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CHAPTER DL. DISPOSITION LIST

CHAPTER 1. GENERAL PROVISIONS

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CHAPTER 1. GENERAL PROVISIONS

ARTICLE I. Adoption of Code

[Adopted 9-5-2000 by L.L. No. 3-2000]

§ 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 Ballston, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 138, together with an Appendix, shall be known collectively as the "Code of the Town of Ballston," 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 Ballston" 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 Ballston, 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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.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 Ballston 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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.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 Ballston 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 Ballston 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 Ballston.

D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Ballston.

E. Any local law or ordinance of the Town of Ballston 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 Ballston or any portion thereof.

F. Any local law or ordinance of the Town of Ballston 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 Ballston or other instruments or evidence of the town's indebtedness.

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

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

I. The annexation or dedication of property.

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

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

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

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

N. Any legislation regarding water districts.

O. Any local law adopted subsequent to 9-2-1998.

§ 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 Ballston 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 Ballston 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 Ballston" 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 Ballston 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 may be purchased from the Town Clerk of the Town of Ballston upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Ballston or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Ballston 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 Ballston, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.) Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 9-5-2000 by L.L. No. 3-2000." Schedule A, which contains a complete description of all changes, is on file in the Town offices.

C. Nomenclature changes.

(1) Throughout the Code, the following terms are revised to read as follows: "Dog Control Officer" is amended to read "Animal Control Officer"; "Zoning Inspector" is amended to read "Zoning Enforcement Officer"; "Building and Zoning Administrator" is amended to read "Zoning Enforcement Officer"; "Board of Appeals" is amended to read "Zoning Board of Appeals"; and "Board of Assessors" and "Assessors" are amended to read "Assessor."

D. Gender-neutral language. Throughout the Code, pronouns purporting the male gender have been revised to include the female gender, unless the context precludes such interpretation. As it is the intention of the Town Board of the Town of Ballston to maintain gender-neutral language in the Code, during supplementation, references in adopted laws that include only the male gender will be revised to include the female gender as well, unless the context precludes such interpretation.

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

§ 1-13. When effective.

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

ARTICLE II. Legislation Enacted During Codification

[During the process of codification, the Town Board authorized readoption of the Zoning Regulations, with certain substantive changes, to ensure that all desired provisions are in effect according to standard adoption procedures. The revised and renumbered Zoning Chapter is presently proposed before the Town Board. Upon final adoption, the enactment information will be included in the chapter history for Chapter 138, Zoning.]

CHAPTER 5. APPEARANCE TICKETS

§ 5-1. Purpose.

§ 5-2. Officials authorized to issue.

§ 5-3. Use of alternative methods of commencing prosecutions.

§ 5-4. Definition.

CHAPTER 5. APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Ballston 12-5-1995 by L.L. No. 6-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Dog control — See Ch. 48, Art. I.
Unsafe buildings — See Ch. 52.
Electrical standards — See Ch. 56.
Health and sanitation — See Ch. 73.
Solid waste — See Ch. 96.
Zoning — See Ch. 138.

§ 5-1. Purpose.

A. It is the purpose of this chapter pursuant to § 10, Subdivision 4(a), of the Municipal Home Rule Law and § 150.20, Subdivision 3, of the Criminal Procedure Law to authorize the issuance of appearance tickets by public servants, who by virtue of office, title or position are authorized or required to enforce statutes, local laws, ordinances, rules or regulations.

B. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It is intended that this chapter apply to the following ordinances, local laws and regulations:

(1) The following articles, and all sections thereof, of Chapter 138, Zoning, of the Code of the Town of Ballston, as amended:

- (a) Article IV, Nonconforming Uses.
- (b) Article V, Residential District Regulations.
- (c) Article VI, Retail Business District Regulations.
- (d) Article VII, Rural District Regulations.
- (e) Article VIII, Industrial District Regulations.
- (f) Article XI, Signs.
- (g) Article XII, Activity Standards for Annoying and Injurious Substances, Conditions and Operations.
- (h) Article XIII, Lighting.
- (i) Article XIV, Traffic Hazards.
- (j) Article XVII, Automobile Salvage Yards, Junkyards and Abandoned Vehicles.
- (k) Article XIX, Excavations for Soil Mining.
- (l) Article XX, Swimming Pools.
- (m) Article XXII, Administration and Enforcement.

(2) The following chapters of the Code of the Town of Ballston, as amended:

- (a) Chapter 48, Animals, Article I, Dog Control.
- (b) Chapter 52, Buildings, Unsafe.
- (c) Chapter 56, Electrical Standards.
- (d) Chapter 62, Fire Prevention and Building Construction.
- (e) Chapter 73, Health and Sanitation.
- (f) Chapter 96, Solid Waste, regarding the dumping, storage or placing of solid or liquid waste material.

§ 5-2. Officials authorized to issue.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The following public servants of the Town of Ballston are hereby authorized to issue appearance tickets in the performance of their respective duties when commencing prosecutions pursuant to the statutes, local laws, ordinances, rules and regulations listed in § 5-1B above: Building Inspector, Zoning Enforcement Officer and Animal Control Officer.

§ 5-3. Use of alternative methods of commencing prosecutions.

The authority to use appearance tickets shall not apply any restraint upon the authority of the aforementioned public servants to use any alternative methods of commencing prosecutions as may be provided by law.

§ 5-4. Definition.

The term "appearance ticket" shall have the same definition as provided in Article 150 of the Criminal Procedure Law of the State of New York, and the procedures governing its use shall conform in all respects to those procedures as set forth in Article 150 of the Criminal Procedure Law of the State of New York and other applicable articles of that law.

CHAPTER 10. DEFENSE AND INDEMNIFICATION

§ 10-1. Definitions.

§ 10-2. Provision for defense of employees.

§ 10-3. Employee's responsibilities.

§ 10-4. Application of benefits.

§ 10-5. Effect on insurer.

§ 10-6. Effect on alternate means of immunity.

§ 10-7. Applicability.

CHAPTER 10. DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Ballston 1-3-1995 by L.L. No. 2-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 26.
Sexual harassment policy — See Ch. 39.

§ 10-1. Definitions.

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

EMPLOYEE

Any Town Supervisor, member of a town board or commission, town officer, town employee, town volunteer expressly authorized by the town to participate in a publicly sponsored volunteer program or any other person holding a town position by election, appointment or employment in the service of the town, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee of the town, his or her estate or judicially appointed personal representative.

TOWN

The Town of Ballston.

§ 10-2. Provision for defense of employees.

A. Upon compliance by the employee with the provisions of § 10-3 of this chapter, the town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his or her public employment or duties, including, without limitation, 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 U.S. Civil Rights Act (42 U.S.C. §§ 1981 and 1983). Such defense shall not be provided where such action or proceeding is brought by or on behalf of the town.

B. Subject to the conditions set forth in this chapter, the employee shall be represented by the Town Attorney or any attorney employed or retained by the town for the defense of the employee. The Town Board of the town shall employ or retain an attorney for the defense of the employee whenever the town does not have a Town Attorney, the Town Board of the town determines, based upon its investigation and review of the facts and circumstances of the case, that representation by the Town Attorney would be inappropriate, or a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Town Attorney. Reasonable attorney's fees and litigation expenses shall be paid by the town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding, subject to certification by the Supervisor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the town. Any dispute with respect to representation of multiple employees by the Town Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the Court.

C. Where the employee delivers process and a request for a defense to the Town Attorney or the Supervisor as required by § 10-3 of this chapter, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps, including the retention of any attorney under the terms and conditions provided in Subsection B of this section, on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the town to provide a defense.

D. Subject to the conditions set forth in this chapter, the town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court or in the amount of any settlement of a claim, provided that the act or omission from which such

judgment or claim arose occurred while the employee was acting with the scope of his or her public employment duties; provided, further, that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Town Board of the town. The duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee or with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee pursuant to § 51 of the General Municipal Law; provided, however, that the town shall indemnify and save harmless its employees in the amount of any costs, attorney' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his or her public employment or duties, has, without willfulness or intent on his or her part, violated a prior order, judgment, consent, decree or stipulation of settlement entered in any court of this state or of the United States.

§ 10-3. Employee's responsibilities.

A. The duties to defend provided in this chapter shall be contingent upon delivery to the Town Attorney or, if none, to the Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he or she is served with such document and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the town based upon the same act or omission and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the town provide for his or her defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.

B. The duty to indemnify and save harmless prescribed by this chapter shall be conditioned upon full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the town based upon the same act or omission and in the prosecution of any appeal.

C. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within 30 days of the date of entry or settlement, upon the Supervisor of the town; and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the town.

§ 10-4. Application of benefits.

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

§ 10-5. Effect on insurer.

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

§ 10-6. Effect on alternate means of immunity.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Except as otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the town or any right to defense provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

§ 10-7. Applicability.

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

CHAPTER 14. ETHICS, CODE OF

§ 14-1. Adoption of Code of Ethics; annual statement of financial disclosure required.

§ 14-2. Definitions.

§ 14-3. Code of Ethics.

§ 14-4. Disclosure.

§ 14-5. Public access.

§ 14-6. Ethics Board.

§ 14-7. Procedure for complaints.

§ 14-8. Penalties for offenses.

Attachments:

014 end

CHAPTER 14. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Ballston 9-6-1994 by L.L. No. 1-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 26.

Sexual harassment policy — See Ch. 39.

§ 14-1. Adoption of Code of Ethics; annual statement of financial disclosure required.

The governing body of the Town of Ballston 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, pursuant to Subdivision 3 of § 812 of the General Municipal Law, the Town of Ballston does hereby require that the officers and employees are required to file completed annual statements of financial disclosure containing the information as asked for in Form 200, entitled "Town of Ballston Disclosure Statement."

§ 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 an official or employee as the result of a contract, business, professional transaction or other relationship with the Town of Ballston. For the purpose of this chapter, an official or employee will be deemed to have an interest in the affairs of:

A. His or her spouse and unemancipated children.

B. A firm, partnership or association of which an official or employee is a member or employee.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. A corporation of which such official or employee is a member, officer, director or employee or in which the official or employee owns any outstanding shares of any class of stock. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

OFFICIAL or EMPLOYEE

An official or employee of the Town of Ballston government, whether paid or unpaid, who is a member of one or more of the boards, commissions, departments or agencies which serve the Town of Ballston, as set forth in Exhibit A. Editor's Note: Exhibit A is located at the end of this chapter. The Town Board reserves the right by resolution of such Board to add new classes of officials or employees under this definition as deemed appropriate. 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. Code of Ethics.

A. Prohibited activities. It is the policy of the Town of Ballston 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 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 the awarding of any contract or in any business or professional dealings with the Town of Ballston 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 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. Nothing in this section shall be construed to prohibit any public officer listed in § 11 of the Domestic Relations Law from accepting any gift or benefit having a value of \$75 or less for the solemnization of a marriage by that public officer at a place other than the public officer's normal place of business or at a time other than the officer's normal hours of business. For purpose of this section a campaign contribution made to any candidate or political party in accord with appropriate laws shall not be considered a gift prohibited by this subsection. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (4) Disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest.

(5) 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.

(6) Take action on a matter before the Town of Ballston 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 who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Town of Ballston or by any other official, board, agency, officer or employee of the Town of Ballston and who participates 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 Ballston who has knowledge of any matter being considered by any board, agency, officer or employee of the Town of Ballston, 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 Ballston, 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 § 14-8. The Attestation Form shall provide as follows:

TOWN OF BALLSTON

CODE OF ETHICS REVIEW FORM

NAME:

ADDRESS:

TITLE:

DATE OF APPOINTMENT:

I, the undersigned, hereby attest that I have reviewed the Local Law providing for the filing of Financial Disclosure Statements by certain Town officials and employees and the Code of Ethics. I further attest that I understand the provisions of such Code of Ethics and, to the best of my knowledge, I am not in violation of any of its precepts or requirements.

Subscribed and Sworn to

before me this _____

day of _____, 19____

Notary Public

State of New York

§ 14-4. Disclosure.

A. All officials and employees of the Town of Ballston shall file a statement of disclosure (Form 200) containing the information as required by the annual statement of disclosure form which follows. The statement shall be filed in the office of the Town Supervisor 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 twelve-month 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 Ethics Board to verify that each official or employee subject to this chapter has filed his or her statement, and the Ethics Board shall notify the Town Board of any instances of failing to file.

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:

TOWN OF BALLSTON

FORM 200

DISCLOSURE STATEMENT

I hereby submit the following Disclosure Statement, under oath, listing the assets and liabilities and sources of income of me, my spouse and my unemancipated children with respect to entities doing business of any kind with the Town of Ballston.

Date of Statement: _____

For the Period Ended: _____

(1) General Information:

Name: _____

Address: _____

Title: _____

Office Telephone: _____

Date of Appointment: _____

Marital Status: _____

Name of Spouse: _____

Occupation of Spouse: _____

- (2) List any office, trusteeship, directorship or position of any nature, whether compensated or uncompensated, held by you or your spouse, with any proprietorship, partnership, corporation or other organization, which at present or during the prior twelve (12) months does business with the Town of Ballston:

- (3) List any occupations, trade, business or profession presently engaged in by you or your spouse [presently or during the prior twelve (12) months] which does business or has any matter pending with or is licensed or regulated by a Town Agency or Department:
-
-

- (4) List all sources of income received by you, your spouse or unemancipated children from entities doing business with the Town of Ballston at present or during the prior twelve (12) months' period or which you anticipate will engage in business with the Town in the future:

- (a) All compensated continuing employment of whatever nature with an entity doing business with the Town of Ballston:

(b) All directorships or other fiduciary positions for which compensation has or will be paid by an entity doing business with the Town of Ballston:

(c) All contractual arrangements producing or expected to produce income from entities doing business with the Town of Ballston:

(5) List the names and address of any proprietorship, partnership or corporation doing business with the Town of Ballston, or any instrumentality thereof, in which you, your spouse or your unemancipated children presently have or have had in the prior twelve (12) months, an interest of 5% or more:

Company Name:

Address:

ATTESTATION CLAUSE

I, the undersigned, being duly sworn, hereby state that I have personally completed the above Disclosure Statement, and that such Disclosure Statement is true and complete.

Subscribed and Sworn to

before me this

day of _____, 19_____.

Notary Public

State of New York

§ 14-5. Public access.

The Town of Ballston recognizes that public access to the disclosure statements which are filed by town officials and employees will enhance the public confidence thereof and shall deter conflicts of interest and assist in their uncovering.

A. Any person or news media desiring to review the disclosure statement of any official or employee shall submit as a request pursuant to the Freedom of Information Law Editor's Note: See Public Officers Law § 84 et seq. or written request to the Town of Ballston's Town Board which shall include the following:

(1) Name and address.

(2) Name and address of any person or organization on whose behalf the statement is being requested.

(3) A form of identification to verify that an accurate name and address has been given by the person requesting such information.

(4) The payment of a fee of \$0.25 per page if a copy of the disclosure statement is desired.

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

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

(1) Any unlawful purpose.

(2) The use, directly or indirectly, in the solicitation of the official or employee for political, charitable or business purposes.

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

§ 14-6. Ethics Board.

A. The Ethics Board of the Town of Ballston shall consist of five members, each appointed by a majority vote of the Town of Ballston Town Board. Each appointee must be a resident of the Town of Ballston. The Chairman of said Ethics Board shall be selected by the Town Supervisor for a term of one year. Only one elected official of the Town of Ballston shall be allowed to serve on the Ethics Board.

B. Town of Ballston'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. Four 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 or when called upon to convene by the Town Board. At its meetings, the Ethics Board shall receive and consider complaints of unethical practices or instances of alleged impropriety which have been presented to it and shall render advisory opinions when requested to do so by any town employee or elected official.

(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 Supervisor of the Town of Ballston, together with a recommendation for a penalty, if any, to be imposed. 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 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, personally, by counsel or any combination thereof, at a time and place specified by the Ethics Board. The failure of the official or employee to respond within 21 days from the date of the Ethics Board's letter shall constitute a waiver by the official or 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 Board of the Town of Ballston. 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 Board of the Town of Ballston.

(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 Board of the Town of Ballston 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 this section.

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

(8) The Ethics Board shall hold a meeting in April of each year to review all financial statements to ascertain said statements are filed in compliance with this chapter.

[Amended 5-6-1997 by L.L. No. 2-1997]

F. The Town Attorney shall be the legal advisor to the Ethics Board.

§ 14-7. Procedure for complaints.

Complaints against any official or employee of the town for any violation of this chapter shall be submitted to the Town Ethics Board in care of its Chairman and must contain sworn allegations of fact setting forth the name and title of the official or employee; the nature of the alleged violation and the name and address of the complainant. The Town Ethics Board shall receive such complaint and act upon it in accordance with the procedures set forth in § 14-6 of this chapter.

§ 14-8. Penalties for offenses.

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

B. Any town officer or employee who violates any provision of this chapter shall be subject to a civil fine of up to \$1,500 for each violation, as may be determined by the Town Board.

C. Any town officer or employee who violates any provision of this chapter shall be liable in damages to the town for any losses or increased costs incurred by the town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

D. Any town officer or employee who has knowingly or intentionally violated any provision of this chapter shall be subject to a civil forfeiture to the town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in this chapter other than a civil fine pursuant to Subsection B or damages pursuant to Subsection C or in any other provision of law.

E. If an official or employee filed a statement with intent to deceive or intentionally misrepresent, or otherwise fraudulently answers any questions set forth in the statement or intentionally withholds any information requested or demanded in the statement, and if such deception or misrepresentation is found to be both intentional and material, then such official or employee may be assessed a civil penalty of not more than \$2,500 by the Town Board. An assessment of a civil penalty will be final unless suspended or vacated within 30 days of imposition by the Town Board.

F. It will be a violation of this chapter for any individual, except the individual who files such statement, to disclose any information contained on a financial disclosure statement, except as authorized by this

chapter. A civil action may be brought by the Ethics Board against any person or organization that violates this subsection.

G. Any penalty imposed pursuant to this section shall be so imposed by the Town Board after considering the recommendation, if any, of the Ethics Board.

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

Attachments:

014 end

CHAPTER 19. INVESTMENT POLICY

§ 19-1. Objectives.

§ 19-2. Funds to be deposited in withdrawal accounts.

§ 19-3. Compliance; collateral; certificates of deposit.

§ 19-4. Review of annual reports.

§ 19-5. Investment agreements.

§ 19-6. Annual financial reports.

§ 19-7. Annual review.

CHAPTER 19. INVESTMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Ballston 2-3-1987; as revised 9-1-1998. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 14.

Procurement policy — See Ch. 30.

§ 19-1. Objectives.

The objectives of the investment policy of the Town of Ballston are to minimize risk; to ensure that investments mature when cash is required to finance operations; and to ensure a competitive rate of return. In accordance with this policy, the Supervisor is hereby authorized to invest all funds including proceeds of obligations and reserve funds in:

A. Certificates of deposit issued by a bank or trust company authorized to do business in New York State.

B. Time deposit accounts in a bank or trust company authorized to do business in New York State.

§ 19-2. Funds to be deposited in withdrawal accounts.

All other local government officials receiving money in their official capacity must deposit such funds in negotiable order of withdrawal accounts.

§ 19-3. Compliance; collateral; certificates of deposit.

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

A. Collateral. Certificates of deposit shall be fully secured by insurance of FDIC or by obligations of New York State or obligations of the United States or obligations of federal agencies, the principal interest of which are guaranteed by the United States or obligations of New York State local government. Collateral shall be delivered to the Town of Ballston or a custodial bank to the account of the Town of Ballston or to a Federal Reserve bank. The market value of collateral supplied by any bank shall at all times equal or exceed the total principal amount of certificates of deposit and time savings deposits held by the bank less applicable FDIC coverage. The bank selling the investment shall provide a list of collateral with the Town of Ballston and report all changes in that list.

B. Written contracts shall be required for the purchase of all certificates of deposit.

§ 19-4. Review of annual reports.

The Supervisor shall review the annual reports of all banks holding town funds to determine satisfactory financial strength.

§ 19-5. Investment agreements.

The Supervisor or his deputy shall authorize investments on behalf of the Town of Ballston. All investment agreements shall be confirmed in writing.

§ 19-6. Annual financial reports.

The Supervisor's annual financial report shall include an annual investment report.

§ 19-7. Annual review.

This policy shall be reviewed annually at the February meeting of the Town Board.

CHAPTER 26. OFFICERS AND EMPLOYEES

ARTICLE I. Terms of Office

§ 26-1. Town Clerk; Town Highway Superintendent.

§ 26-2. Commencement date.

§ 26-3. Mandatory referendum.

CHAPTER 26. OFFICERS AND EMPLOYEES

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

ARTICLE I. Terms of Office

[Adopted 8-30-1988 by L.L. No. 1-1988]

§ 26-1. Town Clerk; Town Highway Superintendent.

The term of office for the Town Clerk and the Town Highway Superintendent shall be for a term of four years.

§ 26-2. Commencement date.

The provisions of this article shall be effective as follows: Town Highway Superintendent for the term commencing January 1, 1990; Town Clerk for the term commencing January 1, 1992.

§ 26-3. Mandatory referendum.

This chapter is subject to a mandatory referendum pursuant to § 23 of the Municipal Home Rule Law.
Editor's Note: Local Law No. 1-1988 passed at the general election held 11-8-1988.

CHAPTER 28. PERSONNEL POLICIES

ARTICLE I. General Provisions

- § 28-1. Purpose.**
- § 28-2. Applicability.**
- § 28-3. Administration and enforcement.**
- § 28-4. Sick leave.**
- § 28-5. Maternity leave.**
- § 28-6. Military leave.**
- § 28-7. Bereavement leave.**
- § 28-8. Jury duty.**
- § 28-9. Vacations.**
- § 28-10. Absences; compensatory time.**
- § 28-11. Holidays.**
- § 28-12. Foreman/Deputy Superintendent.**
- § 28-13. Duties of employees.**
- § 28-14. Work periods; break periods; lunch periods.**
- § 28-15. Time clock rules.**
- § 28-16. Use of town-owned vehicles and equipment.**

ARTICLE II. Employment Policies

- § 28-17. Equal opportunity.**
- § 28-18. Sexual harassment.**
- § 28-19. Confidentiality.**
- § 28-20. Conflicts of interest.**
- § 28-21. Outside employment.**
- § 28-22. Use of Town property.**
- § 28-23. Investigatory conduct.**
- § 28-24. Gifts and bribes.**
- § 28-25. Purchase of Town merchandise.**
- § 28-26. Seat belt policy.**
- § 28-27. Employee expenses.**
- § 28-28. Safety rules.**
- § 28-29. Employment physicals.**
- § 28-30. Minimum hiring age.**
- § 28-31. Probationary periods.**
- § 28-32. Appointment.**
- § 28-33. Performance reviews.**
- § 28-34. Highway Department hiring requirements.**
- § 28-35. Longevity salary increases.**
- § 28-36. Anniversary date calculation.**
- § 28-37. In-service training.**
- § 28-38. Layoffs.**
- § 28-39. Disciplinary action.**
- § 28-40. Compensation.**
- § 28-41. Hiring policy.**
- § 28-42. Grievance procedure.**

Attachments:

CHAPTER 28. PERSONNEL POLICIES

[HISTORY: Adopted by the Town Board of the Town of Ballston 1-4-2000. Amendments noted where applicable.]

ARTICLE I. General Provisions

§ 28-1. Purpose.

A. The purpose of this personnel manual is to establish policies and procedures to ensure, insofar as possible, uniform treatment and administration of personnel practices by the Town of Ballston.

B. The Ballston Town Board recognizes that each department may develop standard operating procedures, with the approval of the Town Board, setting forth rules, regulations, expectations for performance and procedures which are unique to their operational requirements. Those procedures will supplement this personnel manual. In all cases, the most restrictive policy or requirement will apply; nothing in these documents will be contrary to state and federal laws and regulations.

C. It is vitally important to understand that this document must not become a static document but must be subject to amendment as conditions change in the future. To this end, the content of this document shall be reviewed by the Town Board or a committee appointed by it for this purpose at least as frequently as every other year and, if necessary, amended by the Town Board accordingly. It is not the intention of this policy to offer or imply any contract and/or guaranty to the employees of the Town of Ballston. It is important to understand that this document is approved by the Town Board and thus may be changed by the Town Board.

D. A part-time employee is a person who works less than 20 hours per week at the Town Hall or 17.5 hours per week at the Library. Any part-time employee hired after January 1, 2000, will not be entitled to benefits other than vacation (§ 28-9B) and New York State and local retirement. Any part-time employee hired after May 2, 2005, will not be entitled to vacation benefits.

[Amended 5-3-2005 by L.L. No. 3-2005]

§ 28-2. Applicability.

This personnel manual, including future amendments, shall apply to all persons in the employ of the Town of Ballston and elected and appointed boards and committees. The provisions of these rules and regulations shall apply to employees of the Town of Ballston unless otherwise provided by federal or state statutes.

§ 28-3. Administration and enforcement.

The Town Board shall have the basic overall responsibility for the administration of these rules and regulations. Each department head shall be responsible for ensuring compliance with appropriate portions of these rules and regulations consistent with his/her authority and duties. Each department head shall have the supervision of his/her department and the employees therein.

§ 28-4. Sick leave.

