

Attachment D

Copies of Local Laws the
Applicant Requests
that the Commission Refuse to
Apply

The following are copies of all local legal requirements that, as applied to the Project, the Applicant believes to be unreasonably restrictive in view of the existing technology, factors of cost or economics or the needs of consumers:

Town of Ballston

Chapter 138. Zoning

Article VII. Rural District Regulations

§ 138-10. Uses permitted.

All uses permitted and all uses requiring a special permit are listed on the Allowable Use Table.

ZONING									
Town of Ballston									
Table of Uses, Area, Frontage and Setback Requirements									
Rural District									
[Added 9-30-2003 by L.L. No. 4-2003; amended 6-1-2004 by L.L. No. 3-2004; 1-4-2005 by L.L. No. 1-2005; 6-1-2006 by L.L. No. 5-2006; 9-5-2006 by L.L. No. 6-2006; 2-3-2009 by L.L. No. 3-2009; 5-5-2009 by L.L. No. 9-2009]									
Permitted Use	Special Use Permit	Review Board	Minimum Lot Area (square feet)	Minimum Lot Width	Maximum Building Coverage	Maximum Building Height (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet) ³
One-family dwelling without water or sewer			80,000	175	30%	40	60	15 or height	15 or height
One-family dwelling with water or sewer ¹			40,000	175	30%	40	60	15 or height	15 or height
Municipal buildings			Not required to conform to space regulations						
Agricultural uses (with or without animals)									
Conservation subdivisions		PB	See § 138.10.3 and Chapter 104.						
Home occupations without water and sewer		ZBA	80,000	175	30%	40	60	15 or height	15 or height
Home occupations with water or sewer		ZBA	40,000	175	30%	40	60	15 or height	15 or height
Education facilities		PB	80,000	175	30%	40	60	15 or height	15 or height
Libraries		PB	80,000	175	30%	40	60	15 or height	15 or height
Community service and place of worship		PB	80,000	175	30%	40	60	15 or height	15 or height
Mobile home park		PB	Article XVIII						
Outdoor recreation		PB							
Airfields		PB							
Sawmills		PB	80,000		30%	40	60	15 or height	15 or height
Sales and service of farm equipment		PB	80,000		30%	40	60	15 or height	15 or height
Cemeteries		PB							
Campgrounds and parks		PB							
Veterinary hospital with boarding kennel		PB	80,000	175	30%	40	60	15 or height	15 or height
Boarding kennel		PB	80,000	175	30%	40	60	15 or height	15 or height

NOTES:

Any uses not listed are not permitted.

New flag lots permitted in the Rural District only per § 104-12E; minimum street frontage is 60 feet.

¹ In the Watershed Protection Overlay District, the minimum lot size of 40,000 square feet for a one-family dwelling with water or sewer is not permitted. A lot size of 40,000 square feet is permitted with water and sewer.

² In the Watershed Protection Overlay District, the minimum lot size of 40,000 square feet for home occupations with water or sewer is not permitted. A lot size of 40,000 square feet is permitted with water and sewer.

³ Rear setback for residential accessory structure ≤ 120 square feet is six feet.

KEY: PB: Planning Board ZBA: Zoning Board of Appeals TB: Town Board

138:A53

05 - 01 - 2010

Chapter 138. Zoning

Article XII. Activity Standards for Annoying and Injurious Substances, Conditions and Operations

§ 138-41. Applicability of standards.

The following activity standards shall apply in all districts and shall be subject to any and all currently effective New York State and/or federal regulations.

§ 138-42. Vibration.

No vibration shall be discernible at the lot lines or beyond.

§ 138-43. Smoke.

No emission of visible gray smoke of a shade equal to or darker than Number 2 on the Ringelmann Chart, measured at the point of emission, shall be permitted.

§ 138-44. Odors.

No offensive odor shall be noticeable at the lot line or beyond.

§ 138-45. Fly ash; dust.

No emission which can cause any damage to health, animals or vegetables or other forms of property or any excessive soiling shall be permitted.

§ 138-46. Glare.

No direct or sky-reflected glare shall be visible at the lot line or beyond.

§ 138-49. Noise.

