the same side of the street. Corner lots may use the setback of the adjacent lot on each side.
- ⁵ The building area of new lots created as part of a subdivision that takes advantage of the open space incentive shall have a minimum one-hundred-fifty-foot setback from all adjacent properties that are not part of the open space subdivision and from all preexisting Town, county and state roads.
- ⁶ No more than three stories shall be located within the maximum height.
- ⁷ Where a utility easement prevents building up to the proscribed setback, the new structure shall be located as close as possible to the street line.

§ 180-87. District Schedule of Use Regulations.

Town of Milton

District Schedule of Use Regulations

(Part 1)

	R1	R2	TC	MU	CT	H1	H2	A
Residential uses								
1-family dwelling	P	P	X	P	X	P	P	X
1-family dwelling, accessory-residential	SP	SP	X	SP	X	SP	SP	X
2-family dwelling	SP	SP	X	P	X	SP	SP	X
Dwelling, accessory — nonresidential	SP in all instances where the use of the principal building/structure is noted as P or SP in the specific district.							
Community residence	SP	SP	X	SP	X	SP	SP	X
Mobile home	X	X	X	X	X	X	X	X
Mobile home park expansion	X	SP	X	X	X	X	X	X
Multifamily dwelling	X	X	P	P	X	X	X	X

Town of Milton

District Schedule of Use Regulations

(Part 1)

	R1	R2	TC	MU	CT	H1	H2	A
Senior housing	PD	PD	PD	PD	X	PD	PD	X
General uses								
Farm operation	SP	P	X	X	X	P	P	X
Airport	X	X	X	X	X	X	X	SP
Camp	X	SP	X	X	X	SP	SP	X
Cemetery	SP	SP	X	X	X	SP	SP	X
Cultural facilities	SP	SP	SP	SP	X	SP	SP	X
Day-care center	X	SP	SP	SP	SP	SP	SP	X
Golf course	X	SP	X	X	X	SP	SP	X
Hospital	X	X	SP	SP	SP	X	X	X
Membership club	SP	SP	SP	SP	SP	SP	SP	SP
Private school	SP	SP	SP	SP	SP	SP	SP	SP
Private airstrip	X	SP	X	X	X	X	X	SP
Public buildings	SP	SP	SP	SP	SP	SP	SP	SP
Public recreation areas	P	P	SP	P	X	P	P	X
Religious institution	SP	SP	SP	SP	SP	SP	SP	SP
Accessory uses								
Accessory retail	X	X	P	X	P	SP	SP	SP
Accessory dwelling	SP	SP	SP	SP	SP	SP	SP	X
Accessory structure	P	P	P	P	P	P	P	P
Family group day care	SP	SP	X	SP	X	SP	SP	X
Family day care	P	P	X	P	X	P	P	X
Home occupation — Class 1	P	P	P	P	X	P	P	X
Home occupation — Class 2	SP	SP	X	SP	X	SP	SP	X

Town of Milton

District Schedule of Use Regulations

(Part 1)

	R1	R2	TC	MU	CT	H1	H2	A
Private stables	SP	P	X	X	X	SP	SP	X
Roadside stand	SP	P	X	X	X	P	P	X
Business uses								
Bar	X	X	P	X	SP	SP	SP	X
Bed-and-breakfast home	SP	P	SP	SP	X	P	P	X
Bed-and-breakfast establishment	SP	SP	SP	X	X	SP	SP	X
Building materials supply	X	X	X	X	P	X	X	X
Commercial recreation	X	SP	SP	X	SP	X	X	X
Commercial stables	X	SP	X	X	X	SP	SP	X
Convenience store	X	X	SP	X	SP	SP	SP	X
Drive-through	X	X	SP	X	SP	SP	SP	X
Fast food	X	X	SP	X	SP	X	X	X
Funeral home	SP	X	X	X	P	X	X	X
Gasoline or service station	X	X	SP	X	SP	X	X	X
General office	X	X	P	X	P	SP	SP	X
Hotel	X	X	P	X	SP	X	X	X
Kennel, commercial	X	SP	X	X	SP	X	X	X
Nursery	X	SP	X	X	X	X	X	X
Personal service	X	X	P	X	P	P	P	X
Personal transportation service	X	X	SP	SP	SP	X	X	SP
Restaurant	X	X	P	X	P	P	P	SP
Retail business	X	X	P	X	P	SP	SP	X
Self-service laundry	X	X	SP	X	SP	X	X	X
Sexually oriented	X	X	SP	X	SP	X	X	X

Town of Milton

District Schedule of Use Regulations

(Part 1)

	R1	R2	TC	MU	CT	H1	H2	A
business								
Veterinarian clinic	X	SP	SP	SP	SP	SP	SP	X
Light industrial uses								
Auto sales and rental	X	X	X	X	SP	X	X	X
Commercial radio and television antennas	X	SP	X	X	X	X	X	SP
Contractor's yard	X	X	X	X	X	X	X	X
Forest and forest farming operations	P	P	X	X	X	X	X	P
Junkyard	X	X	X	X	X	X	X	X
Landfill operations	X	X	X	X	X	X	X	X
Light manufacturing	X	X	X	X	SP	X	X	SP
Mining	X	SP	X	X	X	X	X	X
Motor vehicle junkyard	X	X	X	X	X	X	X	X
Public utility use	X	SP	X	SP	SP	X	X	X
Research laboratories	X	X	X	X	SP	X	X	SP
Storage business	X	X	X	X	X	X	X	SP
Telecommunication towers and satellite antennas	X	SP	X	SP	SP	SP	SP	SP
Wholesale business	X	X	X	X	X	X	X	X

NOTES:

All uses within a PD District established on a project-specific basis shall be permitted in accordance with Article IX of this chapter.

Attachments:

180a Zoning Map (color)

180b Town Center Design Guide

180c Rural Development Design Guidelines

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 Milton adopted since the 2008 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).] The last legislation reviewed for the 2008 publication of the Code was L.L. No. 2-2007, adopted 12-26-2007.

§ DL-1. Disposition of legislation.

L.L. No.	Adoption Date	Subject	Disposition
1-2008	6-25-2008	Adoption of Code	Ch. <u>1</u> , Art. <u>1</u>