Absence from duty by an employee of the Town of Ballston by reason of sickness or disability of himself or herself or by reason of illness or disability or death of a member of his or her family shall be allowed as provided in the following and not otherwise. Absence from duty for such reason, if duly granted by the department head, shall be considered and known as "sick leave." In the case of the death of a family member, the provisions of § 28-7, Bereavement leave, shall be prevail.

A. An employee of the Town may be absent from duty on account of sickness or disability. Every leave for such absence is approved by the department head. An employee absent due to sickness for three or more days may be required to have a doctor's excuse at the request of the department supervisor or Town Supervisor, or else the employee will not be paid for the absences.

B. No employee shall receive any part of his/her compensation while absent from duty because of sickness or disability except as herein provided.

C. An employee of the Town shall be granted sick leave with pay of seven days a year. Such sick leave with pay shall be granted to the employee by the department head in January every year after his/her first year of employment.

D. The seven working days a year to be allowed an employee for sick leave with pay may hereinafter be accumulated until a total of 100 days is reached and may be kept to his/her credit for future sick leave with pay. Sick leave rules do not apply to elected officials (Note § 28-4J).

E. Upon becoming sick or disabled, an employee of the town, by virtue of employment or service after the effective date of this chapter, may, during his/her sickness or disability, be granted sick leave with pay to the extent of the unused sick leave time which has accumulated, but no sick leave with pay shall be granted to any such person in excess of 100 days in any one appointive year.

F. An employee can voluntarily donate his/her accrued sick leave to a fellow employee who has used all his/her accruals for a protracted illness.

G. Allowable and allowed sick leave time shall be considered for all purposes as continuous service. Leave of absence time without pay shall not be considered as continuous service in computing vacation or sick leave allowance, at the discretion of the department head and Town Board.

H. An employee isolated or quarantined because of exposure to a communicable disease, other than in the line of duty, shall not be considered as continuous service in computing absence because of sickness and may be granted sick leave with pay during such isolation or quarantine to the extent of his/her accumulated and unused sick leave time.

I. Unless there is evidence of widespread disease in the local community affecting great numbers of workers, the calling in "sick" of all, or nearly all, of the employees will be considered an act of work refusal, and sick pay will not be disbursed. In the case of "mass sickness," a doctor's certificate will be required.

J. When an employee retires from service, he/she will be entitled to be paid for a maximum of 1/3 of the accumulated sick leave. A maximum of 100 days of sick leave can be accumulated. Example: $100/3=33.3$ days paid at retirement (note § 28-4D).

§ 28-5. Maternity leave.

A. In accordance with the Federal Pregnancy Act of 1978, pregnancy is to be considered a disability and therefore shall be extended the same benefits and be subject to the same policies as any disability.

B. Employees may request of their immediate supervisor a leave of absence for up to one month, such request renewable at the discretion of the Town Supervisor for up to three months' cumulative leave. Employees may utilize any accumulated sick leave, vacation or compensatory time for a leave of absence with pay up to the cumulative leave granted. During such reasonable period of leave of absence, the employee shall continue to accrue vacation and sick leave, provided that he/she returns to work at the expiration of his/her temporary leave and works thereafter for the Town for a minimum of 12 months. It shall be the policy of the Town to conform to applicable federal and state laws existing at the time of absence.

§ 28-6. Military leave.

A. Training (National Guard; reserved forces). Any employee called for Armed Forces Reserve shall be excused from work for the duration of the employee's service and shall receive the difference between his/her regular pay and his/her reservist's pay, provided that the employee presents an official statement of pay received. This differential pay will apply only to the normal Monday through Friday workweek; it will not apply to weekends during which the employee is not regularly scheduled to work for the town. All benefits shall continue to accrue during such absence, except for reserve service of a duration longer than two weeks. In instances of national mobilization, accrued benefits continue up to 30 days.

B. Active duty. An employee may be granted a formal leave of absence without pay for periods of extended active duty. A copy of military orders directing this duty will be filed with the Town Supervisor and placed in the employee's personnel file. The employee must make application for reinstatement upon release from active duty within the period specified by current federal law if he/she desires to seek reemployment. Application for reinstatement must be made within 90 days of completion of active service as specified in Chapter 43 of Part III of U.S.C. Title 38.

§ 28-7. Bereavement leave.

Five days of paid leave shall be granted in the event of the death of one's mother, father, husband, wife, child, brother, sister, grandmother or grandfather or in-law of the above. One day of paid leave shall be granted in the event of the death of any other relative. Additional leave may be granted under the provisions of § 28-4, Sick leave, at the discretion of the department head.

§ 28-8. Jury duty.

A. Jury duty is considered a mandatory service to the community, state and nation and is of such an infrequent nature that employees are not to be penalized.

B. Length of jury service shall be determined by the applicable court. Town employees shall be compensated for lost wages not to exceed one week's pay for a normal forty-hour workweek. Compensation paid shall equal the employee's base salary for the period in question.

§ 28-9. Vacations.

[Amended 3-5-2002 by L.L. No. 1-2002; 6-1-2004 by L.L. No. 3-2004; 5-3-2005 by L.L. No. 3-2005]

A. The following vacation schedule has been adopted:

All Town Employees

Amount of Service

Weeks of Vacation

All Town Employees

Amount of Service	Weeks of Vacation
At 6 months	1
At 1 year	1
2 to 9 years	2
10 years	3
20 years	4
25 years	5
30 years	6

B. Purpose. This policy outlines the basis for granting vacations to employees, full-time and part-time, of the Town of Ballston. Part-time employees will be paid at their average rate for the previous year. Example: If you have 20 years' service and worked an average of 17.5 hours per week for the year you will receive 70 hours' vacation (four weeks times 17.5 hours equals 70 hours). Part-time Library employees may not exceed 17.5 hours when calculating the average workweek. All other part-time employees may not exceed 19.5 hours when calculating the average workweek. All part-time employees hired by the Town of Ballston after May 2, 2005, will not be eligible for paid vacation time.

C. Policy.

(1) Vacation with pay will be granted on January 1 of each calendar year, to include anniversary years. Example: If an employee's tenth-year anniversary date is July 2001, the employee will be credited the vacation days on January 1, 2001 (two weeks for years 2 through 9 and one week for tenth-year anniversary, totaling three weeks).

(2) New full-time employees will receive one week of vacation on the six-month anniversary and one week on the one-year anniversary date. The vacation is to be used within that calendar year. [Note: Subsection C(4) for deferment.] Each year thereafter, the employee's vacation will be granted on January 1 of each calendar year.

(3) Vacation time cannot be added or carried over to sick or personal time.

(4) Employees may take up to two weeks' vacation in increments of days. The remaining vacation leave will be taken in five-day blocks. All vacation is to be taken during the year in which the employee becomes eligible for it. Deferment of vacation will be considered by the Town Board upon written application accompanied by the recommendation of the department head.

D. When the vacation period includes a paid holiday, it shall be considered a holiday rather than a day of vacation, and the vacation period may be extended one day or used at a later date within the same calendar year.

E. Procedure; eligibility.

(1) An employee whose continuity of service as of his/her anniversary date of employment shall qualify for a vacation under the plan if he/she:

(a) Actually performed work as an active employee of the Town during the last full appointive week of the year immediately preceding the vacation year; or

(b) Received earnings from the Town directly applicable to all or part of such week.

(2) An employee who completes his/her first 52 weeks of service in the year shall become eligible for a vacation for the period indicated in the vacation schedule.

F. Scheduling of vacation. Every employee must be given the opportunity to take full vacation each year. The dates for vacation may be limited to certain months of the year at the discretion of the department head.

§ 28-10. Absences; compensatory time.

A. An employee absent for illness, for lack of work, on leave of absence or for military service may have the first part of such absences designated as the vacation to which he/she may be entitled. An employee who attends a military encampment during his/her scheduled vacation will receive his/her vacation pay for that period, if eligible, but will not be eligible for the military pay differential for the same period.

B. Family leave policy.

(1) A full-time employee may be granted an unpaid leave of absence for 90 days. Ninety days' additional leave may be granted if said leave is requested before the initial 90 days have expired. This second period of 90 days includes no paid personal days.

(2) In addition, the following options regarding illness days with pay may be offered, at the discretion of the Board:

(a) Ninety-day leave with no personal illness days included.

(b) Ninety-day leave including the maximum number of personal illness days to which the employee is entitled.

C. Employees will be eligible for a maximum of 40 hours of compensatory time per calendar year.

[Amended 2-7-2006 by L.L. No. 3-2006]

D. Compensatory payment.

[Added 1-4-2005 by L.L. No. 1-2005]

(1) Compensatory time will be available to only full-time hourly employees.

(2) An employee eligible for overtime under this agreement shall be allowed to take compensatory time off if he or she so desires at the rate of time and 1/2 for hours worked beyond 40 hours or paid at the rate of time and 1/2 for all such hours.

(3) Employees will be eligible for a maximum of 24 hours of compensatory time per calendar year.

(4) Prior approval from the department head is required for use of compensatory time. Compensatory time may be used minimally in 15 minutes increments.

(5) Compensatory time cannot be accumulated from year to year.

(6) If compensatory time is not used within the calendar year the employee will lose the time and will not be paid for such time lost.

(7) The Department head must make every effort to assure the employee uses all the compensatory time accumulated within the calendar year.

§ 28-11. Holidays.

A. Holidays shall consist of those holidays authorized and published annually by the Saratoga County Personnel Department.

B. If a recognized holiday falls on Saturday, the employee may have Friday off; if a holiday falls on Sunday, the employee may have Monday off.

C. At no time will an employee be paid for a holiday if he/she is out of work on the day before or the day after a holiday, unless he/she has a scheduled vacation.

D. All employees must work when needed in times of an emergency, holidays included.

§ 28-12. Foreman/Deputy Superintendent.

The employee selected by the Superintendent of Highways and designated as "Deputy/Foreman" shall be in complete charge of personnel and equipment. It shall be his/her responsibility to carry out the instructions of the Superintendent of Highways, and the Deputy/Foreman shall maneuver employees and equipment to their best advantage so that each workday will be one of productivity. The Foreman shall be expected to be aggressive and act in the best interests and desires of the town. If the Foreman fails to satisfy the needs and desires of the Superintendent of Highways, he/she will be returned to his/her original status and another Foreman selected. The Deputy/Foreman shall make no salary actions.

§ 28-13. Duties of employees.

A. Employees are required to maintain a telephone where they can be reached in times of extra duty or emergency.

B. An employee who is ill or unable to report for duty for the regular work period shall notify the Highway Superintendent or his/her office at the start of the workday.

C. All employees reporting for duty shall be prepared to perform all daily activities that may be encountered. If weather is inclement, for example, they shall have available heavy outerwear, suitable footwear or whatever other apparel they feel is necessary.

D. An employee may not refuse to perform any duties directed by his/her superior if the requested work is a normal and necessary function for the proper operation of the Town of Ballston Highway Department.

E. An employee who is at work and is required to leave because of illness or other personal reasons shall notify his/her superior and properly punch his/her timecard if a time clock is in operation at the time.

F. All motor equipment operators are expected to be knowledgeable in the proper operations of machines and trucks. While some operators are more learned than others, it is the duty of all to study, observe and learn all that one can about all town-owned equipment. It is the duty of all operators to perform all prestarting checks and to grease machines and vehicles when required. Employees classed as motor equipment operators who cannot perform their operator's duties properly may be reduced to a lower grade or discharged.

G. Drinking of alcoholic beverages during the work period is prohibited. An employee reporting for duty under the influence of alcohol or drugs will be disciplined and directed to seek rehabilitation.

H. The disregarding of any of the rules and duties may result in discipline, suspension or termination of employment.

I. Because of the nature of Highway Department operations, such as instances of flooding, windstorm and ice and snowstorms, all employees are subject to twenty-four-hour duty calls.

J. When working in trees and the mine, all personnel not actually in vehicles shall wear hardhat protection.

K. Employees actually using chainsaws will be required to wear town-supplied protective leggings, safety glasses and earplugs.

L. All highway employees must attend a yearly MSHA (mine safety) refresher course before they can enter the Tri-Town Gravel Facility Mine.

M. Employees will be required to attend periodic safety meetings.

§ 28-14. Work periods; break periods; lunch periods.

A. The regular working day for the Highway Department shall be eight hours. Regular starting time will be 7:00 a.m., and the regular quitting time will be 3:30 p.m. Hours for office personnel are 8:00 a.m. to 4:00 p.m. Hours for Highway office personnel are 7:00 a.m. to 3:00 p.m. Seasonal changes are scheduled by the department head with the approval of the Town Board.

B. A break period will be provided at midmorning and not necessarily be taken at a precise time. It is desired to have the break period not exceed 20 minutes.

C. The lunch period will be 30 minutes and will generally be taken from 12:00 noon to 12:30 p.m. In certain instances when employees may be required to work throughout their lunch period, it may be taken earlier or later than the regular time, or, upon approval of the department head, the employee shall be paid for the half-hour noon he/she did not get. The department head shall cause the timecard of the affected employee to clearly state "N.N." (no noon).

D. The normal Highway Department's workweek shall consist of five eight-hour days. The need for employees to work overtime will be decided on a daily basis and will be authorized by the Superintendent of Highways or his/her foreman or Deputy Highway Superintendent.

E. When the Superintendent of Highways is out of Town or otherwise not available, the Deputy Superintendent of Highways automatically assumes his/her duties and is vested with all the powers and duties of that office, except for salary actions.

F. The weekly payroll will end at 12:00 midnight Sunday. Paydays will be on Friday, unless Friday is a holiday, then payday will be on Thursday.

G. All timecards shall be in the Payroll Department by Tuesday morning.

§ 28-15. Time clock rules.

A. In the event that a time clock is used, each employee must punch his/her own timecard. Any employee found punching another employee's timecard may be disciplined.

B. In case of time clock failure, the department head will enter the correct times on each card, in ink, and will sign each entry.

C. An employee punching in after the regular starting time will be considered late for duty.

D. An employee punching in late for duty too frequently in the opinion of the Highway Superintendent will be considered unreliable and will be discharged from employment.

E. Holidays, sick days and vacation days that will not be punched in for, but for which an employee is entitled to be paid for, will be so entered by the department head stating specifically each day credit is being given for.

F. All time will be calculated to the nearest half hour of time worked.

G. Tampering with timecards belonging to others will not be tolerated and will result in disciplinary action against offenders.

H. Time and a half will be paid after 40 hours worked in a one-week period for hourly employees.

I. Time and a half plus the holiday eight hours will be paid if an hourly employee works a holiday.

§ 28-16. Use of town-owned vehicles and equipment.

Editor's Note: See also § 28-22, Use of Town property.

A. Any employee who operates any town-owned vehicles or machinery in a reckless or negligent manner is subject to discipline of time off or dismissal.

B. No alcoholic beverages or illegal drugs shall be placed in the cab of any vehicle or machine.

C. No tools or equipment shall be loaned without prior daily approval, and work on private vehicles will not be permitted in the garage area. Employees will not be permitted in the garage area after regular working hours or on holidays and weekends unless prior permission has been granted for each occasion.

ARTICLE II. Employment Policies

§ 28-17. Equal opportunity.

A. The Town supports the concept of equal opportunity and will not discriminate against employees or applicants regarding age, gender, race, color, marital status, physical or mental disability, religious creed, Vietnam-era veteran status or national origin, including discharge, compensation or other privileges of employment, unless based upon a bona fide occupational qualification.

B. Reasonable accommodations will be made for qualified employees or applicants with disabilities, as defined by the Americans With Disabilities Act, who can perform the essential functions of the job, unless such accommodations impose an undue hardship on the municipality.

§ 28-18. Sexual harassment.

A. Sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature will not be tolerated. Conduct will not be tolerated that has the purpose or effect of unreasonably interfering with an individual's working performance or creating an intimidating, hostile or offensive work environment or when submission to such conduct is made, either explicitly or implicitly, a condition of an individual's employment or is used as the basis for employment decisions affecting such individuals.

B. Any employee who feels that he or she has experienced discrimination or has been a victim of sexual harassment must report the incident immediately to his or her supervisor. If this is not appropriate, the incident must be reported to the next level of management. Sexual harassment will be treated as misconduct with appropriate disciplinary sanctions.

§ 28-19. Confidentiality.

Employees are not to divulge confidential information to outsiders or other employees not privileged to know such information, including but not limited to the media. The release of unique and/or sensitive information to the media shall require prior approval of the Town Supervisor.

§ 28-20. Conflicts of interest.

No Town employee (temporary, probationary or regular) shall accept, engage in or be associated with any activity, employment or self-employment which shall constitute a conflict of interest or a direct pecuniary interest or reflect discredit upon him/herself or the Town government or adversely affect the proper performance of his/her duties in the Town service. If an employee finds him/herself in such a position, he/she shall immediately inform his/her immediate supervisor of said conflict. Failure to notify and/or resolve the conflict may result in disciplinary action.

§ 28-21. Outside employment.

A. A Town employee shall not solicit or engage in any employment or self-employment during his/her assigned Town working hours. His/her actions and activities during assigned Town working hours shall be limited to official business within the scope of his/her assigned Town duties and responsibilities.

B. Such employment shall not impair the efficiency of the employee or in any way conflict with the objectives of the Town. The employment shall not require that special consideration is given to scheduling the employee's regular hours.

C. Employees who are on workers' compensation, disability or unpaid leave status shall not engage in outside employment.

D. Failure to comply with these guidelines may result in disciplinary action.

§ 28-22. Use of Town property.

Editor's Note: See also § 28-16, Use of Town-owned vehicles and equipment.

A. A Town employee shall not appropriate or use Town-owned, -leased or -rented property for other than official business. Further, Town employees shall exercise all reasonable and prudent measures to preclude the same from any unauthorized possession or use.

B. The use of Town-owned equipment or private use of such equipment is not permitted, and such a violation is subject to discipline.

§ 28-23. Investigatory conduct.

During the course of any investigation, internal inquiry or hearing, the department head, Supervisor or Town Board may request any employee of the Town to attend and give testimony. Any employee refusing to do so may be subject to disciplinary action, such as suspension, reduction in pay, demotion, dismissal or other appropriate action.

§ 28-24. Gifts and bribes.

[Amended 9-2-2003 by L.L. No. 3-2003; 6-1-2004 by L.L. No. 3-2004]

No Town employee shall personally profit or benefit from any purpose, contract, sale or service between the Town and any person or company, nor shall he/she accept any free or preferred services or concessions from any person, company or agency. Town employees are forbidden to accept any gift over the value of \$75 in any form so as to raise questions of undue influence in official duties. No employee of the Town shall have any financial interest in the profits of any purchase, sale, contract or work performed by the Town or for the Town.

§ 28-25. Purchase of Town merchandise.

Employees may participate in any sealed-bid sale of Town surplus materials. They may also participate in any auction of tax-acquired properties. The Town Supervisor, at his/her discretion, may disallow an employee from purchasing if he/she or she believes such purchases are being made for reasons which adversely impact the Town of Ballston.

§ 28-26. Seat belt policy.

A. All Town employees are required to wear seat belts while operating or riding in any vehicle while on Town business. This applies to personally owned vehicles, as well as the vehicles of others.

B. In addition, passengers in vehicles operated by the Town while on Town business are required to wear seat belts. Unauthorized passengers are prohibited at any time.

C. This requirement shall not apply to vehicles in which the manufacturer has not installed seat belts.

D. Town employees are forbidden from disengaging or otherwise disarming automatic seat belts systems or alarms.

E. Employees found violating this policy may be subject to disciplinary action.

§ 28-27. Employee expenses.

A. All employees traveling on Town business or using personal assets for Town purchases shall be entitled to reimbursement for expenses according to the following schedule:

- (1) Automobile expense: based on Town policy.
- (2) Lodging and meals: all reasonable preapproved expenses.
- (3) Purchases: all verified preapproved expenses.

B. All travel expenses must be itemized, with receipts attached, on a Town expense voucher, to be approved by the Town Supervisor prior to reimbursement. Employees are expected to refrain from luxury accommodations but are also expected to select lodging and eating places with due regard to comfort, cleanliness, physical needs and customs.

§ 28-28. Safety rules.

A. Employees are expected to perform their duties in such a way as to prevent damage to property or injury to themselves or others. All accidents involving personal injury or equipment damage shall be reported immediately to both the employee's supervisor and the Town Supervisor.

B. In addition, employees shall follow any and all safety rules which pertain to their specific position.

C. The Town shall have a first aid kit available for the protection of its employees.

§ 28-29. Employment physicals.

A. Medical examinations shall be permitted in accordance with the Americans With Disabilities Act. Such medical examinations will be based on bona fide occupational standards that are reasonably related to the position in question, with consideration given by the Town to accommodating physical handicaps, with limitations. Medical examinations shall be required after the extension of a job offer, but prior to commencement of job duties. The results of all medical examinations are confidential. Appropriate access may be granted by the Town Supervisor.

B. The unreimbursed expenses of the medical exam shall be borne by the town, and the exam shall be performed at the site and by the doctor of the town's choosing. Standards will be geared to the key elements of the position and toward the type of work the individual will be doing. Highway employees will be examined biannually; administrative employees minimally every 5 years.

C. The Town reserves the right to conduct further examinations and/or testing to determine the applicant's ability to fulfill the essential functions of the job should the standard medical examination reveal medical problems.

§ 28-30. Minimum hiring age.

Eighteen years of age shall be the minimum age for hiring civilian employees. Seasonal and temporary employees may be hired at a younger age as provided by existing law.

§ 28-31. Probationary periods.

A. All appointments will be probationary in nature during the first six months of employment to a maximum of 12 months, unless otherwise stipulated. The work and conduct of probationary employees shall be subject to close scrutiny and evaluation. Any probationary employee may be dismissed at will or demoted at any time during the probationary period upon the recommendation of the department head and approval of the Town Board. Such dismissals or demotions shall not be subject to review or appeal. Employees who satisfactorily complete their probationary period will be given regular status.

B. An untrained MEO must obtain a commercial drivers license (CDL) within six months of employment or he/she or she will be discharged from the town.

C. All benefits for which the new employee is eligible shall begin to accrue as of the date which the employee begins work on a full-time basis. Leave of employment while in good standing during the probationary period will allow for payment of prorated benefits due and accrued.

§ 28-32. Appointment.

A. The Town Board shall authorize and approve all appointments consistent with this policy and state statutes or as otherwise specified by Town ordinance.

B. Upon hiring a new employee, a letter of appointment stating the terms and conditions of employment will be sent to the employee. Items such as job title, job description, wage rate, length of employment (if dictated by funding or seasonal nature) and other items of particular importance to the position will be spelled out in a letter. A complete copy of the personnel manual shall be issued to each new employee. Each new employee shall acknowledge, in writing, receipt of the personnel manual and all other documentation provided to him/her. Each employee will acknowledge his/her right to join the New York State Retirement System and indicate his/her election to join or not, in writing, by signing the retirement system option form.

C. A committee of three Town Board members will be established to review all vacancies. This Committee will be called the "Personnel Committee."

(1) Any vacancy of an established Town position must be reviewed and approved for filling by a majority of the Personnel Committee.

(2) All new positions created by the Town Board and classified by Saratoga County Civil service will be filled only with the approval of the Personnel Committee.

(3) The Committee will notify departments of the status of the vacancy immediately following the Personnel Committee meetings.

(4) The department head or unit supervisor will interview all potential candidates for the position when approval to fill said position has been granted by the Personnel Committee. A recommendation as to the final candidate(s) to fill said position will be made to the Personnel Committee. The Personnel Committee will act on this recommendation and will make a similar recommendation to the Town Board.

(a) If the position requires a physical examination, results of this examination must accompany the department head's recommendation.

(b) If a position requires a driver's license, the appropriate licensing information will also be submitted with the department head/unit supervisor's recommendation.

(5) Under no circumstances will Town funds be expended on vacancies or new positions which are filled without the Personnel Committee and Town Board approval.

D. Hiring of highway employees is governed by the Highway Superintendent and Highway Law.

§ 28-33. Performance reviews.

A. General.

(1) A written performance review shall be made of each regular Town employee on the anniversary of his/her employment. The report shall cover the previous twelve-month period.

(2) Such review may include medical examinations by a physician and a physical fitness review, in addition to an objective analysis of each employee's competence and skills in carrying out his/her assigned duties over a defined period of time.

B. Purpose. The performance review session should be a time of positive development as the supervisor and employee reflect on past accomplishments, challenges and failures and the action taken in response to these situations. Performance reviews are not a time for surprises but rather a reinforcement of communications between the supervisor and employee throughout the year. Department heads must hold a formal progress discussion six months after each written performance review.

C. Format.

(1) The Town Board shall prescribe the forms and regulations pertaining to the review. With prior approval of the Town Board, specific departments may utilize a review form that may be better able to cover all aspects of an individual department.

(2) All department heads are responsible for completing the personnel review and completing a review form for all employees, full-time or regular part-time, under their direction.

D. Submission of reports.

(1) One copy of the performance evaluation form on each employee shall be furnished to the Town Supervisor for review within 30 days after completion. The Town Supervisor must approve by signature the final evaluation. In the event that the Town Supervisor does not agree with the evaluation, a meeting must be scheduled with the department head and employee to mediate concerns.

(2) All performance evaluations forms are considered confidential and the original shall be kept in the employee's personnel folder.

E. Appeals. Appeals may be made to the Personnel Committee for recommendation to the Town Board. The decision of the Town Board is final.