No continuous hum, intermittent noise or noise with any noticeable shrillness of a volume of more than 50 decibels, measured at lot lines, shall be permitted.

§ 138-52. Electrical interference.

Electrical operations shall not create disturbances to radio and television reception in the vicinity.

Town of Malta

Chapter 115. Noise

§ 115-1. Intent; construction.

A. It is the intent of the Town to prevent excessive, unnecessary or unusually loud noises. It is further intended that the provisions and prohibitions hereinafter contained and enacted are in the pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Town of Malta and its inhabitants.

B. This chapter shall be liberally construed so as to effectuate the purposes described herein.

C. Nothing in this chapter shall be deemed to limit other provisions of the Code. Where one or more other provisions of the Code may address matters proscribed or controlled in this chapter, the most restrictive shall apply.

§ 115-2. Unlawful acts.

A. The creation or reproduction of certain noises as defined or described below is prohibited.

(1) Horns and signaling devices: The sounding more than three times in any five-minute period of any horn or other signal device on any automobile, motorcycle, bus or other vehicle, while stationary, except as a danger signal when an approaching vehicle is apparently out of control, or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended.

(2) Vehicles (including automobiles, snowmobiles, dirt bikes and all-terrain vehicles): No person shall:

(a) Operate any vehicle in such a manner as to cause noise unrelated to the safe operation of that vehicle, including but not limited to spinning or squealing of the tires, sounding of the horn for non-safety-related purposes, or retying of the engine of such vehicle.

(b) Modify or cause to be modified the muffler, exhaust system or other noise-control device of any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noise-control devices of any vehicle operated in the Town shall be maintained and in good working order. No person shall operate or permit to be operated any vehicle where the muffler, exhaust system or other noise-control device has been so modified or has not been maintained; or

(c) Operate or cause to be operated any recreational motorized vehicle (including but not limited to snowmobiles, dirt bikes, personal watercraft and all-terrain vehicles) in such a manner that the sound level emitted therefrom exceeds 75 decibels at a distance of 50 feet, or exceeds DEC standards, if any.

(3) Discharge of exhaust: No person shall discharge or permit to be discharged into the open air the exhaust of any stationary internal-combustion engine (including but not limited to generators, compressors, pumps), motor vehicle or motor, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(4) Construction, demolition and excavation: No person shall engage in, permit or facilitate the erection, including excavating; demolition; alteration; or repair of any building out of doors using any impact tools (e.g., hammers), vehicles, power tools or motors, other than between 7:00 a.m. and 9:00 p.m., except in case of an urgent necessity in the interest of public safety.

(5) Loading and unloading: No person shall engage in, permit or facilitate the creation of a noise in connection with loading or unloading any vehicle or the opening and/or destruction of bales, boxes, crates, garbage cans, trash or debris dumpsters and containers which is not made necessary by said activity, such as the dropping or banging of containers, or the slamming of container lids.

(6) Drums, loudspeakers and similar devices: No person shall engage in, permit or facilitate the out-of-doors use of a drum, instrument, loudspeaker or any other sound-producing instrument or device for the purpose of attracting public attention by the creation of noise, except where authorized by waiver to be issued by the Building Inspector, who shall make reasonable rules and regulations therefor.

(7) Amplified music: No person shall play or perform or permit to be played or performed on real property owned by that person, amplified music before 9:00 a.m. or after 11:00 p.m., unless the same be played or performed wholly within a dwelling.

(8) Sound reproduction. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device, which produces, reproduces or amplifies sound loudly enough for a person to be able to distinguish lyrics, words and/or instruments by a person on an adjacent real property, without that person's consent.

(9) Animals: No person shall keep, permit or maintain any animal under his control that causes unnecessary noise by continued barking, howling or other animal noises in violation of § 52-1.

(10) Power tools and yard equipment: The use of power tools or lawn and garden equipment out of doors between the hours of 9:00 p.m. and 7:00 a.m. including but not limited to lawn mowers, chain saws, leaf blowers, circular saws, and pressure washers. Snow removal equipment, including snowblowers, is specifically exempted from this provision.