§ 28-34. Highway Department hiring requirements.

All new applicants for employment must meet certain requirements:

A. A satisfactory health physical must be in place before being hired. The Town of Ballston will pay to have this accomplished.

B. By January 1, 1996, all holders of a commercial driver's license (CDL) are subject to random drug testing and alcohol testing.

C. All potential new drivers will have their New York State driver's abstract secured from Albany, New York, and reviewed.

D. All Highway personnel must wear safety shoes during working hours. Clothing reimbursement to each employee will be in accordance with current Town policy, two-hundred-dollar maximum per year.

E. All employees are required to file a notarized ethics statement with the Town Clerk, as required by Chapter 14, Ethics, Code of, of the Code of the Town of Ballston.

F. The Town will provide to the employee and working elected officials prescription safety glasses every two years.

G. Town employees and elected or appointed officials required to use their own vehicles for official Town use will be covered by Town insurance and reimbursed for mileage.

§ 28-35. Longevity salary increases.

A. As a reward for satisfactory service, the Town of Ballston will reward full-time employees with an increase over base salary, as follows:

[Amended 3-4-2004 by L.L. No. 1-2004]

(1) After five years of service an increase of 2% over base pay.

(2) After 10 years, an increment of 1% for a total of 3% over base pay.

(3) After 15 years, an increment of 1% for a total of 4% over base pay.

(4) After 20 years, an increment of 1% for a total of 5% over base pay.

(5) After 25 years, an increment of 1% for a total of 6% over base pay.

(6) After 30 years, an increment of 2% for a total of 8% over base pay.

B. The raise established at the start of this increment will carry at that amount until the next increment step. Example: after five years, an employee receiving a base pay of \$10 with an increase of 2% will get \$10.20; the \$0.20 shall be the longevity increase years six through 10. Years of employment will be based on the employee's anniversary date.

§ 28-36. Anniversary date calculation.

The original day of full-time regular employment shall be considered the employee's anniversary date. That date shall be used to calculate length of service, probation and salary step increases. If promoted or reclassified, performance review and salary adjustments shall be effected upon the date of promotion or classification.

§ 28-37. In-service training.

Probationary and regular employees shall be encouraged and may be required, when appropriate, to participate in training or educational programs or courses which will improve their performance or prepare them for advancement. Such courses or programs shall be determined by the department heads and, upon completion, recorded as such in the personnel/training file; and pay schedule shall be determined by the Town Board.

§ 28-38. Layoffs.

A. Cause. The Town Board may lay off employees for any of the following reasons, such as but not limited to:

(1) Reorganization resulting in the abolition or consideration of positions.

(2) Shortage of work.

(3) Shortage of funds.

B. Procedure. The Town Supervisor shall give written notice to the affected employee at least five days prior to the effective date of the layoff, stating the reason therefor. A copy of the notice shall be placed in the personnel file and furnished to the department head.

§ 28-39. Disciplinary action.

A. General.

(1) An employee may be disciplined, suspended or terminated for violation of this document, disobeying orders of superiors, incompetency or inefficiency, insubordination, causing damage to Town property, misconduct during employment, failure or inability to perform assigned duties, use of unlawful drugs or excessive use of alcohol, conviction of a violation, misdemeanor or felony offense, failure to observe municipal and department rules and regulations, incompatibility with other employees, falsification of documents or unauthorized absences from duty.

(2) Authorization. Disciplinary action may be initiated by the department head or his/her designee for cause. The Town Supervisor will be reasonably notified of any and all disciplinary action initiated by the department head.

(3) The disciplinary process may involve the following steps, depending on the gravity of the infraction, and should be progressive when appropriate. However, the sequence need not be followed if an infraction is sufficiently severe to merit immediate suspension or discharge. The Town reserves the right and authority to take disciplinary action in a manner consistent with the severity of the infraction or conduct/behavior.

B. Corrective action steps.

(1) Verbal warning. The supervisor warns the employee that the unacceptable behavior must cease. No formal write-up is necessary, but the supervisor must inform the employee that this is a warning. The supervisor must make a note on his/her calendar or put a notice in the employee's file specifying the verbal warning and notify the employee of such action.

(2) Written reprimand.

(a) This formal practice requires a letter to the employee stating the nature of the reprimand, the expected change in behavior or goals to be accomplished and the time frame for reform/betterment. The notice also must detail the consequences should the employee fail to rectify the behavior or achieve the goal. Both the employee and the supervisor shall sign this letter. A copy shall be placed in the employee's personnel file.

(b) Postinitial probation. An employee who has not completed an initial probationary period and whose performance becomes unsatisfactory may be placed on extended probation by the department head. A letter stating the nature of the offense and personnel terms and conditions of the probationary period will be given in writing to the employee and recorded in his/her personnel file.

(3) Administrative leave.

(a) A department head has the authority to place any employee on paid administrative leave due to a pending investigation or in order to serve the best interests of the town. Any such action shall not be considered punitive or disciplinary in nature and shall not be recorded as such in the employee's personnel file.

(b) The Town Board shall be contacted as soon as possible and advised of the circumstances.

(c) An employee who is placed on administrative leave will meet with the department head at his/her earliest convenience to discuss the matter. The department head will review and evaluate the circumstances surrounding the administrative leave and will determine whether an internal complaint should be initiated. The department head will also decide whether to terminate or to extend the administrative leave.

(d) Any employee who refuses to comply with any conditions of administrative leave shall be deemed insubordinate and subject to dismissal by the Town Board.

(4) Suspension.

(a) When, in the judgment of a department head or the Town Board, an employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended with or without pay. A department head may suspend any employee in his/her department for just cause. The Town Board may suspend a department head for just cause. Suspension shall be with or without pay and shall be for a period not to exceed 30 calendar days in any twelve-month period, except that the suspension period may be longer than 30 days, pending investigation or resolution of the charges against the suspended employee.

(b) The Town Board shall be authorized to approve extensions of periods of suspensions.

(c) The employee shall receive written confirmation of suspension specifying the date, time and nature of the offense and required remedial action. A copy of the letter of suspension shall be included in the employee's personnel file.

(5) Discharge.

(a) A department head shall recommend termination of an employee directly to the Town Board, in writing, specifying the cause for discharge. The employee shall receive a copy of the department head's recommendation. The Town Board shall then schedule an internal administrative hearing wherein the employee and the department head shall have the opportunity to state their positions and offer evidence in support of their positions. An internal administrative hearing shall be conducted in accordance with Appendix A. Editor's Note: Appendix A is included at the end of this chapter. Both the department head and the employee must detail and present all facts and information pertinent to the recommendation for termination. Failure to do so may result in immediate discharge. Final action shall be taken by the Town Board subsequent to the internal administrative hearing. The Town Board's decision shall be delivered to the employee in writing and shall state the nature of the offense and cause for termination, if such action is taken.

(b) Seasonal and part-time employees may be dismissed at the discretion of the Town Board and are not entitled to a hearing.

C. Appeal process.

(1) An employee may appeal a decision to discharge by written request to the Town Board within five days of such discharge.

(2) When appealing, the employee shall specify whether a hearing before the Town Board is desired. If a hearing is requested, it shall be scheduled within two weeks of receipt of the employee's request for an appeal.

(3) The hearing shall be conducted in nonpublic session unless the employee opts, in writing, for an open meeting. The employee may be represented by legal counsel at the hearing, at the employee's own expense, and shall be entitled to confront and question witnesses and to present witnesses and evidence. The formal rules of evidence shall not apply, but the Town Board shall have discretion to bar the introduction of irrelevant or unreliable evidence as determined by the majority of the Board members present. The Town Board will conduct the hearing in accordance with Appendix A of the Town of Ballston personnel manual. Editor's Note: Appendix A is included at the end of this chapter. The decision of the Town Board shall be final.

D. Possible causes for disciplinary action. Disciplinary action may be initiated for reasons which include but are not limited to the following acts. This list is not meant to be exhaustive or to exclude (in any way) conduct or behavior which may otherwise require or merit disciplinary action; it is simply illustrative in nature. Disciplinary action will be pursued on a case-by-case basis with a goal of achieving consistency in administration.

(1) Acts of disobedience or insubordination.

(2) Gross neglect of duty or frequent simple neglect of duty.

(3) Use of alcoholic beverages or use of unlawful drugs while on duty, reporting for duty while under the influence of intoxicants, excessive use of alcoholic beverages during off-duty hours which reflects discredit upon the individual or the Town or the drinking of alcoholic beverages during off-duty hours which prevents the employee from performing Town duties in the prescribed manner.

(4) Violation of federal or state laws or Town ordinances, dependent upon circumstances, seriousness and frequency.

(5) Conviction of a felony or crime involving moral turpitude.

(6) Misuse, misappropriation, destruction, theft and conversion to personal use or gain of town-owned or -leased property, equipment, supplies or material.

(7) Frequent tardiness or unauthorized absence from work.

(8) Uncivil or discourteous attitudes or the use of indecent, lewd or slanderous language or actions toward the public or other Town employees.

(9) Accepting cash, gifts or other items of value for performing special favors through any municipal service.

§ 28-40. Compensation.

A. Employee status.

(1) Exempt employees are those so classified under the Fair Labor Standards Acts (FLSA). Exempt employees are paid a salary and are not entitled to overtime. Nonexempt employees are eligible for overtime.

(2) Positions considered exempt are the Town Supervisor, Comptroller, Town Clerk, Tax Collector, Assessor, Building Inspector, Librarian, Bookkeeper, Health Officer, appointed Boards, elected positions and all other salaried positions.

B. Regular compensation. Town employees will be compensated in accordance with the Classification and Pay Plan of the Town of Ballston. The Classification and Pay Plan referenced herein is hereby incorporated into and made a part of this personnel manual, subject to modification from time to time by the Town Board.

C. Hourly positions. This class shall consist of all employees that are not salaried exempt positions.

D. Overtime compensation. All hourly employees shall earn overtime payment for all department-head-approved hours worked in excess of 40 hours in one workweek. Overtime payment shall be compensated at 1 1/2 times the employee's hourly rate of pay. Holidays, unspecified time off, sick leave and vacation time do not count as actual time worked.

E. Trained Highway MEO.

(1) As of January 1, 2000, trained Highway MEO will be brought up to top rate after the following qualifications are met as deemed by the Highway Superintendent:

(a) Obtain a trailer license.

(b) Be civil service MEO qualified (able to operate all Town highway equipment).

(c) Qualified water maintenance operator (as needed by the Highway Superintendent).

(2) An increment raise of \$0.54 (year 2000) will be paid for each qualification obtained. No other increment raises are allowed. The increment raise will be adjusted according to the yearly raise. Example: If a 4% raise is given:

[Amended 3-5-2002 by L.L. No. 1-2002]

Year	Trained MEO Rate	Trailer License	Civil Service MEO	Main. Water	Top MEO Rate
1999	\$13.58	.513	.513	.513	\$15.12
2000	\$13.58 x 4% = \$14.12	.54	.54	.54	\$15.74

(3) Longevity pay will be added to MEO rate as required.

(4) The Highway Superintendent will maintain the Highway hourly pay structure and a copy will be given to the accounting department. This will be reviewed yearly and approved by the Town Board.

F. Compensatory credit.

(1) All exempt personnel (exempt salaried personnel) who are not entitled to pay for overtime work but who must work hours above and beyond the hours required to complete their normal responsibilities are entitled to compensatory credit. It is the responsibility of the individual, however,

to accomplish the normal workload assigned to the position regardless of the hours required to do the work without compensatory leave.

(2) Prior to performing work eligible for consideration for compensatory leave, a compensatory credit request must be submitted to the employee's immediate superior. If the request is approved, on the following working day the employee shall submit the number of hours earned for compensatory credit to his/her immediate superior for review and approval.

(3) Compensatory credit is not and will not be payable in cash at the cessation of employment.

(4) Compensatory leave shall be taken only with prior authorization of the Town Supervisor.

G. Lunch break. All employees are entitled to a noncompensated lunch break at the direction of the department head.

H. Working hours. The hours of work shall be established by the department heads and approved by the Town Board.

I. Attendance and unauthorized absence. Employees shall be in attendance at their work in accordance with departmental regulations and these rules and regulations. Unauthorized absence from work for a single day or part of a day may be cause for loss of pay for the time absent or cause for disciplinary action. An unauthorized absence of three consecutive workdays from work may be treated as a formal resignation.

§ 28-41. Hiring policy.

Hiring policies not covered by this policy are covered by the rules and regulations of the appropriate department.

A. Salary employees.

(1) All salary employees will receive a starting salary of 10% below the current established salary for that position. Example: employee base salary is \$8 per hour; subtract 10% to arrive at a starting salary of \$7.20 per hour for the first year.

(2) An evaluation will be done at the end of the first year, and at that time, upon a satisfactory evaluation, the employee will receive the base starting pay for that position for the current year.

B. Insurance and benefits.

(1) Terms of insurance policies to govern.

(a) The extent of coverage under the insurance policies [including health maintenance organization (HMO) and self-insured plans] referred to in this personnel manual shall be governed by the terms and conditions set forth in said policies or plans. Any questions or disputes concerning said insurance policies or plans or benefits thereunder shall be resolved in accordance with the terms and conditions set forth in said policies or plans and shall not be subject to the grievance and arbitration procedure set forth in this manual. The failure of any insurance carrier(s) or plan administrator(s) to provide any benefit for which it has contracted or is obligated shall result in no liability to the town, nor shall such failure be considered a breach by the Town of any obligation undertaken under this or any other agreement. Nothing in this manual shall be construed to relieve any insurance carrier(s) or plan administrator(s) for any liability it may have to the town, employee or beneficiary of any employee.

(b) Eligibility. All Town employees employed for 20 hours per week or more, and earning more than \$6,000 per year, all elected officials and officials related to the legislative function, such as Town attorneys, shall be eligible to participate in whatever health insurance plan the Town provides. All persons now included in the plan shall be continued. Elected officials will receive one year's credit for each year in elected office.

(c) Discontinuance. The Town shall provide coverage for one monthly billing period after a covered employee leaves for any reason other than retirement.

(d) Retirees. Insured employees who retire from the Town of Ballston under the New York State and Local Retirement System, social security or disability will be entitled to continuation of coverage or Medicare supplementary coverage under the following terms:

Employees hired before 1-1-1998		Employees hired after 1-1-1998	
Service Time (years)	Premium Paid by Town	Service Time (years)	Premium Paid by Town
Less than 10	0%	Less than 10	0%
10	50%	10	35%
11	60%	11	45%
12	70%	12	55%
13	80%	13	65%
14	90%	14	75%
15 or more	100%	15 or more	85%

[1] A year of service is defined as a calendar year of employment.

[2] Any employee retiring with less than 10 years of service may continue in the Town plan by paying the required premium.

[3] At the death of a retiree, the Town will pay one monthly billing period for dependent coverage. At the end of one month, the dependent has the option to pay 100% of the premium or obtain his/her own policy.

(2) Hospitalization/medical.

(a) The Town shall make available hospitalization and major medical insurance for each full-time regular employee and eligible retired employee under the Town's plan, or under a comparable plan purchased from another insurance carrier. The coverage and type of policy shall be approved by the Town Board, recommended by the Budget Committee and subject to available funds as approved at the annual Town meeting.

[Amended 3-4-2004 by L.L. No. 1-2004]

(b) The Town of Ballston will contribute to pay the premium in accordance with current approved policy. The policy states that an employee hired on or after January 1, 1998, shall pay a fifteen-percent contribution toward benefits.

(3) Workers' compensation insurance.

(a) The Town shall make available under the Workers' Compensation Act workers' compensation insurance to all employees for on-the-job injuries. All injuries, whether major or minor, shall be immediately reported to the employee's supervisor, who shall cause a report concerning the specific injury to be filed immediately thereafter with the Saratoga County Self Insurance. Failure to report may result in loss of leave and compensation.

(b) Employees involved in lost-time accidents will immediately be classified as injured while on duty.

(c) Workers' Compensation Law 11.3.

[Added 12-3-2002 by L.L. No. 6-2002]

[1] An employee required to serve a waiting period pursuant to the Workers' Compensation Law shall have the option of using accrued leave credits or being placed on leave without pay. Where an employee charged credits and it is subsequently determined that no waiting period is required, the employee shall be entitled to restoration of credits charged proportional to the net monetary award credited to New York State by the Workers' Compensation Board.

[2] The above means an employee can accept the compensation payment for personal time used or have his/her time restored based on his/her present hourly rate. Example:
Compensation payment \$2,000/\$20.00 hourly pay rate = 100 hours. One hundred hours will be restored to the employee in the category from which it was taken: Personal Business, Personal Illness, and/or Vacation.

(4) Reimbursement for education.

(a) All regular full-time or regular part-time elected officials and employees of the Town may be reimbursed for all of the cost of any approved postsecondary education course taken on the employee's own time, if the following conditions are met:

[1] The course is approved in advance by the department head and the Town Supervisor.

[2] The course is directly related to the employee's present or probable future work responsibilities and will improve specific skills and knowledge.

(b) The employee shall be reimbursed for all necessary courses per year. Reimbursement will be upon submission of proof of successful completion of the course(s). Reimbursement shall apply to courses taken by regular employees to further their emergency response/public safety skills, e.g., EMT courses, etc.

(c) The initial approval will depend on whether sufficient funds have been appropriated in the department's budget to cover the cost without adversely impacting the department's ability to conduct its regular training mission. (Employees have an obligation to request approval for training in advance of departmental budgeting.)

(5) Retirement. See New York State and Local Retirement System, located in the Accounting office.

§ 28-42. Grievance procedure.

The Town of Ballston has adopted the following internal grievance procedure to provide prompt and equitable resolution of employee complaints (other than disciplinary matters) alleging violation of the personnel policy. The Town Supervisor has been designated to coordinate the efforts of the Town of Ballston to comply with the regulations. The following rules apply to complaints filed under this procedure:

- A. A complaint must be in writing and contain the name, date and address of the person filing it and a brief description of the alleged violation.
- B. The complaint shall be filed with the Town Supervisor within five days of the alleged violation.
- C. The Town Supervisor shall investigate the complaint and issue a written decision within five workdays from the date of the complaint.
- D. If the complaint is not satisfied with the Town Supervisor's decision he/she may appeal the decision to the Town Board, in writing, within five workdays from the date of the Town Supervisor's written decision.
- E. The Town Board shall review the decision of the Town Supervisor and issue its decision, in writing, within 30 days after the date of the appeal.
- F. The Town Board's decision shall be final.

Attachments:

028a Appendix A

028b Appendix B

CHAPTER 30. PROCUREMENT POLICY

§ 30-1. Evaluation of purchase.

§ 30-2. Purchases to be formally bid.

§ 30-3. Estimated purchases requiring quotes or proposals.

§ 30-4. Award of purchase contract.

§ 30-5. Inability to obtain proposals.

§ 30-6. Exceptions from solicitation of quotes or proposals.

§ 30-7. Annual review.

CHAPTER 30. PROCUREMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Ballston 12-6-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Investment policy — See Ch. 19.

§ 30-1. Evaluation of purchase.

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 (hereafter "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.

§ 30-2. Purchases to be formally 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 General Municipal Law § 103.

§ 30-3. Estimated purchases requiring 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 and written/fax quotes from three vendors.
- (2) Less than \$3,000 but greater than \$1,000 require an oral request for the goods and oral/fax quotes from two vendors.
- (3) Less than \$1,000 but greater than \$250 are left to discretion of the purchaser.

B. All estimated public works contracts of:

- (1) Less than \$20,000 but greater than \$10,000 require a written request for a proposal and written/fax proposals from three contractors. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (2) Less than \$10,000 but greater than \$3,000 require a written request for a proposal and written/fax proposals from two contractors. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (3) Less than \$3,000 but greater than \$500 are left to the discretion of the purchaser.

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

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

§ 30-4. Award of purchase 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 low bid. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 30-5. Inability to obtain 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 will

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.

§ 30-6. Exceptions from solicitation of quotes or proposals.

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased at auction.
- H. Goods purchased for less than \$250.
- I. Public works contracts for less than \$500.

§ 30-7. Annual review.

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

CHAPTER 35. RECORDS

ARTICLE I. Public Access

§ 35-1. Purpose.

§ 35-2. Records inaccessible to the public.

§ 35-3. Designation of records access officers; responsibilities.

§ 35-4. Location of records.

§ 35-5. Hours for public inspection.

§ 35-6. Procedure for requests.

§ 35-7. Subject matter list.

§ 35-8. Denial of access; appeals.

§ 35-9. Fees.

§ 35-10. Public notice.

ARTICLE II. Retention and Disposition

§ 35-11. Schedule adopted.

§ 35-12. Disposition of records.

CHAPTER 35. RECORDS

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

ARTICLE I. Public Access

[Adopted 9-3-1974 by Res. No. 74-7; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art.I)]

§ 35-1. Purpose.

A. The People's right to know the process of governmental decisionmaking and to review 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, Editor's Note: See Art. 6 of the Public Officers Law. as well as records otherwise available by law.

§ 35-2. Records inaccessible to the public.

A. The following records, pursuant to town and state law, are not accessible to the public:

- (1) Those which are specifically exempted from disclosure by state or federal statute.
- (2) Those which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of § 89 of the Public Officers Law.
- (3) Those which, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations.
- (4) Those which are trade secrets or are maintained for the regulation of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.
- (5) Those which are compiled for law enforcement purposes and which, if disclosed, would:
 - (a) Interfere with law enforcement investigations or judicial proceedings;
 - (b) Deprive a person of a right to a fair trial or impartial adjudication;
 - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - (d) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.
- (6) Those which, if disclosed, would endanger the life or safety of any person.
- (7) Those which are interagency or intraagency materials which are not:
 - (a) Statistical or factual tabulations or data;

- (b) Instructions to staff that affect the public;
 - (c) Final agency policy or determinations; or
 - (d) External audits, including but not limited to audits performed by the Comptroller and the federal government.
- (8) Those which are examination questions or answers which are requested prior to the final administration of such questions.
- (9) Those which are computer access codes.

B. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 35-3. Designation of records access officers; responsibilities.

A. The Town Board of the Town of Ballston is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers:

- (1) Town Clerk.
- (2) Deputy Town Clerk.

B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. The designation of records access officers 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. Records access officers 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; or
 - (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, make a copy available upon payment or offer to pay established fees, if any, in accordance with § 35-9.
- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that:
 - (a) The Town of Ballston is not the custodian for such records; or
 - (b) The records of which the Town of Ballston is custodian cannot be found after diligent search.

§ 35-4. Location of records.

Records shall be available for public inspection and copying at the office of the Town Clerk, 232 Charlton Road, Burnt Hills, New York 12027-0067.

§ 35-5. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours the Town Clerk's office is regularly open for business. These hours are 9:00 a.m. until 4:00 p.m.

§ 35-6. Procedure for requests.

- A. A written request is required.
- 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. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five 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, such failure may be construed as a denial of access that may be appealed.

§ 35-7. 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.

§ 35-8. 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 § 35-6D of these regulations, such failure shall also be deemed a denial of access.
- C. The following person or persons or body shall hear appeals from denial of access to records under the Freedom of Information Law: the Town Board of the Town of Ballston.
- D. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of 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 § 35-6D.
- (5) The name and return address of the requester.

E. The individual or body designated to hear appeals shall inform the requester of its decision in writing within 10 business days of receipt of an appeal.

F. The person or 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.

G. The person or body designated to hear appeals 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.

§ 35-9. 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. Copies of records shall be provided according to the following fee schedule:

- (1) The fee for photocopies not exceeding nine inches by 14 inches is \$0.25 per page.
- (2) The fee for copies of records other than photocopies which are nine inches by 14 inches or less shall be the actual copying cost, excluding fixed agency costs such as salaries.

§ 35-10. Public notice.

A notice containing the title or name and business address of the records access officers and appeals person or 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 a local newspaper of general circulation.

ARTICLE II. Retention and Disposition

[Adopted 4-4-1989]

§ 35-11. Schedule adopted.

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.

§ 35-12. 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.

CHAPTER 39. SEXUAL HARASSMENT POLICY

§ 39-1. Policy established.

§ 39-2. Behavior constituting sexual harassment.

§ 39-3. Accountability.

§ 39-4. Complaints.

§ 39-5. Investigations; reports; enforcement.

§ 39-6. Training; preventative measures.

§ 39-7. Distribution of policy.

CHAPTER 39. SEXUAL HARASSMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Ballston 8-6-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 10.

Code of Ethics — See Ch. 14.

Officers and employees — See Ch. 26.

§ 39-1. Policy established.

The United States Equal Employment Opportunity Commission (EEOC), on September 23, 1980, amended its guidelines on sex discrimination to establish the fact that sexual harassment is a violation of Title VII of the Civil Rights Act of 1964. The Town of Ballston is committed to a policy that sexual harassment constitutes illegal behavior and is prohibited in any and every workplace in which town employees are required to conduct business.

§ 39-2. Behavior constituting sexual harassment.

Under EEOC guidelines, unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

A. Submission to the conduct is either an implicit term or condition of employment;

B. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the persons rejecting or submitting to the conduct; or

C. The conduct has the purpose or effect of unreasonably interfering with an affected person's work performance or creating an intimidating, hostile or offensive work environment.

§ 39-3. Accountability.

The EEOC guidelines hold employers accountable for sexually harassing conduct by supervisory personnel, between fellow employees and even by nonemployees (for example, persons delivering goods) where the employer knows or should have known of such conduct.

§ 39-4. Complaints.

The Town of Ballston recognizes sexual harassment as a form of employee misconduct and provides affected employees with rights of redress and complaint resolution channels for incidents of sexual harassment. Complaints which cannot be resolved between the involved parties should be recorded by the victim of sexual harassment and presented orally or in writing to supervisory personnel, department heads and the Town Supervisor, in successive order. Complaints may also be made to either the New York State Human Rights Division or the United States Equal Employment Opportunity Commission.

§ 39-5. Investigations; reports; enforcement.

The Town Supervisor will conduct swift and thorough investigations of all unresolved allegations of sexual harassment, including follow-up reports, and will enforce appropriated sanctions, including disciplinary action against employees engaging in sexual harassment.

§ 39-6. Training; preventative measures.

Training for appropriate staff in each department shall be given on the identification of sexual harassment, how to process complaints and the role and responsibility of supervisory personnel in the prevention of sexually harassing incidents as provided by the Town of Ballston.

§ 39-7. Distribution of policy.

The Town of Ballston is committed to a working environment free from sexual harassment and its effects. This policy shall be distributed to all town departments for posting in a common location within such areas.

CHAPTER 42. SMOKING POLICY

§ 42-1. Prohibited areas.

§ 42-2. Permitted areas.

§ 42-3. Smoking area; sign.

§ 42-4. Town Courts.

§ 42-5. Complaints.

§ 42-6. Copy to be posted.

§ 42-7. Penalties for offenses.

§ 42-8. Enforcement.

CHAPTER 42. SMOKING POLICY

[HISTORY: Adopted by the Town Board of the Town of Ballston 3-6-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 26.

§ 42-1. Prohibited areas.

Smoking is prohibited in all indoor places of employment of town employees under the jurisdiction and control of the Town of Ballston, except in areas specifically designated for smoking.

§ 42-2. Permitted areas.

Smoking is permitted in an enclosed office occupied by a person who smokes or if it is occupied by more than one person, provided that all persons in that office consent to smoking.

§ 42-3. Smoking area; sign.

The Superintendent of Highways shall designate in the highway garage or other building in which town highway employees work a specific enclosed smoking area (if one is required) clearly marked by a sign "Smoking Permitted."

§ 42-4. Town Courts.

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

§ 42-5. Complaints.

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

§ 42-6. Copy to be posted.

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

§ 42-7. Penalties for offenses.

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

§ 42-8. Enforcement.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Town Supervisor shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

CHAPTER 48. ANIMALS

ARTICLE I. Dog Control

§ 48-1. Purpose.

§ 48-2. Definitions.
§ 48-3. Regulations and restrictions.
§ 48-4. Female dogs.
§ 48-5. Conditions for keeping dogs.
§ 48-6. Seizure procedure.
§ 48-7. Redemption.
§ 48-8. Filing complaints.
§ 48-9. Enforcement.
§ 48-10. Penalties for offenses.
§ 48-11. Interference with enforcement prohibited.
§ 48-12. Nonliability of town.

CHAPTER 48. ANIMALS

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

GENERAL REFERENCES

Appearance tickets — See Ch. 5.
Farming — See Ch. 59.
Health and sanitation — See Ch. 73.
Parks and recreation — See Ch. 84.

ARTICLE I. Dog Control

[Adopted 6-6-1995 by L.L. No. 5-1995]

§ 48-1. Purpose.

The purpose of this article shall be to preserve public peace and good order in the Town of Ballston and to promote the public health, safety and welfare of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Ballston.

§ 48-2. Definitions.

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

ANIMAL CONTROL OFFICER

A person or persons appointed by the town for the purpose of enforcing this article.

AT LARGE

An unleashed dog off the premises of the owner.

DOG

Both male and female dogs.

LEASHED

Restrained by a leash, attached to a collar or harness of sufficient strength to restrain the dog and which shall be held by a person having the ability to control the dog.

OWNER

Includes any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in custody and control of parents or other head of the household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for the purpose of enforcing this article.

§ 48-3. Regulations and restrictions.

A. It shall be unlawful for any owner of a dog in the Town of Ballston to permit or allow such dog to:

- (1) Run at large.
- (2) Be off the owner's property unless leashed.
- (3) Engage in habitual loud howling, barking or whining or to conduct itself in such a manner as to habitually annoy any person other than the owner or harbinger of the dog.
- (4) Cause damage or destruction to public or private property or defecate, urinate or otherwise commit a nuisance upon the property other than the owner or harbinger of the dog.
- (5) Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation or to put such a person in reasonable apprehension of bodily harm or injury.
- (6) Chase, leap on or otherwise harass bicycles or motor vehicles.
- (7) Kill or injure any dog, cat or other household pet.
- (8) Be unlicensed when six months of age or older.
- (9) Not have a current and valid New York State identification tag on its collar while at large, whether or not restrained by an adequate leash.

B. Dogs actually used for the sport of hunting shall be allowed to run at large while engaged in the sport of hunting, provided that said dogs are under the control of their owner or other responsible person, and further provided that said dogs are on property with the knowledge and consent of the owner of said property.

§ 48-4. Female dogs.

All female dogs shall be confined to the premises of their owner while such are in season (heat) and may not be left outside unattended. Any owner not adhering to this rule will be subject to having the dog seized by the Animal Control Officer and removed to a safe place of confinement.

§ 48-5. Conditions for keeping dogs.

All premises occupied or used by dogs shall be kept in a clean, sanitary condition. Failure to provide adequate food, water or space shall subject dogs to seizure and confinement. "Adequate" shall mean sufficient for age, size and number of dogs on the premises. Upon conviction of the owner or harbinger, the dogs become the property of the Town of Ballston to be released to an authorized humane society, veterinarian or kennel for adoption or euthanasia.

§ 48-6. Seizure procedure.

Upon taking custody of any animal, the Animal Control Officer shall make a record of the matter. The record shall include date of pickup, breed, general description, sex, identification numbers, time of pickup, location of release and name and address of owner, if any.

§ 48-7. Redemption.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of not less than three days. If a dog seized is wearing an identification number, the owner shall be promptly notified either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of not less than seven days; if notified by mail, not less than nine days. The owner of the dog shall be responsible for any impoundment fee established by the town, plus any other expenses incurred by the municipality to humanely care for the dog. If not redeemed, the owner shall forfeit all title to the dog and it shall be released to an authorized humane society or kennel to be adopted or euthanized.

§ 48-8. Filing complaints.

Any person who observes a dog in violation of any section of this article may file a signed complaint, under oath, with a Justice of the Town of Ballston or with the authorized Animal Control Officer or any peace officer specifying the violation, the date of violation, the damage caused and including the places the violation occurred and name and address of the dog owner, if known.

§ 48-9. Enforcement.

Any person or persons who are or may be lawfully authorized by the Town of Ballston shall, and all peace officers may, administer and enforce the provisions of this article, and for this purpose shall have the authority to issue summons or appearance tickets and to seize dogs either on or off the owner's premises, if witnessed to be in violation of this article.

§ 48-10. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Except as otherwise provided in § 119 of the Agriculture and Markets Law, a violation of this article shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine of not more than \$250, a period of incarceration of up to 15 days, or both, or by a conditional discharge as set forth in Article 65 of the Penal Law.

§ 48-11. Interference with enforcement prohibited.

No person shall hinder, resist or oppose the Animal Control Officer, peace officer or other person(s) authorized to administer or enforce the provisions of this article in the performance of the officer's duties under this article.

§ 48-12. Nonliability of town.

The owner or harbinger of any dog so destroyed under the provisions of this article, whether destroyed by Animal Control Officer, peace officer or released to an authorized humane society or veterinarian, shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

CHAPTER 52. BUILDINGS, UNSAFE

§ 52-1. Inspection.

§ 52-2. Determination of safety.

§ 52-3. Notice.

§ 52-4. Service of notice.

§ 52-5. Noncompliance; prohibited occupancy.

§ 52-6. Judicial action; variances.

§ 52-7. Costs and expenses.

§ 52-8. Penalties for offenses.

CHAPTER 52. BUILDINGS, UNSAFE

[HISTORY: Adopted by the Town Board of the Town of Ballston 7-2-1985 as Art. 15 of L.L. No. 2-1985; readopted 9-5-2000 by L.L. No. 3-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 62.

Flood damage prevention — See Ch. 68.

Health and sanitation — See Ch. 73.

Zoning — See Ch. 138.

§ 52-1. Inspection.

[Amended 9-30-2003 by L.L. No. 4-2003]

When, in the opinion of the Building Inspector, any structure or equipment located in the Town of Ballston appears to be unsafe or dangerous to the public, he or she shall make a formal inspection thereof and report, in writing, to the Town Board the findings of said inspection and any recommendations in regard to its removal or repair.

A. General. When a structure or equipment is found to be unsafe or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of the Property Maintenance Code of New York State.

(1) Unsafe structures: An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.

(2) Unsafe equipment: Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(3) Structure unfit for human occupancy: A structure is unfit for human occupancy whenever such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin- or rat-infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(4) Unlawful structure: An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

B. Vacant structure. Vacant structures shall comply with Sections 311.1 through 311.4 of the Fire Code of New York State.

§ 52-2. Determination of safety.

Said Town Board shall thereafter consider said report and by resolution determine if said structure or building is unsafe and dangerous and order its removal or repair if the same can be safely repaired and further order that notice shall be given to the owner or owners in the manner herein provided.

§ 52-3. Notice.

[Amended 9-30-2003 by L.L. No. 4-2003]

Whenever a structure or equipment has been condemned under the provisions of the Property Maintenance Code of New York State, a notice shall be posted in a conspicuous place in or about the structure affected by such notice. If the notice pertains to equipment, it shall also be placed on the condemned equipment. Notice shall consist of the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or structure is unsafe or dangerous.
- C. An order requiring the same to be made safe and secure or removed.
- D. Any causes stating:
 - (1) That the securing or removal of said buildings or structures shall commence within 30 days of the serving of the notice and shall be completed within 60 days thereafter.
 - (2) That in the event of neglect or refusal of the persons and/or corporations served with the notice to comply with the same, a survey of the premises will be made by an inspector and architect to be named by the Town Board and by a practical builder, engineer or architect appointed by said persons or corporations so notified.
 - (3) That in the event of the refusal or neglect of the persons or corporations so notified to appoint an inspector, the two inspectors named by the Town Board shall make the survey and report.
 - (4) That in the event that the buildings or other structures shall be reported unsafe or dangerous under such survey, an application will be made at a Special Term of the Supreme Court in the Judicial District in which property is located for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.
 - (5) That the land on which said buildings or structures are located will be assessed for all costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the cost of actually removing said building or structure.

§ 52-4. Service of notice.

The notice shall be served in the following manner:

- A. By personal service of a copy thereof upon the owner or some one of the owners, executors, legal representatives, agents, lessees or any other person having a vested or continued interest in the premises as shown by the last proceeding completed assessment roll of the Town; or if no person can be reasonably found, by mailing to said owner, by registered mail, a copy of such notice directed to his last known address.

B. By personal service of a copy of such notice upon any adult person residing in or occupying said premises, or if such person cannot be reasonably found, by securely affixing a copy of such notice upon the building or structure.

§ 52-5. Noncompliance; prohibited occupancy.

In the event of the neglect or refusal of the persons so notified to comply with said order of the Town Board, a survey of said premises shall be made in the following manner:

A. The Town Board shall appoint an inspector and architect, and the persons so notified shall appoint a practical builder, engineer or architect who shall make said survey and submit a written report thereon in regard to the unsafe or dangerous condition of said building or structure. If the persons so notified shall refuse or neglect to appoint an inspector within 40 days after service of the notice, the two inspectors appointed by the Town Board shall proceed and report.

B. A signed copy of such report shall be posted on said structure.

C. Prohibited occupancy. No person shall occupy a placarded premises or shall operate placarded equipment.

[Added 9-30-2003 by L.L. No. 4-2003]

D. Placard removal: The placard shall be removed whenever the defect upon which the condemnation and placarding action were based have been eliminated.

[Added 9-30-2003 by L.L. No. 4-2003]

E. Imminent danger: When there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the occupants shall vacate the premises forthwith. There shall be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and Its Occupancy Has Been Prohibited by the Code Enforcement Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

[Added 9-30-2003 by L.L. No. 4-2003]

§ 52-6. Judicial action; variances.

[Amended 9-30-2003 by L.L. No. 4-2003]

A. In the event that the building or other structure shall be reported unsafe or dangerous under such survey, the Town Board may pass a resolution directing the Supervisor of the Town to make an application at a Special Term of the Supreme Court of the State of New York in the judicial district in which the property is located, for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

B. Application for variance or appeal: Variance or appeal from any part of this code shall be in accordance with the provisions of 19 NYCRR, titled "Variance Procedures," which is administered by the Secretary of State. No town, village, city or county, nor any state agency charged with the

administration and enforcement of the Property Maintenance Code of New York State may waive, modify or otherwise alter this code.

§ 52-7. Costs and expenses.

A. All costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the cost of actually removing said building or structure, shall be assessed against the land on which said buildings or structures are located.

B. Said inspectors shall be paid reasonable compensation for the service performed by them in making their survey and in preparing the report thereof.

§ 52-8. Penalties for offenses.

Notwithstanding any other remedy available under this chapter or any other law, any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense.

CHAPTER 56. ELECTRICAL STANDARDS

§ 56-1. Adoption of standards.

§ 56-2. Provisions for inspections.

§ 56-3. Duties of inspectors.

§ 56-4. Inspections and certificates required.

§ 56-5. Penalties for offenses.

§ 56-6. Exceptions.

§ 56-7. Disclaimer of liability.

CHAPTER 56. ELECTRICAL STANDARDS

[HISTORY: Adopted by the Town Board of the Town of Ballston 7-2-1985 as Art. 13 of L.L. No. 2-1985; readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 62.

§ 56-1. Adoption of standards.

All electrical installations shall be made in conformity with the requirements of the National Electrical Code, except where the provisions of Chapter 138, Zoning, or Chapter 62, Fire Prevention and Building Construction, of the Code of the Town of Ballston or any other local law shall differently prescribe, in which event compliance with the provisions of Chapter 138, Zoning, or Chapter 62, Fire Prevention and Building Construction, of the Code of the Town of Ballston or such local law shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be those known as "National Fire Protection Association Pamphlet Number 70," as approved and adopted by the American Standards Association.

§ 56-2. Provisions for inspections.

[Amended 7-2-1991 by L.L. No. 3-1991]

The Chief Inspector, each of the duly appointed inspectors of the New York Board of Fire Underwriters, Atlantic Inland, Middle Department Inspection Agency or any other nationally approved inspection service agencies designated from time to time by the Town of Ballston are hereby authorized and deputized as agents of the Town of Ballston to make inspections and reinspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspection and reinspections be a charge against the Town of Ballston.

§ 56-3. Duties of inspectors.

- A. It shall be the duty of the inspector to report in writing to the Chief Building Inspector, whose duty it shall be to enforce all the provisions of this code, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and of all local laws, ordinances and chapters of the Code of the Town of Ballston as referred to in this chapter insofar as any of the same apply to electrical wiring.
- B. The inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Ballston upon the written request of an authorized official of the Town of Ballston or as herein provided.
- C. The inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Town of Ballston where he or she deems it necessary for the protection of life and property. In the event of any emergency, it is the duty of the inspector to make electrical inspections upon the oral request of an official or officer of the Town of Ballston.
- D. It shall be the duty of the inspector to furnish written reports to the proper officials, to the Town of Ballston and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. The inspector shall authorize the issuing of a certificate of compliance when electrical installation and equipment are in conformity with this chapter. The inspector shall direct that a copy of the certificate of compliance be sent to the Town of Ballston to the attention of the Building Inspector.

§ 56-4. Inspections and certificates required.

[Amended 3-6-1990 by L.L. No. 4-1990; 7-2-1991 by L.L. No. 3-1991]

- A. It shall be a violation of this chapter for any person, firm, or corporation to install, or cause to be installed, or to alter electrical wiring for light, heat or power, in or on properties in the Town of Ballston until an application for inspection has been filed with the New York Board of Fire Underwriters, Atlantic Inland, Middle Department Inspection Agency or other Town of Ballston designated inspection agencies.
- B. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters, Atlantic Inland, Middle Department Inspection Agency or other Town of Ballston designated inspection agencies.

§ 56-5. Penalties for offenses.

Any person, firm, or corporation who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall upon conviction thereof, be fined not more than \$250 or

imprisoned for not more than 15 days, or both. Each day on which such violation continues shall constitute a separate offense.

§ 56-6. Exceptions.

A. The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars or automotive equipment or the installation or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose.

B. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as its principal business.

§ 56-7. Disclaimer of liability.

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by a defect therein, nor shall the Town of Ballston or the New York Board of Fire Underwriters, Atlantic Inland, Middle Department Inspection Agency or other Town of Ballston designated inspection agencies be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

CHAPTER 59. FARMING

ARTICLE I. Right To Farm

§ 59-1. Legislative intent and purpose.

§ 59-2. Definitions.

§ 59-3. Right to undertake agricultural practices.

§ 59-4. Notice to prospective residents.

CHAPTER 59. FARMING

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

GENERAL REFERENCES

Site plan review — See Ch. 91.

Subdivision of land — See Ch. 104.

Zoning — See Ch. 138.

ARTICLE I. Right To Farm

[Adopted 8-6-1996 by L.L. No. 1-1996]

§ 59-1. Legislative intent and purpose.

A. The Town Board of the Town of Ballston finds that farming is an essential activity within the Town of Ballston.

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 Ballston emphasizes to its residents and newcomers that this town encourages its agriculture and requests its residents and newcomers to be understanding of the necessary day-to-day operations of farming.

C. It is the general purpose and intent of this article to maintain and preserve the rural tradition and character of the Town of Ballston, 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.

§ 59-2. Definitions.

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

AGRICULTURAL PRACTICES

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

FARM

Livestock, dairy, poultry, furbearing 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.

§ 59-3. 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 Ballston 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.

§ 59-4. Notice to prospective residents.

The following notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law § 276 or Village Law § 7-728:

"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 62. FIRE PREVENTION AND BUILDING CONSTRUCTION

ARTICLE I. Permits and Inspections

§ 62-1. Enforcement officer.

§ 62-2. Building permits.

§ 62-3. Accessibility to premises.

§ 62-4. Certificate of occupancy.

§ 62-5. Inspections.

§ 62-6. Inspectors.

§ 62-7. Records.

§ 62-8. Penalties for offenses.

ARTICLE II. Administration and Enforcement

§ 62-9. Rules and regulations adopted.

CHAPTER 62. FIRE PREVENTION AND BUILDING CONSTRUCTION

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

GENERAL REFERENCES

Unsafe buildings — See Ch. 52.
Electrical standards — See Ch. 56.
Subdivision of land — See Ch. 104.
Zoning — See Ch. 138.

ARTICLE I. Permits and Inspections

[Adopted 9-5-2000 by L.L. No. 3-2000]

§ 62-1. Enforcement officer.

The Building Inspector of the Town of Ballston is hereby designated to administer and enforce the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the Town of Ballston, Saratoga County, New York.

§ 62-2. Building permits.

[Amended 9-30-2003 by L.L. No. 4-2003]

No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any building or structure, except a nonresidential farm building, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes, nor install heating equipment without having applied and obtained a permit from the Building Inspector. However, no permit shall be required for the performance of necessary repairs which are not of a structural nature and which are done in conformance with the Uniform Code. A nonresidential farm building only includes buildings and property which meet the requirements for an agriculture assessment and the eligibility requirements as defined in the Assessor's Manual Section 305: "In any case where a building permit or use requires site plan review, the Building Inspector shall refer the site plan to the Planning Board for review before issuing a building permit. Site plan review shall be required before the issuance of a building permit for any building proposed to be placed on any new or existing commercial site."

A. Applications for a building permit may be obtained from the office of the Building Inspector.

B. Such application shall be filed and processed in accordance with the provisions of Chapter 138, Zoning, of the Code of the Town of Ballston.

C. Building permits shall be administered and enforced in accordance with the Uniform Code and Chapter 138, Zoning, of the Code of the Town of Ballston.

D. New nonresidential farm buildings shall require a building permit be obtained in order to insure that the setbacks required in the Zoning Law, Chapter 138, of the Ballston Town Code be followed. No payment shall be required for building permits for nonresidential farm buildings.

[Added 4-7-2009 by L.L. No. 4-2009]

§ 62-3. Accessibility to premises.

[Added 9-30-2003 by L.L. No. 4-2003 Editor's Note: This local law also renumbered former §§ 62-3 through 62-7 as 62-4 through 62-8, respectively. **]**

A driveway over 500 feet in length must be accessible and able to hold a fifty-thousand-pound, thirty-foot-long vehicle, as determined by a licensed engineer, with facilities for turning around to be available within 100 feet of any structure. A driveway over 500 feet in length must have a minimum width of 12 feet and a minimum vertical clearance of 15 feet. A driveway must be maintained free of all obstructions, such as trees, brush, posts, gates, etc. A pullover, 10 feet in width, shall be provided every 200 feet or as determined by the Planning Board.

§ 62-4. Certificate of occupancy.

A. No building erected subject to the Uniform Code and this chapter shall be used or occupied, except to the extent provided in this section, until a certificate of occupancy has been issued in accordance with Chapter 138, Zoning, of the Code of the Town of Ballston. No building similarly enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy or use of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner or his or her agent shall make application for a certificate of occupancy.

B. No certificate of occupancy shall be issued, except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use and upon payment of the appropriate fee.

§ 62-5. Inspections.

A. Work for which a building permit has been issued under this article shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including but not limited to building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, heating, ventilating and air conditioning. It shall be the responsibility of the owner, applicant or his or her agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection.

B. Intervals for inspection.

(1) Existing buildings not subject to inspection under Subsection A of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule:

(a) All areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly and the common areas of multiple dwellings: every 12 months.

(b) All other buildings: as time permits.

(2) Notwithstanding any requirement of this subsection to the contrary, no regular, periodic inspections of occupied dwelling units shall be required; provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

§ 62-6. Inspectors.

A. The inspections required by § 62-4 of this article may be performed by the Building Inspector. The Building Inspector is authorized to order, in writing, the correction of any condition in violation of the Uniform Code found in, on or about any building. Such orders shall be served in person upon a responsible party or his or her authorized agent or by certified mail sent to the address of a responsible party set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. A responsible party who fails to correct the condition within the specified time shall be subject to a penalty as provided by law.

B. A person subject to inspection under § 62-4 may be required by the Building Inspector to have such inspection performed at his or her own cost and expense by a competent inspector acceptable to the Building Inspector. Such inspector may be a registered architect, licensed professional engineer, certified Building Inspector or other person whose experience and training has been demonstrated to the satisfaction of the Building Inspector. Such inspector shall certify the results of his or her inspection to the Building Inspector. Any person required by the Building Inspector to have an inspection performed at his or her own cost and expense shall not be assessed the fees otherwise prescribed in this article.

§ 62-7. Records.

The Building Inspector shall maintain a system of records for all activities conducted and fees received pursuant to this article.

§ 62-8. Penalties for offenses.

A. In addition to and not in limitation of any power otherwise granted by law, the Building Inspector shall have the power to order, in writing, the remedying of any condition found to exist in, on or about any building in violation of the Uniform Fire Prevention and Building Code and to issue appearance tickets for violations of the Uniform Code. Editor's Note: See also Ch. 5, Appearance Tickets.

B. Any person having been served, either personally or by registered mail, with any order to remedy any condition found to exist in, on or about any building in violation of the Uniform Fire Prevention and Building Code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the Secretary of State pursuant to Subdivision 1 of § 381 of the Executive Law, such time period to be stated in the order, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction of any building who shall knowingly violate any of the applicable provisions of the Uniform Code or any lawful order of the Building Inspector for construction, maintenance or fire-protection equipment and systems shall be punishable by a fine of not more than \$1,000 per day of violation or imprisonment not exceeding one year, or both.

C. Where the construction or use of a building is in violation of any provision of the Uniform Code or any lawful order obtained thereunder, a Justice of the Supreme Court at a Special Term in the Judicial District in which the building is located may order the removal of the building or all abatement of the condition in violation of such provisions. An application for such relief may be made by the Secretary of State, an appropriate municipal officer or any other person aggrieved by the violation.

ARTICLE II. Administration and Enforcement

[Adopted 3-6-2007 by L.L. No. 1-2007]

§ 62-9. Rules and regulations adopted.

The Town of Ballston is committed to the administration and enforcement of the Uniform Code revision of 19 NYCRR Part 1203 as follows:

A. Part 1203 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed.

B. Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding a new Part 1203 to read as follows:

PART 1203

UNIFORM CODE: MINIMUM STANDARDS

FOR ADMINISTRATION AND ENFORCEMENT

§ 1203.1 Introduction. Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations for administration of the Uniform Fire Prevention and Building Code (Uniform Code). These rules and regulations are to address the nature and quality of enforcement and are the subject of this Part.

§ 1203.2 Program for administration and enforcement.

(a) Every city, village, town, and county, charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall provide for such administration and enforcement by local law, ordinance or other appropriate regulation. Any such instrument or combination thereof shall include the features described in § 1203.3 of this Part.