(11) Standing motor vehicles: No person shall operate or permit the operation between the hours of 9:00 p.m. and 7:00 a.m. the following day of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 30 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency, on public right-of-way or public space.

B. In addition to the foregoing prohibited activities, no person shall operate, or cause or permit to be operated, any source of sound in such a manner as to create a sound level which exceeds 50 decibels between the hours of 9:00 p.m. and 7:00 a.m., or 60 decibels between the hours of 7:00 a.m. and 9:00 p.m., when measured at or beyond the property boundary of the adjacent property.

(1) Measurement of sound.

(a) The measurement of noise or sound shall be made by the Enforcement Officer or his designee with a sound-level meter meeting the standards prescribed by the American National Standards Institute S14.

(b) Except where otherwise prescribed, the slow meter response of the sound-level meter shall be used in order to determine that the average of three readings taken over a fifteen-minute period does not exceed the limiting sound levels set forth in this section.

(c) Measurement of noise levels shall be made at the prescribed locations and shall be taken at least four feet from ground level.

(2) Compliance with noise limits is to be maintained at all elevations at the boundary of the property.

(3) For any source of sound which emits a pure tone or impulsive sound, the maximum sound-level limits set forth in Subsection B shall be reduced by five dBA.

§ 115-3. Waivers and exemptions.

A. Waivers to the limitations set forth herein may be granted by the Town Building Department upon good cause shown. In exercising its discretion, the Town Building Department must take into account the reason for the requested waiver, the proximity of residences, the nature of the noise to be created, and the duration of the requested waiver. Waivers must be made in writing, must state the basis upon which they have been granted, and their duration (which may be indefinite). All waivers may be rescinded.

B. The provisions of this chapter shall not apply to:

(1) The use of bells, chimes or sound amplifiers by churches, synagogues, mosques or similar houses of worship.

(2) Activities of the volunteer fire companies and emergency response organizations in the performance of their duties, drills or public demonstrations, including but not limited to the sounding of sirens and the blowing of horns.

(3) Activities in public parks, playgrounds or public buildings under permission or authority of the Town of Malta.

(4) Fireworks, provided their use is otherwise lawful.

(5) The discharge of firearms, provided their use is otherwise lawful.

(6) Commercial or social activities which have lawfully and regularly been engaged in immediately prior to the effective date of this law, such as the operation of an automobile racing facility or a shooting range, provided such operations are otherwise lawful.

(7) The Town of Malta.

(8) Activities specifically permitted under New York State's Agriculture and Markets Law.

§ 115-4. Penalties for offenses.

If any party shall violate the provisions of this chapter or engage in conduct in violation of this chapter, he shall be punished by a fine of not less than \$100 and not to exceed \$500 or by imprisonment for not more than 15 days, or both. Each incidence of any violation of a provision herein shall constitute a separate offense.

§ 115-5. Enforcement.

A. The provisions of this chapter may be enforced by any peace officer, or the Town's Code Enforcement Officer. It shall be the duty of the Saratoga County Sheriff's Department and the New York State Police to enforce the provisions of this chapter.

B. If a violation of this chapter shall occur, the Sheriff's deputy or state police officer shall issue an appearance ticket based upon a complaint by the complainant.

Chapter 167. Zoning

Article V. Permitted Uses, Uses Requiring Special Use Permits

§ 167-15. R-1 Residential District.

A. The following uses shall be permitted in all areas of the Town of Malta designated R-1 Residential District:

(1) Dwelling, one-family.

(2) Agriculture, excluding poultry, livestock and fowl.

(3) Residential home business.

(4) Accessory uses.

(5) Signs. Signs relating to the above permitted uses and to the special use permit uses under § 167-15C are permitted subject to the provisions of Article VIII of this chapter.

(6) Public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles or mains), provided that they may only be located within public highway rights-of-way.

B. Lot sizes shall be a minimum of 40,000 square feet.

C. The following uses shall be permitted in all areas of the Town of Malta designated R-1 Residential District only when a special use permit is obtained pursuant to § 167-38.1 of this chapter:

(1) Dwelling, two-family.

(2) Church, with or without rectory.

(3) Library or museum.