(b) Every state agency accountable under § 1201.2(d) of this Title for administration and enforcement of the Uniform Code shall provide for such administration and enforcement in accordance with Part 1204 of this Title.

(c) Every agency accountable under § 1201.2 of this Title for administration and enforcement of the Uniform Code and not otherwise included in subdivisions (a) and (b) of this section shall provide for such administration and enforcement in regulation. Any such regulation shall include the features described in § 1203.3 of this Part.

(d) Every government or agency thereof charged with administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of fire and

inadequate building construction.

- (e) (1) Where a government or agency charged with or accountable for administration and enforcement of the Uniform Code relies upon the contracted-for services of an individual, partnership, business corporation or similar firm for the principal part of an administration and enforcement program, it shall satisfy itself that any such provider has qualifications comparable to those of an individual who has met the requirements of Part 434 of this Title.

(2) No agreement shall be made by which building permits, certificates, orders or appearance tickets related to administration and enforcement of the Uniform Code are issued by other than public officers.

- (f) The persons, offices, departments, agencies or combinations thereof authorized and responsible for administration and enforcement of the Uniform Code, or any portion thereof, shall be clearly identified.

§ 1203.3 Minimum features of a program for administration and enforcement of the Uniform Code. A program for administration and enforcement of the Uniform Code shall, include all features described in subdivisions (a) through (j) of this section. A government or agency charged with or accountable for administration and enforcement of the code must provide for each of the listed features through legislation or other appropriate means.

- (a) Building permits.

(1) Building permits shall be required for work which must conform to the Uniform Code. A government or agency charged with or accountable for administration and enforcement of the Uniform Code may exempt from the requirement for a permit the categories of work listed in subparagraphs (i) through (xii) of this paragraph. An exemption from the requirement to obtain a permit shall not be deemed an authorization for work to be performed in violation of the Uniform Code. The following categories of work may be excluded from the requirement for a building permit:

- (i) 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 does not exceed 120 square feet (11.15m²);

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

(iii) 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;

(iv) installation of fences which are not part of an enclosure surrounding a swimming pool;

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

(vi) construction of temporary motion picture, television and theater stage sets and scenery;

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

(viii) installation of partitions or movable cases less than 5'-9" in height;

(ix) painting, wallpapering, tiling, carpeting, or other similar finish work;

(x) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

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

(xii) repairs, provided that such repairs do not involve:

(a) the removal or cutting away of a loadbearing 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;

(d) the removal from service of all or part of a fire protection system for any period of time.

(2) An application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and shall require submission of the following information and documentation:

(i) a description of the proposed work;

(ii) the tax map number and the street address;

(iii) the occupancy classification of any affected building or structure;

(iv) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(v) at least 2 sets of construction documents (drawings and/or specifications) that define the scope of the proposed work.

(3) Construction documents shall not be accepted as part of an application for a building permit unless such documents:

(a) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

(b) indicate with sufficient clarity and detail the nature and extent of the work proposed;

(c) substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code.

(d) where applicable, include a site plan that shows any existing and proposed 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 structures and the lot lines.

(4) Applications for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code. Provisions shall be made for construction documents accepted as part of a permit application to be so marked in writing or by stamp. One set of accepted construction documents shall be retained by the government or agency charged with or accountable for administration and enforcement of the code. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement official.

(5) A building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application. In addition, a permit shall include the directive that the government or agency responsible for enforcement of the code shall be notified immediately in the event

of changes occurring during construction.

(6) Building permits shall be issued with a specific expiration date. A local government or agency responsible for enforcement of the Uniform Code may provide that a permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) When a building permit has been issued in error because of incorrect, inaccurate or incomplete information, or the work for which the permit was issued violates the Uniform Code, such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the code.

(8) Building permits shall be required to be visibly displayed at the work site and to remain visible until the project has been completed.

(b) Construction inspections.

(1) Permitted work shall be required to remain accessible and exposed until inspected and accepted by the government or agency enforcing the Uniform Code. Permit holders shall be required to notify the government or agency when construction work is ready for inspection.

(2) Provisions shall be made for inspection of the following elements of the construction process, where applicable:

(i) work site prior to the issuance of a permit;

(ii) footing and foundation;

(iii) preparation for concrete slab;

(iv) framing;

(v) building systems, including underground and rough-in;

(vi) fire resistant construction;

(vii) fire resistant penetrations;

(viii) solid fuel burning heating appliances, chimneys, flues or gas vents;

(ix) energy code compliance; and

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

(3) 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. Construction work not in compliance with code provisions shall be required to remain exposed until it has been brought into compliance with the code, been reinspected, and been found satisfactory as completed.

(c) Stop work orders. Stop work orders shall be used to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to resume.

(d) Certificates of occupancy; certificates of compliance.

(1) 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.

(2) Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code must be received prior to the issuance of the certificate. A certificate of occupancy or certificate of compliance shall contain the following information:

- (i) the building permit number, if any;
- (ii) the date of issuance of the permit, if any;
- (iii) the name, address and tax map number of the property;
- (iv) if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
- (v) the use and occupancy classification of the structure;
- (vi) the type of construction of the structure;
- (vii) the assembly occupant load of the structure, if any;
- (viii) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(ix) any special conditions imposed in connection with the issuance of the building permit; and

(x) the signature of the official issuing the certificate and the date of issuance.

(3) Temporary occupancy. A certificate allowing temporary occupancy of a structure may not be issued prior to the completion of the work which is the subject of a building permit unless the structure or portions thereof may be occupied safely, any fire-and smoke-detecting or fire protection equipment which has been installed is operational, and all required means of egress from the structure have been provided. The effectiveness of a temporary certificate shall be limited to a specified period of time during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.

(4) A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion. Procedures shall be established for the chief of any fire department providing fire fighting services for a property to notify the code enforcement official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

(f) Procedures regarding unsafe structures and equipment. Procedures shall be established for identifying and addressing unsafe structures and equipment.

(g) Operating permits.

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

(i) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Fire Code of New York State (see 19 NYCRR Part 1225);

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

(iii) use of pyrotechnic devices in assembly occupancies;

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

(v) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the government or agency charged with or accountable for administration and enforcement of the Uniform Code.

(2) Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (1) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

(3) An inspection of the premises shall be conducted prior to the issuance of an operating permit.

(4) A single operating permit may apply to more than one hazardous activity.

(5) Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

(6) Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

(h) Fire safety and property maintenance inspections. Provisions shall be made for:

(1) fire safety and property maintenance inspections of buildings which contain an area of public assembly at intervals not to exceed one year;

(2) fire safety and property maintenance inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions, but in no event shall such intervals exceed one year for dormitory buildings and three years for all other buildings.

(i) Procedure for complaints. Procedures shall be established for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the code or the laws and/or regulations adopted for administration and enforcement of the code.

(j) Record keeping. A system of records of the features and activities specified in subdivisions (a) through (i) of this section and of fees charged and collected, if any, shall be established and maintained.

§ 1203.4 Program review and reporting.

(a) Every city, village, town, and county, charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall annually submit to the Secretary of State, on a form prescribed by the Secretary, a report of its activities relative to administration and enforcement of the Uniform Code.

(b) Upon request of the Department of State, every municipality or other

agency subject to this Part shall provide from the records and related materials it is required to maintain excerpts, summaries, tabulations, statistics and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code. Failure to produce the requested materials shall permit an inference that the minimum standards of this Part have not been met.

CHAPTER 65. FIRE PROTECTION DISTRICT

§ 65-1. Findings and purpose.

§ 65-2. District established.

CHAPTER 65. FIRE PROTECTION DISTRICT

[HISTORY: Adopted by the Town Board of the Town of Ballston 4-9-1962. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 62.

Zoning — See Ch. 138.

§ 65-1. Findings and purpose.

Pursuant to Article 11 of the Town Law of the State of New York:

- A. All the property, property owners and interested persons within the proposed Fire Protection District are benefited thereby.
- B. All the property, property owners and interested persons benefited are included within the limits of the proposed Fire Protection District.
- C. It is in the public interest to establish the proposed Fire Protection District.

§ 65-2. District established.

This Board in all respects approves the establishment of, and there is hereby established, a Fire Protection District within the Town of Ballston, Saratoga County, New York, to be known as the "Town of Ballston Fire Protection District No. 2" and to be contained in and embrace the following boundaries, to wit:

ALL that tract, piece or parcel of land situate, lying and being in the Town of Ballston, County of Saratoga and State of New York, bounded and described as follows: Commencing at the southeasterly corner of the Town of Ballston in the center of the East Line Road and proceeding thence north along the center of said East Line Road (and the east line of the Town of Ballston) to the northeast corner of lands of James Weed; thence west along the north line of said Weed to said Weed's northwest corner at the east line of lands of Bernard and Elizabeth Hennessey; thence north along the east line of said Hennessey lands to the northeast corner of said Hennessey lands; thence west along the north line of lands of said Hennessey to the northeast corner of lands of Clyde Decker and wife (and the northwest corner of Hennessey, and also the easterly boundary of

Burnt Hills Fire District; thence southerly along the easterly boundary of said Burnt Hills Fire District to the center line of Outlet Road and the north line of the Ballston Lake Fire District; thence easterly along the center line of Outlet Road (and the north line of Ballston Lake Fire District) to the northeast corner of said Ballston Lake Fire District; thence southerly along the easterly line of said Ballston Lake Fire District to the southerly line of the Town of Ballston at a point in the east line of lands of Chester Witecki; thence east along the south Town of Ballston line to the place of beginning.

CHAPTER 68. FLOOD DAMAGE PREVENTION

- § 68-1. Findings.
- § 68-2. Purpose.
- § 68-3. Objectives.
- § 68-4. Word usage and definitions.
- § 68-5. Applicability.
- § 68-6. Basis for establishing areas of special flood hazard.
- § 68-7. Interpretation and conflict with other laws.
- § 68-8. Penalties for offenses.
- § 68-9. Warning and disclaimer of liability.
- § 68-10. Designation of local administrator.
- § 68-11. Purpose of floodplain development permit; fees.
- § 68-12. Permit application.
- § 68-13. Powers and duties of local administrator.
- § 68-14. General standards.
- § 68-15. Standards for all structures.
- § 68-16. Residential structures.
- § 68-17. Nonresidential structures.
- § 68-18. Manufactured homes and recreational vehicles.
- § 68-19. Appeals board.
- § 68-20. Conditions for variances.

CHAPTER 68. FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Ballston 5-2-1995 by L.L. No. 3-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 62.
Subdivision of land — See Ch. 104.
Zoning — See Ch. 138.

§ 68-1. Findings.

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

§ 68-2. 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.

§ 68-3. 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.

§ 68-4. 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-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD

The flood having a 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:

(2) Built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones V1-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

(a) 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.

(b) In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

(3) In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY

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

FLOOD HAZARD BOUNDARY MAP (FHBM)

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

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

See "flood elevation study."

FLOOD or FLOODING

(1) Includes 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 (1)(a) above.

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:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR

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

LOWEST FLOOR

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

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION

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

MEAN SEA LEVEL

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

MOBILE HOME

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

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 § 68-13B 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.

§ 68-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Ballston, Saratoga County, New York.

§ 68-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard for the Town of Ballston, Community Number 360711, 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 0439, 0531, 0532, 0533, 0534, 0541, 0544, 0551, 0552, 0553, 0554, 0561, 0562, whose effective date is August 16, 1995.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town Offices, Charlton Road, Ballston Spa, New York.

§ 68-7. 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.

§ 68-8. 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 Ballston, Saratoga County 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 §§ 68-19 and 68-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 68-9. 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 Ballston, 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.

§ 68-10. Designation of local administrator.

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

§ 68-11. 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 § 68-6, 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. All applications for a floodplain development permit shall be accompanied by an application fee per town schedule. In addition, the applicant shall be responsible for reimbursing the Town of Ballston 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.

§ 68-12. 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-A30, AE or AH or Zone A if base flood elevation data is 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 § 68-15C, Utilities.

D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 68-17, Nonresidential structures.

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 § 68-6, 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.

§ 68-13. 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 § 68-12, 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 §§ 68-14 through 68-18 and, in particular, § 68-14A, 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 §§ 68-14 through 68-18, 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 § 68-12G, 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.

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

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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

F. Stop-work orders.

(1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 68-8 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 § 68-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 68-6, 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 §§ 68-19 and 68-20.

(5) Notices required under § 68-13C, Alteration of watercourses.

§ 68-14. 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 § 68-6:

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

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

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

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

B. Encroachments.

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

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

(b) The Town of Ballston 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 Ballston 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 Ballston 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 § 68-6, 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 Ballston 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 Ballston 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 Ballston for all costs related to the final map revisions.

§ 68-15. Standards for all structures.

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

B. Construction materials and methods.

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

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

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH and also Zone A, if base flood elevation data is 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.

(a) 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.

[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.

§ 68-16. Residential structures.

The following standards, in addition to the standards in § 68-14A, Subdivision proposals, and § 68-14B, Encroachments, and § 68-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

A. Within Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is 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 is 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 § 68-6 (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.

§ 68-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 68-14A, Subdivision proposals, and § 68-14B, Encroachments, and § 68-15, Standards for all structures.

A. Within Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is 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 is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 68-18. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 68-14, General standards, and § 68-15, 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-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-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-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 is 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 § 68-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

§ 68-19. Appeals board.

A. The Zoning Board of Appeals, as established by the Town of Ballston, 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.

§ 68-20. 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 § 68-19D(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.

(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 73. HEALTH AND SANITATION

ARTICLE I. Sanitation Standards

§ 73-1. Purpose.

§ 73-2. Facilities for sewage disposal required.

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§ 73-11. Maintenance of premises.

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§ 73-20. Penalties for offenses.

CHAPTER 73. HEALTH AND SANITATION

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

GENERAL REFERENCES

Unsafe buildings — See Ch. 52.
Building construction — See Ch. 62.
Solid waste — See Ch. 96.

ARTICLE I. Sanitation Standards

[Adopted 9-5-2000 by L.L. No. 3-2000]

§ 73-1. Purpose.

[Amended 5-1-2007 by L.L. No. 5-2007]

The purpose of the regulations in this article 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.

§ 73-2. Facilities for sewage disposal required.

[Amended 11-7-2002 by L.L. No. 5-2002; 9-30-2003 by L.L. No. 4-2003; 5-1-2007 by L.L. No. 5-2007]

No person shall undertake replacement of an existing wastewater disposal system or construction or expansion of any structure or facility in the Town of Ballston without first meeting the requirements for wastewater disposal, in accordance with applicable regulations of the Town of Ballston, New York State Department of Environmental Conservation and the New York State Department of Health.

A. All components of sewage collection and disposal systems in the Town of Ballston shall be designed by a New York State licensed Design Professional. The replacement of existing septic tank or distribution box with like kind shall be exempt from the requirement of design by New York State licensed design professional. The design professional shall inspect construction and certify to the Town that the system has been installed in accordance with the approved drawings and specifications.

(1) All systems shall be designed in accordance with the following standards, as applicable:

(a) Recommended Standards for Sewage Works, published by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, 1978 edition (commonly known as "Ten-State Standards").

(b) Design Standards For Wastewater Treatment Works - Intermediate-Sized Sewerage Facilities, published by the New York State Department of Environmental Conservation, 1988 edition.

(c) Appendix 75-A of Part 75 of the Administrative Rules and Regulations contained in Chapter II of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(d) Individual Residential Wastewater Treatment Systems Design Handbook, published by the New York State Department of Health, latest edition.

(2) The design professional shall be either a professional engineer or architect licensed or registered in the State of New York and authorized by the State Education Law to design the systems described in the standards. For certain facilities of a minor nature, a licensed land surveyor will be

considered a design professional if qualified as an "exempt person" under State Education Law § 7208, Subdivision n. A licensed land surveyor shall not be allowed to design sewage disposal or treatment plants, lift stations, pumping stations, or sewage disposal systems for commercial buildings.

B. Community sewerage system. A system utilized for the collection and disposal of sewage, or other waste of a liquid nature, including the various devices for the treatment of such wastes serving more than one lot, whether owned by a municipal corporation or private utility.

(1) Connection to a community sewerage system shall be required where a subdivision, building or facility is reasonably accessible to an existing sewer district or service area.

(2) This requirement shall apply in the absence of proof satisfactory to the Town Planning Board that the developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district or service area facilities.

(3) The Planning Board shall require installation of dry sewers for subdivision of land in accordance with the community sewerage plan published by the Saratoga County Sewer District titled "Ballston Lake Watershed Sewer Study: Proposed Location of Sewers." Dry sewers shall also be required if a proposed project is within 500 feet of an existing dry sewer collection system.

C. On-site wastewater treatment systems. Where an existing community sewerage system is unavailable, individual on-site sanitary disposal may be utilized. Designs shall comply with all requirements as set forth in § 73-2A(1) of this chapter. Design plans shall show, at a minimum:

(1) Site evaluation data, including but not limited to location of nearby water sources and water lines, terrain or surface characteristics, subsurface conditions, nearness of habitation, possibility of flooding, possibility of groundwater mounding, and room for expansion. Soil evaluation should be based on finished elevations of the site. Any proposed cut or fill work that is to be done must be accounted for when determining the suitability of the site for soil absorption systems.

(2) Soil profile observations from deep hole test pits dug at the perimeter of the expected soil absorption area. Required soil profile information shall, at a minimum, include:

(a) Thickness of layers or horizons, texture (USDA), consistence, and structure of soil layers.

(b) General color and color mottling or variation (this should be done in natural light only).

(c) Depth to water, if observed and depth to estimated or observed seasonally high groundwater level, depth to and type of bedrock, if observed.

(d) Other prominent features such as visible pores, stoniness or roots.

(3) Soil percolation information from percolation tests run in an area immediately adjacent to or in between the areas planned for absorption trenches if such details are known at the time. For mound system, the percolation test must be run just within the estimated boundary of the basal area of the mound. At least two percolation tests for every 1,000 square feet of absorption area shall be performed in holes spaced uniformly throughout the site. If the soil conditions are highly variable, more tests may be required.

(4) Design flow information for the proposed use in accordance with estimated hydraulic loading rates published in the applicable design standards set forth in § 73-2A(1) of this chapter.

(5) For wastewater flows that are not residential in nature, detailed data shall be provided regarding the character and quantity of the wastewater flow.

(6) Minimum and proposed separation distance information.

(7) Typical service connection.

(8) Location of all water supply wells and wastewater disposal areas within 200 feet of the proposed treatment area.

(9) Construction and material specifications.

(10) For low-pressure sewers, design pressure information and pumping equipment information shall be provided. Cleanout, fittings, appurtenances and pump tank information shall also be provided.

D. Alternative treatment systems. Certain site conditions may prohibit installation of conventional subsurface wastewater treatment systems as described in the Individual Residential Waste Water Treatment Systems Design Handbook published by the New York State Department of Health or the Design Standards For Wastewater Treatment Works - Intermediate Sized Sewerage Facilities published by the New York State Department of Environmental Conservation.

(1) Alternative treatment systems shall be designed by a professional engineer or architect.

(2) Alternative treatment systems for new construction shall be reviewed and approved by the New York State Department of Health prior to the issuance of a building permit.

(3) Alternative treatment systems for existing buildings. The applicant shall be required to prove that a conventional wastewater treatment system cannot be installed and that the proposed alternative treatment system will be able to meet minimum wastewater treatment performance standards set forth in this chapter.

(4) Construction of alternative treatment systems must be supervised by the design professional, and certification of construction in conformance with the approved plans shall be provided by the design professional to the Town of Ballston.

E. Building permit requirement. A building permit is required for construction, enlargement or replacement of any on-site wastewater treatment system.

(1) Sewage collection and disposal systems as part of a new building or structure shall not require a separate building permit application but will require design plans prepared in accordance with this chapter.

(2) An individual building permit shall be required for the replacement or enlargement of any existing on-site wastewater treatment system in the Town of Ballston. Design plans prepared in accordance with this chapter are required before a permit will be issued. Replacement includes exchange of any component of an existing wastewater treatment system, including septic tank, distribution equipment or absorption component. Enlargement includes installation of additional system components including but not limited to grease traps and absorption field area.

(3) The Town of Ballston Building Inspector shall be scheduled to inspect the installed wastewater treatment system prior to backfill.

(4) Certification of construction in conformance with the approved plans shall be provided by the design professional to the Town of Ballston Building Department before issuance of a certificate of compliance or occupancy.

F. System failure.

(1) Any wastewater treatment system in the Town of Ballston that sustains a major failure (e.g., raw sewage or effluent discharge), as such failure is determined by the Town of Ballston Building Inspector, Health Officer or Town-designated engineer, the owner of such building shall take immediate action to contain the failure. The owner shall also be required to permanently correct such failure within 30 days following written notice by the appropriate Town official. This written notice may be delivered either to the owner of the property, or to the tenant, or occupant of the property, and such time limit shall be based on calendar days. Correction of the failure shall be to the reasonable satisfaction of the Town of Ballston Building Inspector, Health Officer or Town-designated engineer.

(2) Fine; notice.

(a) In the event that the property owner fails to make such corrections within the thirty-day time limit specified herein, the owner may be subject to a daily fine of up to \$500, in addition to revocation of any issued certificate of occupancy or legally permissible injunctive relief or any other civil actions; or, in the alternative, the Town Board may order the repair of the wastewater treatment system and further order that a notice be served upon the persons in the manner provided below.

(b) Contents of notice. The notice shall contain the following:

[1] A description of the premises upon which the wastewater treatment system is failing (the "premises").

[2] A statement of the particulars in which the wastewater treatment system is failing.

[3] An order outlining the manner in which the wastewater system is to permanently corrected.

[4] A statement that the correction of such wastewater treatment system shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter unless the Town Board, for good cause shown, and in its discretion, extends such time.

[5] A date, time and place for a hearing before the Town Board in relation to such failed wastewater treatment system, which hearing shall be scheduled not less than five business days from the date of service of the notice.

[6] A statement that, in the event of neglect or refusal to comply with the order to correct such wastewater treatment system, the Town Board is authorized to provide for its correction, to assess all expenses thereof against the premises and to institute a special proceeding to collect the costs of correction, including but not limited to legal, surveying, engineering and architectural expenses.

(c) Service of notice. Said notice shall be served by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in the premises as shown by the records of the receiver of taxes (or tax collector) or of the County Clerk or, if no such person can be reasonably found, by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above

records; and by personal service of a copy of such notice upon any adult person residing in or occupying the premises if such person can be reasonably found; and by securely affixing a copy of such notice upon the premises.

(d) Filing of notice. A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Saratoga.

(e) Refusal to comply. In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the correction of the wastewater treatment system either by Town employees or by contract. Except in emergency, as provided in Subsection F(2)(g) below, the Town Board, prior to the commencement of the correction of the wastewater treatment system, shall cause to be served upon the persons and in the manner provided in Subsection F(2)(c) above, a final notice that the Town Board intends to provide for the correction of the wastewater treatment system either by Town employees or by contract. Except in an emergency, as provided in Subsection F(2)(g) below, any contract for correction of a wastewater treatment system in excess of \$5,000 shall be awarded through competitive bidding.

(f) Assessment of expenses. All expenses incurred by the Town of Ballston in connection with the proceedings to correct the wastewater treatment system shall be assessed against the premises and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

(g) Emergency cases. If the Town Board finds that there is present a clear and imminent danger to the life, safety or health of any person or property unless a failed wastewater treatment system is immediately corrected, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the correction of such wastewater treatment system. The expense of such correction shall be a charge against the premises and shall be assessed, levied and collected as provided in Subsection F(2)(f) above.

§ 73-3. 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, fit for human occupancy and comply with the requirements of this article and all applicable laws.

§ 73-4. Maintenance of common area in multiple dwellings.

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.

§ 73-5. 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 or she occupies and controls.

§ 73-6. Rubbish; garbage; containers.

A. Rubbish. Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish in a clean, sanitary and safe manner. Burning of rubbish is unlawful.

B. Garbage. Every occupant of a dwelling or dwelling unit shall dispose of all garbage or any other organic waste material which might provide food for insects or rodents in a clean, sanitary and safe

manner through use of a rodent-proof, insect-proof and watertight container for garbage or refuse storage pending collection, and garbage or refuse shall not remain on curbside for more than 72 hours.

[Amended 8-5-1997 by L.L. No. 3-1997]

C. Rubbish and garbage containers. Every owner of a dwelling unit 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.

§ 73-7. Extermination.

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 rodent-proof or reasonably insect-proof 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.

§ 73-8. Unfit dwellings.

Editor's Note: See also Ch. 52, Buildings, Unsafe.

A. Whenever the Building Inspector becomes aware of a situation that might possibly pose a health or safety hazard, it shall be brought to the attention of the Town Board. If the Town Board, acting as a Board of Health, is advised by the Town Health Officer that any dwelling constitutes a serious hazard to the health or safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities required by this article, such Board of Health shall designate such dwelling unfit for human habitation, order the dwelling vacated and shall cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "Use of this building for human habitation is prohibited and unlawful."

B. If the owner fails to comply with an order issued by the Board of Health to bring the dwelling into compliance with the requirements of this article within 30 days from the date of such order, the Board of Health may apply to the District Health Officer for an order that such building be removed or demolished as provided for by the applicable state law.

§ 73-9. Penalties for offenses.

Notwithstanding any other remedy available under this article or any other law, any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense.

ARTICLE II. Property Maintenance

[Adopted 10-7-1997 by L.L. No. 5-1997]

§ 73-10. Purpose.

A. The purpose of this article is to protect the public health, safety, morals, welfare and public and private property by establishing minimum standards governing the conditions of occupancy, maintenance of premises and duties of owners and operators of buildings and to authorize and establish procedures for the inspection of dwellings and other buildings; and to fix penalties for the violations of this article. This article is hereby declared to be remedial and essential for the public interest, and it is intended that this article be liberally construed to effectuate the purposes as stated herein.

§ 73-11. Maintenance of premises.

All parts of the premises shall be maintained so as to prevent infestation and the accumulation of debris and junk as hereinafter defined.

§ 73-12. Definitions.

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

DEBRIS AND JUNK

Manufactured goods that are so worn, deteriorated or obsolete as to make them unusable for their original purpose in their existing condition, but are subject to being dismantled, including used paper, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc, and all other scrap metals and their alloys, and rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, appliances, fixtures, utensils or lumber, used boxes or crates, used pipe or pipe fittings, used tires and unusable and/or discarded furniture.

§ 73-13. Disposal of garbage.

The owner or occupant of every occupied building or structure within the Town of Ballston shall have watertight receptacles with tight-fitting covers sufficient in capacity to hold all refuse, garbage and waste matter from said building or structure. When not out for collection, receptacles shall be located and maintained out of public view in such a manner as to prevent the creation of a nuisance or a health hazard.

§ 73-14. Enforcement officers designated.

The Zoning Enforcement Officer and the Building Inspector, and such persons as may be designated from time to time by the Town Board of the Town of Ballston or any of them, are hereby designated as the officers charged with the enforcement of this article and the code hereby established and are hereinafter referred to as the "enforcement officer."

§ 73-15. Notice of violation.

A. Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, he or she shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall be in writing, including a statement of the reasons why it is being issued, and shall be served upon the owner or occupant of the premises or the agent of either of them. Such notice shall be deemed to be properly served if a copy thereof is served upon such person personally or is sent by certified or registered mail to his or her last known address or is posted in a conspicuous place in or about the premises affected by the notice. Such notice shall state that unless within 10 days from service of the notice a written request is made for a hearing before the Board of Review, said notice shall at the expiration of such ten-day period be deemed an order to cease and desist from and to abate the described violation, and such notice shall prescribe a reasonable time within which such person shall be required to cease and desist from and abate such violation.

B. The notice shall also contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

§ 73-16. Board of Review.

The Board of Review shall consist of at least one Councilman of the Town of Ballston, a member of the town's Zoning Board of Appeals and a member of the town's Planning Board.

§ 73-17. Hearings.

If a hearing as aforesaid is requested, it shall be commenced not later than 10 days after request therefor is made, provided that for good cause the enforcement officer acting on behalf of the Board of Review may postpone such hearing for a reasonable time. If after a hearing the Board of Review finds that no violation exists, it shall withdraw the notice. If it finds that a violation does exist, it shall enter and issue an order requiring the abatement of the same within a prescribed reasonable time. The proceedings at such hearing, including the findings and decision of the enforcement officer, shall be summarized, reduced to writing and entered as a matter of public record in the office of the enforcement officer.

§ 73-18. Emergency action.

Whenever the enforcement officer finds that an emergency exists which requires immediate attention to protect the public health or safety, he or she may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she deems necessary to meet the emergency. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the enforcement officer, he or she shall be afforded a hearing as soon as the Review Board may be assembled. After such hearing, the enforcement officer shall continue such order in effect or modify or withdraw it.

§ 73-19. Noncompliance; charge included in tax bill; filed statement constitutes lien.

A. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly comply with this article within 48 hours after receipt of the written notice or within 48 hours after the date of such notice in the event that the same is returned to the enforcement officer because of its inability to make delivery thereof and provided that the same was properly addressed to the last known address of the last owner or agent, the Superintendent of Highways is hereby authorized and empowered to pay for the correction of such violation.

B. Charge included in tax bill. When the Town has effected the correction of the violation or has paid for its removal, the actual cost thereof, plus the accrued legal rate of interest of annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the town; and such charge shall be due and payable by said owner at the time of payment of such bill.

C. Filed statement constitutes lien. Where the full amount due the Town is not paid by such owner within 20 days after the correction of such violation, as provided in Subsections A and B above, then and in that case the Superintendent of Highways shall cause to be filed in the office of the Town Clerk a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property by assessment district, section, block and lot on which said work was done and the name of the reputed owner thereof. The filing of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due in principal and interest, plus the cost of court, if any, for collection, until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty at the legal rate of interest in the event that the same is

not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent. Sworn statements filed in accordance with provisions hereof shall be prima facie evidence that all legal formalities have been complied with and the work has been properly and successfully done and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated and described in the statement and that the same is due and collectible as provided by law.

§ 73-20. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished by a fine not to exceed \$250 or by imprisonment for not more than 15 days, or both, for each violation of any of the provisions of this article, and each day that such violation shall continue shall be deemed to be a separate and distinct offense.

CHAPTER 79. LIGHTING DISTRICT

§ 79-1. Findings.

§ 79-2. Establishment; title; boundaries.

§ 79-3. Improvements; costs.

§ 79-4. Permissive referendum.

CHAPTER 79. LIGHTING DISTRICT

[HISTORY: Adopted by the Town Board of the Town of Ballston 10-4-1988 (subject to permissive referendum; no petition filed). Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 100.

Subdivision of land — See Ch. 104.

Zoning — See Ch. 138.

§ 79-1. Findings.

- A. The notice of hearing was published and posted as required by law, and is otherwise sufficient.
- B. All property and property owners within the proposed district are benefited thereby.
- C. All the property and property owners benefited are included within the limits of the proposed district.
- D. It is in the public interest to establish a Burnt Hills-Ballston Lake Lighting District No. 2.

§ 79-2. Establishment; title; boundaries.

The establishment of a lighting district as set forth in the map, plan and report be approved; that the requested improvement be constructed and the necessary easements and lands be acquired upon the acquired funds being made available and provided for; and that the district shall be known and designated as the "Burnt Hills-Ballston Lake Lighting District No. 2 of the Town of Ballston" and shall be bounded and described as follows:

249.17-1-1.2	249.13-1-5
249.13-1-13	249.13-1-4
249.13-1-12	249-1-34
249.13-1-11	249-1-33.1
249.13-1-10	249-1-33.2
249.12-1-9	249-1-32
249.13-1-8	249-1-31

§ 79-3. Improvements; costs.

The proposed improvements and any costs thereof shall be assessed by the Town Board in proportion, as nearly as may be, to the benefit which each lot or parcel may be derived therefrom.

§ 79-4. Permissive referendum.

This chapter is subject to a permissive referendum as provided in § 209-e of the Town Law. Editor's Note: No petition was filed.

CHAPTER 80. MACHINERY AND EQUIPMENT

ARTICLE I. Idling of Large Machinery, Equipment and Vehicles

§ 80-1. Findings and intent.

§ 80-2. Definitions.

§ 80-3. Idling and unattended large machinery or equipment.

§ 80-4. Issuance of citations; adjudication.

§ 80-5. Penalties for offenses.

CHAPTER 80. MACHINERY AND EQUIPMENT

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

GENERAL REFERENCES

All-terrain vehicles — See Ch. 121.

Vehicles and traffic — See Ch. 125.

ARTICLE I. Idling of Large Machinery, Equipment and Vehicles

[Adopted 3-5-2002 by L.L. No. 2-2002]

§ 80-1. 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 Ballston. 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 Ballston hereby restricts and proscribes the circumstances in which large machinery, equipment and vehicles may be left idling and unattended.

§ 80-2. Definitions.

In the context of 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 TRUCK

A truck 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.

§ 80-3. Idling and unattended large machinery or equipment.

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 two hours or to remain idling and unattended for more than 1/2 hour.

[Amended 5-7-2002 by L.L. No. 3-2002]

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 a law enforcement officer.

§ 80-4. Issuance of citations; adjudication.

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 also be issued upon complaint of a citizen who observes an 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 Ballston Town Court. A violation of this article is classified as a misdemeanor.

§ 80-5. 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.

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 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 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.

CHAPTER 81. MASS GATHERINGS

§ 81-1. Purpose.

§ 81-2. Definitions.

§ 81-3. Permit required; application procedure.

§ 81-4. Regulations for conduct.

§ 81-5. Revocation of permits.

§ 81-6. Denial of application.

§ 81-7. Permit not transferable.

§ 81-8. Permit fees.

§ 81-9. Penalties for offenses; other remedies.

CHAPTER 81. MASS GATHERINGS

[HISTORY: Adopted by the Town Board of the Town of Ballston 11-4-1999 by L.L. No. 5-1999. Amendments noted where applicable.]

§ 81-1. Purpose.

The purpose of this chapter is to protect the public health, welfare, safety, peace and tranquility of the Town of Ballston by regulating mass gatherings within the Town of Ballston.

§ 81-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

MASS GATHERING

Any assemblage or gathering of people with or without the levy of an admission fee; however, such term "mass gathering" shall not include any activity having less than 50 people in attendance, nor shall the term apply to the operations, activities or affairs of any duly established municipal, educational, historical, fire-fighting, religious organization or institution located in the Town of Ballston nor to any political party qualified for a line on the ballot in a general election nor to any bona fide family event.

§ 81-3. Permit required; application procedure.

A. No person, firm, corporation or company shall hold or promote, by advertising or otherwise, a mass gathering unless a permit shall have been issued therefor by the Town Board of the Town of Ballston or its designee as herein provided and the fee paid.

B. An application for a permit under this section shall be submitted to the Town Clerk of the Town of Ballston no less than 30 days prior to the proposed activity. A permit under this section may be issued

by the Town Board upon the written application by the person who will promote or hold the mass gathering. The application may be in letter form and shall contain the following information:

- (1) The exact location of the mass gathering.
- (2) The name and address of the person or persons holding or promoting the mass gathering.
- (3) The date or dates and the hours of the proposed mass gathering.
- (4) The name and address of the owner or owners of the property or properties where the mass gathering will occur.
- (5) The nature of the interest of the applicant in the property or properties.
- (6) The expected number of people in attendance.
- (7) The expected number of vehicles intended to use the property or properties at one time and collectively.
- (8) The admission fee to be charged.
- (9) The purpose of the mass gathering, including the nature of the activities to be carried on.
- (10) A statement specifying the location of either wells or other sources of potable water for use and consumption during the event and a laboratory report by a qualified laboratory as to the content of the water samples drawn from these water sources indicating that water intended for human consumption is free of contaminant and bacteria, all within any time limit from date of the event as may be specified from time to time by the New York State Board of Health.
- (11) A statement containing the type, number and location of any radio device, sound amplifier, loudspeaker, sound track or other similar sound equipment.
- (12) A statement specifying the precautions to be utilized for fire protection and a map specifying the location of fire lanes and water supply for fire control.
- (13) 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.
- (14) A statement specifying the facilities to be available for emergency treatment of any person who might require immediate medical or nursing attention.

C. Each application shall be further accompanied by such additional plans, reports, specifications and other material as may be required by the Town Board by regulation, respecting the proposed provisions for adequate parking, adequate traffic control, adequate crowd control, adequate sanitation facilities, adequate medical and first-aid facilities, adequate potable water supply, adequate fire protection, adequate drainage, adequate food services and adequate refuse, storage and disposal facilities and adequate plans for cleanup.

D. Each applicant shall submit a plan or drawing of sufficient detail showing the method and manner in which:

- (1) Sanitary facilities are to be provided for the disposal of human wastes.

(2) Water will be supplied, stored and distributed to those persons attending. [See § 81-3A(10) regarding lab certification of purity and potability].

(3) The layout of any parking area for motor vehicles, including the means of egress from and ingress to such parking areas, with such plan to reflect the best and safest means of traffic control and safety for persons attending and the general public.

E. Each applicant shall submit a statement specifying whether food or beverage is intended to be prepared, sold and distributed. If food or beverages are intended to be prepared, sold or distributed, each applicant shall submit a statement specifying the manner of preparation and distribution of such and the method of disposing of garbage, trash, rubbish or any other refuse arising therefrom.

F. Each applicant for a permit shall submit proof of an adequate comprehensive liability insurance policy, issued by an insurance company, insuring the Town of Ballston, its officers and employees from liability to persons or property with limits of not more than \$1,000,000 and naming the Town of Ballston, its officers and employees as being coinsured persons or as additional insured parties. Such policy shall not be cancelable by the insurer without 10 days' prior written notice to the Town of Ballston.

G. Each applicant shall deposit with the Town Clerk cash or good surety company bond, approved by the Town Board, to the maximum 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 cancelled upon certification to the Town Board by the Town Code Enforcement Officer that all conditions of this chapter have been complied with.

H. If the applicant is a corporation, the name of the corporation and the names and addresses of its directors shall be set forth. Furthermore, if the applicant resides outside the County of Saratoga, the applicant shall set forth the name and address of an agent, who shall be a natural person, 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 an acknowledged statement to accept notice or summons issued with respect to the application, the conduct of the mass gathering and any matter involving it arising out of the application, construction or enforcement of this chapter.

I. A separate permit is required for each such event.

J. If the Town Board of the Town of Ballston shall decide, upon a showing of good cause, that certain conditions or requirements as hereinbefore set forth shall not be applicable to a particular set of circumstances, then the Board may modify the foregoing requirements on a case-by-case basis. Also, in a unique situation where, in the discretion of the Town Board, it appears that different conditions may be necessary to maintain peace and order or to protect neighboring properties, then such additional or substitute conditions may be imposed by the Board.

§ 81-4. Regulations for conduct.

Any person or organization holding a permit under this chapter and every place of public assemblage shall comply with the following provisions, the violation of which shall be unlawful:

A. No mass gathering authorized pursuant to the provisions of this chapter shall extend or be conducted beyond 12:00 midnight of any day, nor shall any authorized mass gathering commence activity on any day prior to 9:00 a.m.

B. No mass gathering herein shall extend for a period in excess of five consecutive days.

C. All vehicular parking shall be contiguous to the activity sponsored by the applicant.

D. No light on any part of the 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. All exterior lights on the property shall be so situated or equipped with shielding devices that no unreasonable flow shall shine beyond the property line of the mass gathering.

E. 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.

F. 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 its health, comfort, safety, repose and peace.

G. No loud, unnecessary or unusual abusive or profane language 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.

H. There will be complete removal of refuse and complete cleanup of the area and location within 72 hours following the mass gathering.

§ 81-5. Revocation of permits.

Any permit granted hereunder may be revoked by the Town Board of the Town of Ballston if it finds that the mass gathering for which a permit was issued is maintained, operated or occupied in violation of this chapter or the Sanitary Code of the State of New York or of the health district in which such mass gathering takes place.

§ 81-6. Denial of application.

If the Town Board of the Town of Ballston shall deny an application for a permit under this chapter, the Town Clerk of the Town of Ballston shall notify the applicant in writing of the disapproval and shall include therein the reasons for such disapproval.

§ 81-7. Permit not transferable.

No permit issued by the Town Board 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 at any other time or on any location other than the date and location stated in the permit application.

§ 81-8. Permit fees.

A. Fees for permits shall be \$25 per event.

B. The fee shall be returned by the town if such permit is not issued.

§ 81-9. Penalties for offenses; other remedies.

A. A failure to comply with the provisions of this chapter shall be deemed a violation and the violator shall be liable to a fine of not more than \$1,000 for each such violation or a violator may be subject to imprisonment for a period not exceeding 60 days, or both.

B. In addition to the above-provided penalties, the Town Board may maintain any action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this chapter.

CHAPTER 84. PARKS AND RECREATION

ARTICLE I. Jenkins Park

§ 84-1. Hours.

§ 84-2. Alcoholic beverages.

§ 84-3. Unlicensed motor vehicles.

§ 84-4. Penalties for offenses.

CHAPTER 84. PARKS AND RECREATION

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

GENERAL REFERENCES

Animals — See Ch. 48.

All-terrain vehicles — See Ch. 121.

ARTICLE I. Jenkins Park

[Adopted 7-1-1980]

§ 84-1. Hours.

Jenkins Park shall be open to the public between the hours of 7:30 a.m. and 9:00 p.m.

§ 84-2. Alcoholic beverages.

The use, possession and/or consumption of alcoholic beverages on park property shall be prohibited.

§ 84-3. Unlicensed motor vehicles.

The use, operation and/or possession of any unlicensed motor vehicles, including but not limited to motorbikes, motorcycles or automobiles, on park property is prohibited.

§ 84-4. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person who violates these rules and regulations shall be guilty of a violation and shall be punishable by a fine not to exceed \$250 or by imprisonment for not more than 15 days, or both.

CHAPTER 91. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

ARTICLE I. Introduction; Purpose; Findings of Fact
§ 91-1. Introduction and purpose.
§ 91-2. Findings of fact.
ARTICLE II. Definitions
§ 91-3. Definitions.
ARTICLE III. Applicability; Exemptions; Application
§ 91-4. Applicability.
§ 91-5. Exemptions.
§ 91-6. Application requirements.
ARTICLE IV. Procedures
§ 91-7. Review and approval.
§ 91-8. Stormwater pollution prevention plan.
ARTICLE V. Enforcement and Penalties
§ 91-9. Notice of violation.
§ 91-10. Stop-work orders.
§ 91-11. Violations.
§ 91-12. Penalties for offenses.
§ 91-13. Withholding of certificate of occupancy.
§ 91-14. Restoration of lands.
ARTICLE VI. Fees
§ 91-15. Fees.
ARTICLE VII. Severability; When Effective
§ 91-16. Severability.
§ 91-17. When effective.

CHAPTER 91. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Editor's Note: Former Ch. 91, Site Plan Review, adopted 10-6-1981 by L.L. No. 1-1981, as amended, was repealed 6-12-2006 by L.L. No. 5-2006. For current provisions on site plan review, see Ch. 138, Art. XXVI, Site Plan Review. **Adopted by the Town Board of the Town of Ballston 1-3-2008 by L.L. No. 2-2008; amended in its entirety 2-3-2009 by L.L. No. 1-2009. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

Flood damage prevention — See Ch. 68.
Storm sewers: illicit discharges, activities and connections — See Ch. 92.
Subdivision of land — See Ch. 104.
Water — See Ch. 132.
Zoning — See Ch. 138.

ARTICLE I. Introduction; Purpose; Findings of Fact

§ 91-1. Introduction and purpose.

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 which in turn causes flooding, stream channel erosion, or sediment transport and deposition.

B. The purpose of the regulation of stormwater runoff discharges from land development activities is intended to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff to protect the public interest and minimize threats to public health and safety.

C. These regulations shall apply to all site plan review policies, procedures and regulations as listed in Chapter 138, Article XXVI, of the Town of Ballston Code, and to all applications for a change in zoning to a planned unit development under Chapter 138, Article X, of the Town of Ballston Code and all subdivision regulations as listed in Chapter 104 of the Town of Ballston Code.

§ 91-2. 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 habitats 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 habitats;

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 base flow;

F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from 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.

ARTICLE II. Definitions

§ 91-3. Definitions.

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

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 which removes the vegetative surface cover.

COMMON PLAN

A larger common plan of development or sale, in which multiple projects are occurring, or will occur, in a contiguous area. Permit coverage is required for the common plan if the total amount of disturbance exceeds the threshold. If the projects are at least 1/4 mile apart, the project can be treated as discrete, separate projects, with separate permits.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

Latest version of the New York State Department of Environmental Conservation Stormwater Management Design Manual.

DEVELOPER

A person who undertakes land development activities.

DISTURBANCE

Any activity that disturbs or breaks the topsoil or results in the movement of earth on land.

DRAINAGEWAY

Any channel that conveys surface runoff throughout the site.

EROSION CONTROL MEASURES

Measures that prevent erosion from occurring on a project site.

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively allow for the infiltration of 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."

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.

LICENSED/CERTIFIED PROFESSIONAL

A professional engineer or a landscape architect licensed to practice in New York State, or a certified professional in erosion and sediment control (CPESC).

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.

PERIMETER CONTROL

A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PHASING

Clearing or development of land in distinct phases, with the stabilization of each phase before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special-concern species.

SITE

A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT PERMIT

A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-0-08-001

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-0-08-002

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.

START OF CONSTRUCTION

The first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER 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 MANAGEMENT REPORT

A set of plans and report prepared by or under the direction of a licensed professional engineer indicating the specific stormwater management practices to be utilized on the site. Included in the design shall be water quality and quantity computations per the Design Manual.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A set of plans and/or a report prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used controlling stormwater runoff, sedimentation and erosion on a site during and after construction.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

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.

ARTICLE III. Applicability; Exemptions; Application**§ 91-4. Applicability.**

This chapter shall be applicable to the following activities occurring within either the MS-4 regions of the Town of Ballston, as established by the New York State Department of Environmental Conservation (a map of the area is on file in the Building Department), or the Watershed Protection Overlay District as established by Article XA of Chapter 138 of the Code of the Town of Ballston.

A. Land development and land redevelopment projects meeting the following criteria shall not be granted a site development permit for land-disturbing activity without preparation of a stormwater pollution prevention plan that includes postconstruction stormwater management controls:

(1) All land development and land redevelopment projects within the Watershed Protection Overlay District where land disturbance is over one acre and there is an increase in impervious area or altering of hydrology, except for those projects outlined in § 91-4B(3) and (4).

(2) Land development disturbing more than one acre not associated with a single-family residential development.

(3) Land development disturbing greater than five acres associated with a single-family residential development.

(4) Single-family residential subdivisions that involve soil disturbance of between one and five acres of land with greater than 25% impervious cover at total site build-out.

(5) All land development and land redevelopment projects which propose to connect to a Town-owned drainage system or propose to convey a stormwater management facility to the Town at the completion of the project.

(6) Projects that involve soil disturbances of more than five acres for construction of a barn or other agricultural building and structural practices as defined in Table II in the "Agricultural Management Practices Catalog for Nonpoint Source Pollution in New York State" that include the construction or reconstruction of impervious area.

B. Land development and land redevelopment projects meeting the following criteria shall not be granted a site development permit for land-disturbing activity without preparation of a Stormwater Pollution Prevention Plan that only includes erosion and sediment controls:

(1) Single-family residential development disturbing greater than one acre but not more than five acres, with 25% or less impervious cover at total site build-out.

(2) All land development and land redevelopment projects within the Ballston Lake Waterfront District disturbing greater than 1,000 square feet.

(3) Construction of a barn or other agricultural building, silo, stock yard or pen disturbing greater than one acre but less than five acres.

(4) All other construction activities involving soil disturbance greater than one acre of land, as defined in NYS SPDES Permit GP-0-08-001, Appendix B, Table I.

C. In addition, the Town of Ballston Building Department, at its discretion, may forward a land development or land redevelopment project not covered under Subsection A and B of this section to the Planning Board for site plan approval if it is determined by the Town Engineer and/or Town Building Inspector that the project may adversely affect drainage conditions or downstream properties. Upon such referral, the need to develop a stormwater pollution prevention plan or stormwater management report shall be determined by the Planning Board.

§ 91-5. Exemptions.

The following activities are exempt from review under this chapter. No site development permit is required for the following activities:

A. Any emergency activity which is immediately necessary for the protection of life, property or natural resources.

B. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.

C. Agricultural operations conducted as a permitted main or accessory use.

D. Any part of a development in which the Town of Ballston has approved the stormwater pollution prevention plan and the stormwater management report (if applicable) on or before the effective date of this chapter.

E. Cemetery graves.

F. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

G. Land grading activities for which a building permit has been approved on or before the effective date of this chapter.

H. 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.

I. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

J. Silvicultural activity except that landing areas and log haul roads is subject to this chapter.

§ 91-6. Application requirements.

A. Each application shall bear the name(s) and address(es) of the owner and developer of the site, and any consulting firm retained by the applicant together with the name of the applicant's principal contact at said firm, and shall be accompanied by a filing fee.

B. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan, and that construction or grading activities are taking place under the direction of a licensed/certified professional.

C. Each application shall include a copy of the stormwater management report and/or stormwater pollution prevention plan, as required in § 91-4 hereof.

D. Each application where the disturbance for the project exceeds one acre shall include a copy of the notice of intent (NOI) submitted to the NYSDEC requesting coverage under SPDES General Permit GP-0-08-001.

ARTICLE IV. Procedures

§ 91-7. Review and approval.

A. The Town of Ballston Stormwater Management Officer will review each application for a site development permit to determine its conformance with the provisions of this chapter. Within 10 business days after receiving an application, the Management Officer shall, in writing:

(1) Approve the permit application; or

(2) Forward the application to a licensed professional engineer for technical review and comment, which shall be in writing. The Management Officer shall notify the applicant that the review period will be extended an additional 10 business days to allow technical review and comment; or

(3) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(4) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

B. In the event that review and notification has not been issued on the original or revised application within the above timelines, the application shall be permitted by default unless such time is extended by agreement between the applicant and the Stormwater Management Officer. Projects receiving a permit by default will be allowed to proceed with development activities once the New York State Department of Environmental Conservation has issued coverage under the SPDES General Permit. Development activities approved by default must be in accordance with conditions established in the SWPPP as filed.

C. Amendments of the SWPPP and erosion and sediment control plan shall be submitted to the Stormwater Management Officer and shall be processed and approved, or disapproved, in the same manner as the original plans.