(4) The keeping of an equid (Note: Any of various hoofed mammals of the family Equidae, which includes horses, donkeys, and zebras. Equids have muscular bodies with long, slender legs adapted for running and a single hoofed digit at the end of each limb.) provided:

(a) The subject premises for which the application is made has 200 feet minimum road frontage;

(b) Said property is a minimum size of three acres;

(c) All buildings related to the keeping of the equid are subject to a front setback of 50 feet, a side setback of 50 feet, a rear setback requirement of 30 feet, that such buildings may not exceed 30 feet in height, and that all buildings on said property shall not exceed a coverage limit of 15%.

§ 167-17.1. R-5 Agricultural Residential District.

A. The following uses shall be permitted in all areas of the Town of Malta designated R-5 Agricultural Residential District:

(1) Dwelling, one-family.

(2) Agriculture, excluding poultry, livestock and fowl.

(3) Residential home business.

(4) Accessory uses.

(5) Signs. Signs relating to the above-permitted uses and to the special use permit uses under § 167-17.1C are permitted subject to the provisions of Article VIII of this chapter.

(6) Public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles or mains), provided that they may only be located within public highway rights-of-way.

B. Lot sizes of a minimum of 80,000 square feet with a minimum 200 feet of frontage.

C. The following uses shall be permitted in all areas of the Town of Malta designated R-5 Agricultural Residential District only when a special use permit is obtained pursuant to § 167-38.1 of this chapter:

(1) Dwelling, two-family.

(2) Church, with or without rectory.

(3) Library or museum.

(4) Agricultural (poultry, livestock and fowl).

§ 167-18. C-1 Downtown District.

A. The following uses shall be permitted in all areas of the Town of Malta designated C-1 Downtown District:

- (1) Dwelling, one-family.
- (2) Dwelling, two-family.
- (3) Municipal building.
- (4) Professional office.
- (5) Residential home business.
- (6) Accessory.
- (7) Signs. Signs relating to the above-permitted uses and to the special use permit uses under § 167-18C are permitted subject to the provisions of Article VIII of this chapter.
- (8) Public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles or mains), provided that they may only be located within public highway rights-of-way.

B. Lot sizes will vary significantly. The maximum building footprint for retail use will be 20,000 square feet.

[Amended 12-5-2005 by L.L. No. 12-2005]

C. The following uses shall be permitted in all areas of the Town of Malta designated C-1 Downtown District only when a special use permit is obtained pursuant to § 167-38.1 of this chapter.

- (1) Church, with or without rectory.
- (2) Hotel or motel.
- (3) Restaurant (no drive-through).
- (4) Retail business.
- (5) Automotive repair.
- (6) Medical center.
- (7) Theater.
- (8) Conference center.
- (9) Apartment or condominium.
- (10) Car wash.
- (11) Drive-through service establishment.

- (12) Grocery store.
- (13) Drugstore.
- (14) Personal service shop.
- (15) Fitness center.
- (16) Bank.
- (17) Nursing home, convalescent home, assisted living facility.
- (18) Day-care center.
- (19) Museum.
- (20) Funeral home.
- (21) Club or lodge.
- (22) Mixed use (most restrictive).
- (23) Automatic laundry or laundromat.
- (24) Library.
- (25) Parking garage.
- (26) Business office.
- (27) Wholesale business.
- (28) Major utility substations, poles, pipes, or mains, provided that such poles, pipes, or mains may only be located within the public highway right-of-way.
- (29) Animal hospitals.
- (30) Gasoline services.
- (31) Fitness center.
- (32) Recreation facility.

§ 167-20. Land Conservation District.

A. The following uses shall be permitted in all areas of the Town of Malta designated Land Conservation District:

- (1) Agricultural (excluding poultry, livestock and fowl).
- (2) Accessory.

(3) Signs. Signs relating to the above-permitted uses and to the special use permit uses under § 167-20B are permitted subject to the provisions of Article VIII of this chapter.

(4) Public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles or mains), provided that they may only be located within public highway rights-of-way.

B. The following uses shall be permitted in all areas of the Town of Malta designated Land Conservation District only when a special use permit is obtained pursuant to § 167-38.1 of this chapter:

(1) Agricultural (poultry, livestock and fowl).