§ 91-8. Stormwater pollution prevention plan.

A. The SWPPP shall be prepared in full conformance with the latest version of the New York State Department of Environmental Conservation Stormwater Management Design Manual, the New York Standards and Specifications for Erosion and Sediment Control and GP-0-08-001.

B. The SWPPP shall be prepared by a qualified professional as defined in GP-0-08-001 and must be signed by the qualified professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.

C. 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."

(1) 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.

(2) The certification statement(s) shall become part of the SWPPP for the land development activity.

D. The following components shall be included in stormwater pollution prevention plans regardless of project size:

(1) Background information about the scope of the project, including location, type and size of the project;

(2) Site map and 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 discharges(s);

(3) The site map should be at a scale no smaller than one inch equals 100 feet (e.g., one inch equals 500 feet is smaller than one inch equals 100 feet);

(4) An erosion and sediment control plan stamped by a qualified professional as defined in GP-0-08-001;

(5) Description of the soil(s) present at the site;

(6) Name(s) of the receiving water(s);

(7) 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 SPDES Permit GP-0-08-001, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP by the Town of Ballston;

(8) 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;

(9) 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;

(10) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

(11) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(12) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(13) 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;

(14) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(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; and any existing data that describes the stormwater runoff at the site.

E. The following components shall also be included in stormwater pollution prevention plans that include postconstruction stormwater management practices [Note: Many of the components listed below are also required to be included in the stormwater management report.]:

- (1) Description of the inspections to be performed by a qualified inspector in accordance with GP-0-08-001;
- (2) Description of each postconstruction stormwater management practice;
- (3) Temporary practices that will be converted to permanent control measures;
- (4) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
- (5) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (6) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions for the applicable design storms;
- (7) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
- (8) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
- (9) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be described with a legal description on the plan and the easement must be filed in the County Clerk's office and shall remain in effect with transfer of title to the property;
- (10) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article II, § 91-4, of this chapter.

F. Design requirements. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the New York Standards for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction the Stormwater Management Officer.

G. Erosion and sediment control.

- (1) Clearing and grading shall be performed with the following erosion and sediment control techniques set forth in the most recent version of the New York Standards and Specifications for Erosion and Sediment Control to prevent sedimentation of downstream features and properties:
 - (a) Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used to the satisfaction of the Stormwater Management Officer.
 - (b) Phasing shall be required on all sites disturbing greater than five acres, with the size of each phase to be established at plan review and as approved by the Stormwater Management Officer.
 - (c) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and approved by the site inspector.
 - (d) Soil must be stabilized within 14 days of earth disturbance ceasing on any portion of the project site, if that area will not be disturbed within another seven days.

(e) If vegetative erosion control methods, such as seeding, have not become established within three weeks, the Stormwater Management Officer may require that the site be reseeded, or that a nonvegetative option be employed.

(f) On steep slopes or in drainageways, special techniques that meet the design criteria outlined in the Design Manual shall be used to ensure stabilization.

(g) At the close of the construction season, the entire site must be stabilized using a heavy mulch layer or another method that does not require germination to control erosion.

(h) Techniques shall be employed to prevent the blowing of dust from the site.

(i) Techniques that divert upland runoff past disturbed slopes shall be employed.

(j) Sediment controls shall be provided in the form of settling basins, sediment traps or tanks and perimeter controls.

(k) Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term stormwater management.

(l) Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

(m) When a waterway or watercourse must be crossed during construction, a temporary stream crossing shall be provided, and approval obtained from the agency having jurisdiction such as the Army Corps of Engineers or New York State Department of Environmental Conservation.

(n) When in-channel work is conducted, the channel shall be stabilized after completion of construction as outlined in the approval from the agency having jurisdiction over the waterway or watercourse.

(o) When in-channel work is conducted, erosion and sediment control measures shall be implemented to prevent downstream sedimentation.

(p) All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Design Manual.

(q) Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

(r) A stabilized construction entrance shall be provided at all sites.

(2) Other measures may be required at the discretion of the Stormwater Management Officer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

H. Stormwater management report.

(1) The stormwater management report shall be prepared in full conformance with the latest version of the New York State Department of Environmental Conservation Stormwater Management Design Manual and shall include:

(a) A topographic map at a scale of one inch equals 2,000 feet or larger showing the existing watershed area and indicating the location of the project site.

(b) Topographic maps at a scale of one inch equals 200 feet or larger indicating existing and proposed conditions on separate maps, including watershed areas and subarea boundaries, acreage, inlet points, surface characteristics and cover, flow directions and existing and proposed storm sewers, drainage courses and stormwater management facilities within at least 200 feet of the project site.

(c) Project location, watershed description, soil types, groundwater elevations, topography, surface characteristics and proposed development.

(d) For existing and proposed conditions, description of design storm frequency, intensity, duration, time of concentration, runoff coefficients, peak runoff rates for each subarea, and documentation of all sources used for the above computations.

(e) Hydraulic computations for pipe capacities, pipe velocities, and channel capacities and velocities.

(f) Results of percolation tests and test pits for all proposed infiltration facilities.

(g) Anticipated impacts and proposed mitigation measures, including increase in rate and nature of runoff, calculation of detention storage requirement and detention, calculations for release rate from stormwater management facilities and design of controlled outlet and existing and future ponding limits for the design storm.

(h) A statement that the drainage system as designed will function adequately and will not adversely affect downstream or adjacent properties.

(i) Stamp and signature of a licensed professional engineer.

(2) Accepted hydraulic methods.

(a) The following hydrologic methods are acceptable for use in the design of storm drainage systems and stormwater management facilities:

[1] Rational Method for small watersheds and pipe sizing.

[2] Soil Conservation Service Technical Release No. 55, Urban Hydrology for Small Watersheds (most recent edition).

(b) These methods shall be applied within the recommended parameters for either method.

(c) In addition to the above methods, other recognized methods may be utilized as approved by the Town Engineer.

(3) Criteria for stormwater design. The following design criteria shall apply to the design of storm drainage facilities (i.e., storm sewers and drainage structures) and stormwater management facilities:

(a) All storm drainage facilities shall be designed based on a ten-year storm frequency.

(b) Stormwater management facilities shall be designed to reduce peak runoff rates from the project site after development to not exceed predevelopment peak runoff rates during the one-, ten- and one-hundred-year storm events.

(c) Stormwater management facilities shall be designed to provide adequate treatment of the water quality volume and to provide twenty-four-hour detention for the runoff associated with the ninety-percent storm event.

(d) Provisions shall be made for the conveyance of off-site drainage from upland watershed areas.

(e) All storm drainage systems shall be designed to allow for positive drainage from the project site to existing drainage courses or storm sewer systems. The adequacy of the existing systems to convey this runoff should be evaluated.

(4) Criteria for operation and maintenance of stormwater management practices. An operation and maintenance plan shall be prepared for all stormwater management practices that will be maintained by the Town of Ballston. The plan shall include the following:

(a) A site plan outlining the practices to be maintained by the Town.

(b) Inspection checklists for each maintenance item prescribed.

(c) A summary of the maintenance procedures and frequency.

(d) A contact person(s).

I. Watershed Protection Overlay District.

(1) For single-family residential developments in the Watershed Protection Overlay District disturbing greater than one acre but less than five acres, and having 25% or less impervious cover at full build-out, a stormwater pollution prevention plan and stormwater management report shall be prepared. The stormwater pollution prevention plan shall include all required elements previously outlined in Chapter 91. The stormwater management report shall include the following:

(a) A topographic map at a scale of one inch equals 2,000 feet or larger showing the existing watershed area and indicating the location of the project site.

(b) Topographic maps at a scale of one inch equals 200 feet or larger indicating existing and proposed conditions on separate maps, including watershed areas and subarea boundaries, acreage, inlet points, surface characteristics and cover, flow directions and existing and proposed storm sewers, drainage courses and stormwater management facilities within at least 200 feet of the project site.

(c) Project location, watershed description, soil types, groundwater elevations, topography, surface characteristics and proposed development.

(d) Stamp and signature of a licensed professional engineer.

(2) Accepted hydraulic methods.

(a) The following hydrologic methods are acceptable for use in the design of storm drainage systems and stormwater management facilities.

[1] Rational Method for small watersheds and pipe sizing.

[2] Soil Conservation Service Technical Release No. 55, Urban Hydrology for Small Watersheds (most recent edition).

(b) These methods shall be applied within the recommended parameters for either method.

(c) In addition to the above methods, other recognized methods may be utilized as approved by the Town Engineer.

(3) Criteria for stormwater design. The following design criteria shall apply to the design of stormwater treatment facilities:

(a) Stormwater treatment facilities shall be designed to provide adequate treatment of the water quality volume. The treatment practice shall be designed in accordance with the New York State Stormwater Management Design Manual.

J. Maintenance easements and/or district dedications.

(1) Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer shall execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater maintenance facility. The easement shall provide for access to the facility at reasonable times for periodic inspections by the Town of Ballston to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The maintenance easement agreement and easement shall be recorded by the applicant at the applicant's expense at the Saratoga County Clerk's office after review and approval by the Attorney for the Town of Ballston. Said agreements and easements shall be created at the applicant's expense. A title insurance policy sufficient to cover the interest of the Town in the easement shall also be procured for the benefit of the Town of Ballston at the applicant's expense and insure the Town. All required releases of liens will be taken care of by the applicant.

(2) If a maintenance district is to be created, then title to the land to be dedicated to the district must be clear and marketable before dedication and all expenses of dedication will be paid by the applicant. If the facility is landlocked, then a corridor from a street will be dedicated unless impractical based upon the location, in which case an easement will be created and conveyed to the district.

K. Inspections.

(1) The Stormwater Management Officer or designated agent shall make periodic inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the SWPPP as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Stormwater Management Officer shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Stormwater Management Officer at least two working days before the following:

(a) Start of construction.

- (b) Erosion and sediment control measures are in place and stabilized.
- (c) Site clearing has been completed.
- (d) Rough grading has been completed.
- (e) Backfill of trenches for drainage facilities to be connected to a Town-owned drainage system or to be conveyed to the Town.
- (f) Final Grading has been completed.
- (g) Close of the construction season.
- (h) Final landscaping and stabilization.

(2) The permittee shall retain a licensed/certified professional to complete inspections of all control measures in accordance with the inspection schedule outlined on the approved SWPPP(s). Certified inspections shall be performed in accordance with the provisions in NYS SPDES Permit GP-0-08-001. The purpose of such inspections will be to determine compliance with the approved plan, the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the Stormwater Management Officer at the time interval specified in the approved permit.

(3) The Stormwater Management Officer or his or her designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the filed inspection reports.

ARTICLE V. Enforcement and Penalties

§ 91-9. Notice of violation.

When the Stormwater Management Officer determines that a land development activity is not being carried out in accordance with the requirements of this chapter, the Stormwater Management Officer may issue a written notice of violation to the landowner. The notice shall contain the following:

- A. The name and address of the landowner, developer or applicant;
- B. The address, when available, or a description of the building, structure or land upon which the violation is occurring;
- C. A statement specifying the nature of the violation;
- D. A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
- E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- F. A statement that the determination of the violation may be appealed to the municipality by filing a written statement of appeal within 15 days of service of the notice of violation.

§ 91-10. Stop-work orders.

The Stormwater Management Officer may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to immediately cease all land development activities, except those activities that address the violations leading up to the stop-work order. The stop-work order shall be in effect until the Town of Ballston confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal or monetary penalties in accordance with the enforcement measures authorized in this chapter.

§ 91-11. Violations.

Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.

§ 91-12. Penalties for offenses.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter 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 of 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 of 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 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 offense.

§ 91-13. Withholding of certificate of occupancy.

If any building or land development activity is installed or conducted in violation of this chapter, the Town of Ballston Building Inspector may withhold the issuance of a certificate of occupancy.

§ 91-14. 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 Ballston may take or cause to be taken the necessary corrective action, the cost of which shall be a lien upon the property until paid with interest accruing yearly at the New York State Judgment rate.

ARTICLE VI. Fees

§ 91-15. Fees.

The following fees apply to the site development application and stormwater pollution prevention plan/stormwater management report review:

A. Applications must be accompanied by a permit fee per the official fee schedule and an engineering escrow fee of \$1,000. Escrow deposits are to be used to guarantee reimbursement to the Town for expenses associated with the use of professional engineering services as required for technical review of applications. Unused funds will be returned to the applicant.

B. Additional escrow funds may be required for review of the application and/or site inspections performed on behalf of the Town. Additional escrow fees will be estimated before or during technical

review of the application and, upon notice, additional funds must be paid to the escrow before further technical review will continue. During the time after notice is provided and before the funds are received, the time periods provided for in § 91-7 are suspended. These funds will be made available before a permit can be issued. Unused funds will be returned to the applicant.

ARTICLE VII. Severability; When Effective

§ 91-16. Severability.

The provisions and sections of this chapter shall be deemed to be separable, and the invalidity of any portion of this chapter shall not affect the validity of the remainder.

§ 91-17. When effective.

This chapter shall take effect upon filing with the office of the Secretary of State.

CHAPTER 92. STORM SEWERS: ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS

ARTICLE I. Introduction; Purpose

§ 92-1. Introduction and purpose.

ARTICLE II. Definitions

§ 92-2. Definitions.

ARTICLE III. Applicability; Exemptions; Application

§ 92-3. Applicability.

§ 92-4. Responsibility for administration.

§ 92-5. Severability.

§ 92-6. Discharge and connection prohibitions; exemptions.

ARTICLE IV. Procedures

§ 92-7. Activities contaminating stormwater.

§ 92-8. Use of best management practices.

§ 92-9. Suspension of access to MS4; illicit discharges in emergency situations.

§ 92-10. Industrial or construction activity discharges.

§ 92-11. Access to facilities; monitoring of discharges.

§ 92-12. Notification of spills.

ARTICLE V. Enforcement and Penalties

§ 92-13. Enforcement; penalties for offenses.

§ 92-14. Appeal of notice of violation.

§ 92-15. Corrective measures after appeal.

§ 92-16. Injunctive relief.

§ 92-17. Alternative remedies.

§ 92-18. Violations deemed public nuisance.

§ 92-19. Remedies not exclusive.

ARTICLE VI. When Effective

§ 92-20. When effective.

CHAPTER 92. STORM SEWERS: ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS

[HISTORY: Adopted by the Town Board of the Town of Ballston 1-3-2008 by L.L. No. 3-2008; amended in its entirety 2-3-2009 by L.L. No. 2-2009. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 68.

Stormwater management and erosion and sediment control — See Ch. 91.

Subdivision of land — See Ch. 104.

Water — See Ch. 132.

Zoning — See Ch. 138.

ARTICLE I. Introduction; Purpose

§ 92-1. Introduction and purpose.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Ballston 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 chapter 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 chapter are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, 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 chapter; 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.

ARTICLE II. Definitions

§ 92-2. Definitions.

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, 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.

HAZARDOUS MATERIAL

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 CONNECTION

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE

Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 92-6 of this chapter.

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.

MUNICIPALITY

The Town of Ballston.

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 Ballston;

B. Designed or used for collecting or conveying stormwater;

C. Which is not a combined sewer; and

D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NONSTORMWATER DISCHARGE

Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON

Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT

Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PREMISES

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

SPECIAL CONDITIONS

A. Discharge compliance with water quality standards. The condition that applies where 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 Ballston to enforce this chapter. 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 contaminated with pollutants and is or will be discarded.

ARTICLE III. Applicability; Exemptions; Application

§ 92-3. Applicability.

This chapter shall apply to all water entering the MS4 generated on any developed and undeveloped lands within the MS4 and the Watershed Protection Overlay District, Article XA of Chapter 138, Zoning Law, of the Town of Ballston unless explicitly exempted by an authorized enforcement agency.

§ 92-4. Responsibility for administration.

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

§ 92-5. Severability.

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

§ 92-6. Discharge and connection prohibitions; exemptions.

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 § 92-6A(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 chapter, unless the Department or the municipality has determined them to be substantial contributors of pollutants: waterline 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 chapter.

(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 chapter if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

ARTICLE IV. Procedures

§ 92-7. 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 § 92-2, Definitions, of this chapter.

B. 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.

§ 92-8. Use of best management practices.

Where the SMO has identified illicit discharges as defined in § 92-2 or activities contaminating stormwater as defined in § 92-7, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

A. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

B. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge as defined in § 92-2 or an activity contaminating stormwater as defined in § 92-7, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

C. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

§ 92-9. 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 chapter may have his or her 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.

§ 92-10. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

§ 92-11. Access to facilities; monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter, 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 chapter.

B. Access to facilities.

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

(3) The municipality shall have the right to set up on any facility subject to this chapter 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 chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. 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 chapter are a violation of this chapter. A person who is the operator of a facility subject to this chapter 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 this chapter.

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

§ 92-12. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the 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.

ARTICLE V. Enforcement and Penalties

§ 92-13. Enforcement; penalties for offenses.

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

- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) Payment of a fine; and
- (6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter 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 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.

§ 92-14. 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.

§ 92-15. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 92-16. Injunctive relief.

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

§ 92-17. Alternative remedies.

A. Where a person has violated a provision of this chapter, 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 Officer, where:

- (1) The violation was unintentional.
- (2) The violator has no history of previous violations of this chapter.
- (3) Environmental damage was minimal.
- (4) The violator acted quickly to remedy the violation.
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.

§ 92-18. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter 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.

§ 92-19. Remedies not exclusive.

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

ARTICLE VI. When Effective

§ 92-20. When effective.

This chapter shall take effect upon filing with the office of the Secretary of State.

CHAPTER 96. SOLID WASTE

ARTICLE I. Waste From Outside Town

§ 96-1. Legislative intent.

§ 96-2. Waste brought in from outside of town.

§ 96-3. Landfill for dumping of waste from outside of town prohibited.

§ 96-4. Penalties for offenses.

ARTICLE II. Littering and Dumping

§ 96-5. Purpose.

§ 96-6. Definitions.

§ 96-7. Prohibited acts.

§ 96-8. Penalties for offenses.

ARTICLE III. Waste Materials

§ 96-9. Purpose; findings.

§ 96-10. Definitions.

§ 96-11. Restrictions.

§ 96-12. Penalties for offenses.

ARTICLE IV. Recycling

CHAPTER 96. SOLID WASTE

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

GENERAL REFERENCES

Farming odors — See Ch. 59, Art. I.

Health and sanitation — See Ch. 73.
Town parks — See Ch. 84.
Zoning — See Ch. 138.

ARTICLE I. Waste From Outside Town

[Adopted 2-5-1980]

§ 96-1. Legislative intent.

By adoption of this article, the Town Board of the Town of Ballston declares its intent so doing to be to regulate, control and prohibit the dumping, storing or placing of waste material and/or garbage within the Town of Ballston or creating a dump or dumping ground within said town.

§ 96-2. Waste brought in from outside of town.

The dumping, storing or placing of waste material and/or garbage in the Town of Ballston which is picked up, brought or transported from outside the Town of Ballston is hereby prohibited.

§ 96-3. Landfill for dumping of waste from outside of town prohibited.

The creation and/or operation of a landfill, dump or dumping ground in the Town of Ballston for waste materials and/or garbage coming from outside the boundaries of the Town of Ballston is prohibited.

§ 96-4. Penalties for offenses.

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

A. A violation of this article is hereby declared to be a misdemeanor, and any person, association, partnership or corporation violating the same may, upon conviction, be penalized by a fine not exceeding \$1,000 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment. Each day such violation shall continue shall constitute a separate violation.

B. 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 article.

ARTICLE II. Littering and Dumping

[Adopted 4-2-1991 by L.L. No. 2-1991]

§ 96-5. Purpose.

The Town Board has become aware of a growing problem of the dumping of litter, rubbish, refuse, debris, garbage, waste and discarded objects, materials and/or matter on various properties of the town, including park and recreation areas and highway rights-of-way, thereby creating unsightly and hazardous conditions and a drain on the resources of the town for removal and cleanup of those areas.

§ 96-6. Definitions.

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

GARBAGE

Animal, food and vegetable wastes; animal, food and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; and materials such as paper, cardboard, wood, cloth, food cans, glass containers and bottles; dead animals or parts thereof; and/or any other matter capable of fermentation and decay.

PERSONS

Any person, employee, servant, agent, firm, partnership, association, company or organization or entity of any kind.

PUBLIC PLACE

Includes parking areas, rights-of-way, parks, trails, drainage easements, grounds or other public areas.

REFUSE

All putrescible and nonputrescible solid waste, except body wastes, including garbage, rubbish and ashes.

RUBBISH

Nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as yard clippings, metals, wood, glass, bedding, crockery, household appliances, shopping carts, automobiles or parts thereof and similar materials.

STREET

Includes any public street, roadway, highway, lane or alleyway.

§ 96-7. Prohibited acts.

A. No person shall deposit, throw, cast, lay or suffer or permit any person to deposit, throw, cast or lay any waste, litter, rubbish, refuse, garbage, debris, discarded objects, materials and/or matter of any type on any street or public place in the town.

B. No person shall abandon or discard or cause or suffer any other person to abandon or discard any article or thing, including but not limited to shopping carts or shopping wagons, baskets, crates, boxes, cartons, yard supplies, household appliances, automobiles or parts thereof, machinery or equipment, rubbish, refuse or garbage, in any street, avenue, highway or public place in the town.

C. No person, being the owner, driver or manager of any automobile or other vehicle, and no owner of any receptacle, shall deposit, scatter, blow, drop, spill or permit to be deposited, scattered, blown, dropped or spilled any dirt, gravel, sand, clay, loam, stone or building rubbish or material, shavings, rubbish, litter, waste materials, household appliances, automobiles or parts thereof, machinery, refuse or garbage therefrom upon any street, avenue, highway or public place in the town.

D. Households and business places may place garbage and rubbish in properly covered containers in front of their premises for authorized collecting or removal and are exempt from these provisions. Editor's Note: See also Ch. 73, Health and Sanitation, for additional provisions regarding garbage and rubbish disposal.

E. No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, snow or any other substance likely to injure any person, animal or vehicle upon such highway.

§ 96-8. Penalties for offenses.

A. Any person violating any of the provisions of this article, as the same may be from time to time amended, shall be guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than \$1,000, or both, and/or appropriate community service. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Additional penalties.

(1) Violation of this article shall subject the offender, for each offense, to a civil penalty as follows:

(a) For the first offense, not more than \$500 or twice the cost to the town of clearing away the offensive materials, whichever is greater.

(b) For a second offense, \$750 or twice the cost to the town of clearing away the offensive materials, whichever is greater.

(c) For a third and subsequent offense, \$1,000, or twice the cost to the town of clearing away the offensive materials, whichever is greater.

C. Each day or part thereof that such violation shall continue shall be deemed to be a separate and distinct violation of the provisions of this article and shall render the offender liable for a separate penalty for each such violation.

ARTICLE III. Waste Materials

[Adopted 7-2-1985 as Art. 16 of L.L. No. 2-1985; readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 96-9. Purpose; findings.

A. The purpose of this article is to promote the health, safety and general welfare of the residents of the Town of Ballston by prohibiting the operation of solid and liquid waste disposal facilities known as "sanitary landfill sites," "refuse disposal areas," "waste incinerator sites" and other such sites where refuse of any kind is dumped, stored, deposited, discarded, thrown away, buried or burned for any purpose, within the Town of Ballston generally and specifically the zoned Industrial District of the Town of Ballston as established by Local Law No. 1-1986. Editor's Note: See Ch. 138, Zoning, and specifically Article VIII, Industrial District. The zoned Industrial District borders a zoned Residential District, a zoned Business District and a zoned Rural District. There is much potential for residential, commercial and agricultural growth in these four districts and this article shall serve to protect future inhabitants of these districts from the many hazards associated with solid and liquid waste disposal facilities.

B. Fire, odors, fumes and other noxious and/or hazardous emissions are frequently emitted from such solid and liquid waste disposal facilities, all of which create a serious potential of public hazard to the air supply and a threat to the residents of the Town of Ballston and neighboring communities, and especially those several persons who now reside or work or will reside or work in the several residences and businesses which are contained in and surround the zoned Industrial District. The Industrial District contains state-protected wetlands and underground aquifers, is bordered by two creeks and is in close proximity to Ballston Lake, a major water recreation resource for residents of the Town of Ballston. This article will ensure the preservation of these bodies of water as clean and safe reserves for the present and future residents of the Town of Ballston and neighboring communities.

C. The character of the communities surrounding the zoned Industrial District is rural and residential. The intense truck traffic that would be created by a waste disposal facility would destroy the character of those communities and dangerously overtax existing roads around the zoned Industrial District.

D. The zoned Industrial District was created in order to promote, among other things, the growth of light industries, such as warehousing, electronics, high technology manufacturing and research and development within the Town of Ballston. The operation of any type of waste disposal facility within the zoned Industrial District would defeat the purpose of its creation and be contrary to the public interest for the following reasons:

(1) A waste disposal facility of any type would not be consistent and would not integrate with existing and proposed land uses within the zoned Industrial District.

(2) A waste disposal facility of any type would permanently occupy and destroy the land on which it was built, thereby reducing the land mass area for future light industrial development.

(3) A waste disposal facility of any type would decrease the overall utility of the zoned Industrial District to light industry of all kinds by consuming excessive amounts of water, occupying large amounts of land, emitting noxious wastes and overtaxing local roadways.

§ 96-10. Definitions.

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

DISPOSAL

To dump, deposit, throw, throw away, bury, burn, including incineration for energy production, by a person or by another with the consent or approval, active or passive, of a person in a position to control or prevent the same.

PERSON

An individual, association, partnership or corporation (public, stock or nonstock) or any combination thereof and the agent or employee thereof.

WASTE

Includes any one or more of the following: refuse, trash, rubbish, used or waste material of any kind or any other material or substance, solid or liquid, intended to be disposed of at a site.

WASTE DISPOSAL FACILITY

Includes any one or more of the following: solid and liquid waste disposal facilities, sanitary landfill sites, refuse disposal areas, waste incinerator plants and incinerator plants for the purpose of energy production.

§ 96-11. Restrictions.

No person shall receive or accept for disposal or deliver, dump or offer for disposal any waste originating outside of the Town of Ballston on any land or at any location, site, or area in the Town of Ballston. No person shall operate any type of waste disposal facility for refuse originating outside the Town of Ballston. Editor's Note: See also Art. I, Waste From Outside Town, of this Ch. 96.

§ 96-12. Penalties for offenses.

A. A violation of this article shall be deemed a violation. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

B. For each violation of any provision of this article, the person violating the same shall be subject to a fine of not more than \$250 or imprisonment not exceeding 15 days, or both such fine and imprisonment.

C. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.

D. 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.

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 article.

ARTICLE IV. Recycling

[The Town of Ballston is subject to the County of Saratoga Recycling Regulations.]

CHAPTER 100. STREETS AND SIDEWALKS

ARTICLE I. Notification of Defects

§ 100-1. Prior notice required.

§ 100-2. Failure to remedy defect.

§ 100-3. Notice to be transmitted to Town Clerk.

§ 100-4. Records.

§ 100-5. Construal of provisions.

CHAPTER 100. STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Prohibition against throwing snow in roadway — See Ch. 96, § 96-7E.

Subdivision of land — See Ch. 104.

Vehicles and traffic — See Ch. 125.

Zoning — See Ch. 138.

ARTICLE I. Notification of Defects

[Adopted 5-5-1998 by L.L. No. 4-1998]

§ 100-1. Prior notice required.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). No civil action shall be maintained against the Town of Ballston 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 street or appurtenance or improvement thereto, bridge, culvert, sluice, stormwater drain, sewer or water pipe, street marking, sign or device or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district, therein being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such street or appurtenance or improvement thereto, bridge, culvert, sluice, stormwater drain or sewer or water pipe, street marking, sign or device or any other property owned, operated or maintained by the town or any improvement district was actually given to the Town Clerk of the town and there was thereafter a failure or neglect within a reasonable time to repair or remove the defect, danger or obstruction complained of; or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence. And no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of the debris, vegetation, snow or ice upon any street or appurtenance or improvement thereto, bridge, culvert,

sluice, stormwater drain, sewer or water pipe 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 and there was failure or neglect to cause such debris, vegetation, snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

§ 100-2. Failure to remedy defect.

No civil action will be maintained against 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 and there was a failure or neglect to cause such defect to be remedied, 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.

§ 100-3. Notice to be transmitted to Town Clerk.

The Town Clerk shall transmit, in writing, to the Town Superintendent of Highways within five days after receipt thereof all written notices received by the office of the Town Clerk pursuant to this article, and the Town Superintendent of Highways shall take any and all corrective action with respect thereto as soon as possible.

§ 100-4. Records.

The Town Clerk of the town shall keep an accurate record of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition pursuant to this article.

§ 100-5. Construal of provisions.

Nothing contained in this article shall be held to repeal or modify or waive any existing requirement or statute of limitations but, on the contrary, shall be held to be additional requirements to the rights to maintain such action. Nothing contained herein shall 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 obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

CHAPTER 104. SUBDIVISION OF LAND

ARTICLE I. General Provisions

§ 104-1. Authority and enactment.

§ 104-2. Policy.

§ 104-3. No subdivision without approval.

§ 104-4. Conflict with other provisions.

§ 104-5. Fees.

ARTICLE II. Definitions

§ 104-6. Definitions.

ARTICLE III. Procedure for Filing Subdivision Applications

§ 104-7. General application procedures.

§ 104-8. Preapplication procedure.

§ 104-9. Minor subdivisions.

§ 104-9.1. Major subdivisions.
§ 104-10. Final subdivision plat procedure.
ARTICLE IV. Subdivision Design Requirements
§ 104-11. Introduction; compliance.
§ 104-12. General design requirements.
§ 104-13. Rural development guidelines.
§ 104-14. Traditional neighborhood design (TND) standards.
§ 104-15. (Reserved)
§ 104-16. (Reserved)
§ 104-17. (Reserved)
ARTICLE V. Minimum Required Improvements
§ 104-18. General requirements.
§ 104-19. Specific physical improvements.
ARTICLE VI. Plat Requirements
§ 104-20. Final subdivision plat.
§ 104-21. Construction detail sheets.
§ 104-22. Other information.
ARTICLE VII. Special Requirements for Nonresidential Subdivisions
§ 104-23. General procedural requirements.
§ 104-24. Street layout; curbs; blocks and parcels.
ARTICLE VIII. Variance and Modifications
§ 104-25. Procedure.
ARTICLE IX. Lot Line Adjustment
§ 104-26. Procedure.
§ 104-27. Procedure for approval
ARTICLE X. Residential Cluster/Conservation Development
§ 104-28. Purpose and intent.
§ 104-29. Authority of Planning Board.
§ 104-30. Applicability; density; area and dimensional requirements; fees.
§ 104-31. Design guidelines and additional requirements.
§ 104-32. (Reserved)
ARTICLE XI. Enforcement and Penalties
§ 104-33. Penalties for offenses.

Attachments:

104 Land Subdivision Standards
104 Standard Detail 1
104 Standard Detail 2
104 Standard Detail 3
104 Standard Detail 4

CHAPTER 104. SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Ballston 4-6-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Farming — See Ch. 59.
Fire Protection District — See Ch. 65.
Flood damage prevention — See Ch. 68.
Lighting District — See Ch. 79.
Site plan review — See Ch. 91.
Zoning — See Ch. 138.

ARTICLE I. General Provisions

§ 104-1. Authority and enactment.

By authority of the resolution adopted August 7, 1962, by the Town Board pursuant to the provisions of § 276 of the Town Law, the Planning Board of the Town of Ballston has the power and authority to approve, modify and disapprove plats for subdivision within the Town of Ballston. This power and authority shall be for all subdivisions within the Town of Ballston as such activity is defined by these regulations. In order that land may be subdivided in accordance with the following policy, these regulations are hereby adopted.

§ 104-2. Policy.

It is declared to be the policy of the Town Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace. Proper provision shall be made for water, sewage and other needed improvements. The proposed streets shall compose a convenient system conforming to the Official Map of the Town (as it may be adopted) and to the Official Map of the county (as it may be adopted) and shall be properly related to the proposals shown on the Town Plan as it is adopted by the Planning Board. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection.

§ 104-3. No subdivision without approval.

Any subdivider who proposes to develop a subdivision in the Town of Ballston shall follow the procedures specified in this chapter. "Subdivider" shall be defined as any person, firm, corporation, partnership or association which shall lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, herself, itself or for others. Editor's Note: Former Section 104, regarding filing of final plats, which immediately followed this section, now appears as § 104-10A(3).

§ 104-4. Conflict with other provisions.

Should any of these regulations conflict with or be inconsistent with any provision of state law or the New York State Codes, Rules and Regulations, such provision shall apply.

§ 104-5. Fees.

Editor's Note: By resolution adopted 12-3-1991, the Town Board approved removal of specific fees from the Subdivision Regulations.

[Added 11-9-1989]

A. Subsequent to a subdivider appearing before the Town of Ballston Planning Board for conceptual approval of any preliminary layout and prior to the final approval of such layout, the Planning Board shall require of the subdivider payment of any and all engineering costs which are incurred by the Town as a result of the subdivider's application for subdivision approval. These costs shall include the cost of engineering consultation made on behalf of the Town with respect to the subject project as well as the cost of on-site inspections, including but not limited to those for inspections of roads, water systems and similar inspections which are required to be made by those other than Town of Ballston employees. The subdivider shall be responsible for these costs throughout the term of the entire project, and payment shall be made a condition to any and all subdivision approvals by the Town of Ballston Planning Board.

B. The aforementioned costs shall be paid by the subdivider based upon engineering estimates submitted to the Town of Ballston and its Planning Board by the engineering firm reviewing the particular project at hand. The Town of Ballston and/or the Town of Ballston Planning Board may require payment of the aforementioned fees in advance, and any unused portion of these estimated fees will be returned to the subdivider upon completion of the subdivision or alternatively, after rejection of the proposed subdivision by the Planning Board.

C. Additionally, the above provisions with respect to fees shall apply to the site plan review process.
Editor's Note: See Ch. 91, Site Plan Review.

ARTICLE II. Definitions

§ 104-6. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

ARTERIAL ROADS

Those roads which carry high-speed and high-volume traffic from the Town to urban centers, usually divided highways and always with limited access.

BOARD or PLANNING BOARD

The duly constituted Board of the Town of Ballston.

BOND

A performance bond duly issued by a bonding or surety company approved by the Town Board with security acceptable to the Town Board or a performance bond duly issued by the owner-obligor accompanied by security in the form of cash, certified check or United States government bearer bonds deposited with the Town Board in the full amount of the obligation.

CLUSTER DEVELOPMENT

The subdivision of an area into lots which are smaller than would customarily be permitted by the Zoning Ordinance, Editor's Note: See Ch. 138, Zoning. the density of development is no greater than would be permitted in the district by conventional development, and the residual land produced by the smaller lot size is used for common recreation and open space.

[Added 9-30-2003 by L.L. No. 4-2003]

COMPREHENSIVE PLAN

The Town of Ballston Comprehensive Plan, dated December 2005, and adopted by the Town Board on June 12, 2006.

[Added 6-12-2006 by L.L. No. 5-2006]

CONSERVATION SUBDIVISION

A subdivision that varies the dimensional zoning requirements in order to promote flexibility of lot design and layout for the purposes of conserving open space and enhancing rural character. This type of subdivision is also referred to as a "cluster development or subdivision" and is authorized pursuant to Town Law § 278.

[Added 6-12-2006 by L.L. No. 5-2006]

EASEMENT

A property right giving the owner or holder thereof the right of access to land for a specified purpose.

ENGINEER

A duly designated engineer of the Town, or if there be no such official, the licensed professional engineer employed by or assigned to the Planning Board.

FINAL SUBDIVISION PLAT

The final map, drawing or chart upon which the owner's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

FRONTAGE (also ROAD FRONTAGE or STREET FRONTAGE)

The distance along which a lot adjoins a road or street at the right-of-way line. A road or street which provides frontage may be a state, county or Town road or a private road or street that has been approved by the Planning Board as part of a subdivision plat.

[Added 6-12-2006 by L.L. No. 5-2006]

LOT LINE ADJUSTMENT

Relocation of a lot line for two or more lots and which does not create any new lots or result in the ability for lots to be subdivided.

[Added 9-30-2003 by L.L. No. 4-2003]

LOTS:

A. DOUBLE-FRONTAGE LOTS — Lots with rear and front lot lines abutting an existing or proposed street right-of-way.

B. REVERSE FRONTAGE LOTS — Lots with the rear lot line abutting an existing or proposed limited access highway or public reservation.

C. FLAG LOT — A lot so shaped and designed that the main portion of the lot is set back from the street or road on which it fronts and is situated behind one or more lots and is connected to such frontage road or street only by means of a narrow strip of land.

[Added 9-30-2003 by L.L. No. 4-2003; amended 6-12-2006 by L.L. No. 5-2006]

MAJOR SUBDIVISION

The division of a tract of land into five or more parcels and which does not otherwise qualify for a minor subdivision pursuant to the definitions in this chapter or any size subdivision requiring any new streets or construction of municipal utilities. A tract of land shall constitute a major subdivision upon the creation of the fifth residential lot or residential building plot therefrom within any consecutive five-year period, and at which time the provisions of § 1116 of the Public Health Law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold or offered for sale singularly or collectively.

[Amended 4-11-1989; 9-30-2003 by L.L. No. 4-2003; 6-12-2006 by L.L. No. 5-2006]

MASTER PLAN

A comprehensive plan for the development of the Town as authorized in § 272-a of the Town Law.

[Amended 9-5-2000 by L.L. No. 3-2000]

MINOR SUBDIVISION

[Amended 4-11-1989; 6-12-2006 by L.L. No. 5-2006]

A. Any division of a parcel of land into not more than four lots that also meets the following prerequisites:

(1) Said parcel must not have been previously subdivided, or have been part of a subdivision, for a minimum of a five-year period prior to the submission of the application for a minor subdivision;

(2) Each of the proposed lots must have at least the minimum lot size as required by Chapter 138, Zoning;

(3) Each lot must front on an existing public street; and

(4) The proposed subdivision must not involve any new street or road or the extension of municipal facilities.

B. The remaining portion of the original or parent parcel shall be considered as a lot and included as one of the four lots comprising the subdivision.

OFFICIAL MAP

The map established by the Town Board under § 270 of the Town Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes and additions thereto made under the provisions of the Town Law.

OPEN SPACE

Any land or area, the preservation of which in its present state or use would conserve and enhance natural or scenic resources; or protect streams or water supply; or promote conservation of soils, farmland, wetlands; or enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or enhance recreation opportunities.

[Added 6-12-2006 by L.L. No. 5-2006]

OWNER

The owner of the land proposed to be subdivided or his or her agent.

PARCEL

Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk's office and for which a Tax Map parcel identification number has been assigned.

[Amended 6-12-2006 by L.L. No. 5-2006]

PRELIMINARY LAYOUT

The preliminary drawings and supplementary material indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

RESIDENTIAL LOT

A parcel of land with or without buildings or structures, delineated by property lines. No more than one building dwelling may occupy a residential lot.

[Added 9-30-2003 by L.L. No. 4-2003]

SKETCH PLAN

A sketch of what the subdivider intends, showing the parcel to be subdivided, to an approximate scale, so that the Board may informally discuss the subdivision.

STREETS

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, cul-de-sac, place or however otherwise designated and includes the area between the right-of-way lines.

A. **CUL-DE-SAC** — A street or portion of a street with only one vehicular traffic outlet and a vehicular turnaround on the other end.

B. **LOCAL STREETS** — Those which are used for access to abutting properties.

C. **MARGINAL ACCESS STREETS** — Local streets which are parallel to and adjacent to arterial streets or highways which provide access to abutting properties but are protected from through traffic.

D. **MINOR COLLECTOR STREETS** — Those streets which carry traffic from local streets to the major collector system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development. Existing minor collector streets include, but are not necessarily limited to: Ballston Avenue, Benedict Road, Brookline Road, Devils Lane, Diamond Road, Finley Road, Forest Road, Garrett Road, Jenkins Road, Lake Road, Larkin Drive, Mann Road, Outlet Road, Randall Road, Root Road, Saunders Road, Sweet Road, Wakeman Road.

E. **MAJOR COLLECTOR STREET** — Those streets and highways which are used or destined to be used for high speed and heavy rush hour traffic. Existing major collector streets include, but are not necessarily limited to: Blue Barnes Road, Charlton Road, East Line Road, Goode Street, Hop City Road, Kingsley Road, Lake Hill Road, Middle Line Road, Round Lake Road, Route 50, Route 67, Route 146A, Scotch Bush Road and Shauber Road.

STREET TREES

Those trees within 20 feet of the right-of-way.

STREET WIDTH

The distance between property lines.

SUBDIVISION

The division of any parcel of land into two or more lots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Divisions of land in excess of five acres shall not be excluded from this definition. The number of lots in the subdivision includes the original parcel.

[Amended 4-11-1989; 9-30-2003 by L.L. No. 4-2003]

TRACT

Any land that is now or hereafter under the same ownership consisting of one or more adjoining parcels, any part of which is along one side of one or more existing public roads or one or more sides of a proposed street, highway easement or right-of-way.

TRADITIONAL NEIGHBORHOOD DESIGN (or TND)

A set of design standards applied to subdivisions and developments in the Hamlet and Ballston Lake Residential Districts for the purpose of promoting pedestrian friendly and compact residential neighborhoods.

[Added 6-12-2006 by L.L. No. 5-2006]

ZONING (Also "Zoning Ordinance and Zoning Map")

The duly adopted Zoning Ordinance and Zoning Map for the Town of Ballston, New York. Editor's Note: See Ch. 138, Zoning.

[Amended 4-11-1989]

ARTICLE III. Procedure for Filing Subdivision Applications

§ 104-7. General application procedures.

[Amended 9-30-2003 by L.L. No. 4-2003; 1-4-2005 by L.L. No. 1-2005]

Whenever any tract of land is proposed for subdivision, before any contract for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner or his or her authorized agent shall apply for approval of such a proposed subdivision by submitting to the Building Department at least 21 days prior to a regular meeting of the Board 14 copies of a sketch plan of the proposed subdivision. Editor's Note: By resolution adopted 9-16-1986, the Town Board enacted the following: "Any subdivision of four or more lots which is located in Extension No. 2 of the Burnt Hills-Ballston Lake Water District No. 2 which proposes to utilize the public water supply must obtain approval from the Town of Glenville for said water supply prior to subdivision approval by the Town of Ballston Planning Board.

§ 104-8. Preapplication procedure.

A. Discussion and requirements. The subdivider or his or her duly authorized agent may be required to attend a meeting of the Planning Board to discuss his or her proposals with regard to the requirements of the regulations which govern the proposed subdivision, including but not limited to street improvements, drainage, sewerage, water supply and fire protection.

B. Compliance with either the Environmental Conservation Department or the State Health Department regulations. If a proposed subdivision meets the definition of a subdivision, the applicant must meet the standards of either the Environmental Conservation Department or the New York State Department of Health for water supply, sewage disposal, and stormwater management before the final subdivision plat is submitted to the Planning Board. Which agency is to review the plat depends upon the number of lots.

[Amended 9-30-2003 by L.L. No. 4-2003]

§ 104-9. Minor subdivisions.

Editor's Note: The Checklists for minor subdivisions are on file in the Town offices.

[Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003]

A. Preliminary layout. The subdivider shall prepare a preliminary layout, consisting of a drawing made to scale of the subdivision showing or together with the following information:

- (1) Tract boundary with bearings and distances, and tract area.
- (2) Topographical data containing existing drainageways. USGS topographic mapping with five-foot contours is acceptable. Additional topography may be requested at the discretion of the Planning Board.
- (3) Location of all natural features such as wooded areas, marshes and rock outcrops.
- (4) Proposed lot lines and lot dimensions for residential lots.
- (5) Names and right-of-way widths of streets within 100 feet of the tract boundary.
- (6) Location of existing utilities, septic systems and wells on and adjacent to the tract.

- (7) Location, dimensions and purpose of any easements on and adjacent to the tract.
- (8) Number to identify each lot; address to be indicated.
- (9) Purpose for which sites other than residential lots are dedicated or reserved and their location.
- (10) Minimum setback lines on all lots and other sites.
- (11) Names of owners of record of adjoining unplatted land.
- (12) Title of subdivision, scale of layout map, North arrow and date.
- (13) Site data summary, including number of residential lots, typical lot size.
- (14) Proposed water supply and sanitary wastewater disposal method. If on-site wastewater disposal is proposed, percolation rate and test pit information shall be provided.
- (15) If an on-site water supply is to be utilized, a note stating: "All lot sales shall be contingent upon a contract addendum for the location of water, flow capacity and potability in accordance with the New York State Health Department standards."
- (16) A stormwater management report may be required as determined by the Planning Board.
- (17) For site disturbance of greater than one acre, a SWPPP prepared in acceptance with NYSDEC requirements will need to be submitted for review of completeness. The Town of Ballston will require that a notice of intent (NOI) for construction activities be submitted to NYSDEC and a copy of the acknowledgement of permit coverage from the NYSDEC be submitted to the Town for its files prior to the start of any construction activities. All proposed erosion controls and water quality measures are to be shown on the subdivision plans.
- (18) All regulated wetlands, classified streams and one-hundred-year floodplain boundaries shall be included where appropriate.
- (19) The final plat shall contain the signature and seal of a land surveyor, or a professional engineer and a land surveyor, both registered in New York State, or a qualified land surveyor under § 7208, Paragraph (n), of the Education Law.
- (20) Nature of any deed restrictions or protective covenants whereby the owner proposes to regulate land use in the subdivision and otherwise protect the proposed development;
- (21) A statement of intent which enables the Planning Board to determine the adequacy of the trees to be retained and/or planted throughout the subdivision.
- (22) At the determination of the Planning Board, any remaining lands which can be further subdivided and qualify as a major subdivision, a sketch plan for this tract may be required.

B. Application for preliminary plat approval. The subdivider shall file an application for conceptual approval of his or her preliminary layout. The application shall:

- (1) Be made on forms available at the office of the Building Department.
- (2) Include all land which the applicant proposes to subdivide.

(3) Be accompanied by 14 copies of the preliminary layout as specified in Subsection A above.

[Amended 1-4-2005 by L.L. No. 1-2005]

(4) Include a complete short environmental assessment form.

(5) Be submitted to the Planning Board not less than 21 days prior to a regularly scheduled meeting.

[Amended 1-4-2005 by L.L. No. 1-2005]

(6) Be accompanied by a fee according to the most recent fee schedule which is established periodically by the Town Board.

(7) All items contained in the Town Review Checklist are to be completed by the applicant for a complete application. The project will be placed on the agenda if the application is considered complete by the Town Building Department.

C. The Planning Board shall follow the procedures of Town Law § 276, Subdivision 5, to approve, approve with conditions or disapprove the preliminary plat.

D. A final submission for a minor subdivision may be required at the discretion of the Planning Board.

E. Consultant review. The Planning Board may consult with the Town Zoning Enforcement Officer, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

§ 104-9.1. Major subdivisions.

Editor's Note: The Checklists for major subdivisions are on file in the Town offices.

[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]

A. Whenever any subdivision of land is proposed to be made which is subject to review hereunder and before any part thereof is made and before any land is cleared or vegetation is removed, except vegetation removed in connection with required surveying, engineering test and inspections, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider shall make application for and receive final approval of such proposed subdivision in accordance with the Town of Ballston Land Subdivision Regulations.

B. Concept submission. The owner shall furnish 14 copies of a concept plan of the proposed subdivision and all adjacent land owned by the owner or under option to him at a scale of not less than 100 feet per inch.

(1) The plan shall include:

(a) Property boundaries.

(b) Existing topography at five-foot contour intervals to USGS datum.

(c) Soil analysis.

(d) Existing utilities.

(e) General street, lot and utility layout. Flag lots are permitted in major subdivisions. However, if the configuration of flag lots is not desirable, the Planning Board may determine that the tract of land shall be served by Town roads.

(f) Conceptual drainage plan.

(g) Wetlands, streams, surface waters, and other drainage corridors and flood hazard areas.

(2) The plan shall also include a vicinity map to a scale of not smaller than 400 feet per inch showing lands and roads in this area.

(3) In addition to the above-referenced information, the following paperwork shall be submitted:

(a) Completed Town of Ballston submission form.

(b) Long environmental assessment form.

(c) Narrative description of the proposal, including:

[1] Project acreage.

[2] Description of existing site and use.

[3] Description of intended site development.

[4] Number of lots.

[5] Impacts on adjoining property.

[6] Impacts on services.

(d) A request for any zoning changes, zoning variances and special use permits proposed for the area to be subdivided.

C. Procedure for approval of preliminary layout.

(1) The subdivider shall prepare a preliminary layout, based on the approved concept plan consisting of a drawing made to scale of the subdivision showing or together with the following information:

(a) Tract boundary with bearings and distances, tract area and street layout.

(b) Topographical data shown with two-foot contour interval and all existing drainageways. Benchmark (NGVD 1929) to be indicated on plans.

(c) Location of all natural features such as wooded areas, marshes and rock outcrops.

- (d) Proposed lot lines and lot dimensions.
- (e) Proposed location and name of streets with right-of-way widths.
- (f) Names and right-of-way widths of streets within 100 feet of the tract boundary.
- (g) Location of existing or proposed utilities on and adjacent to the tract.
- (h) Location, dimensions and purpose of any easements on and adjacent to the tract.
- (i) Number to identify each lot.
- (j) Purpose for which sites other than residential lots are dedicated or reserved and their location.
- (k) Minimum setback lines on all lots and other sites.
- (l) Names of owners of record of adjoining unplatted land.
- (m) Title of subdivision, scale of layout map, North arrow and date.
- (n) Site data summary, including number of residential lots, typical lot size, linear feet of streets, acres in parks, etc.
- (o) Proposed sanitary wastewater disposal method. If on-site wastewater disposal is proposed percolation information shall be provided at representative locations, minimum one test per three lots or as required by Planning Board on recommendation of the Town Engineer.
- (p) Proposed water supply distribution system. If an on-site water supply is to be utilized, a note stating: "All lot sales shall be contingent upon a contract addendum for the location of water, flow capacity and potability in accordance with the New York State Health Department standards."
- (q) All regulated wetlands, classified streams and one-hundred-year floodplain boundaries shall be included where applicable.
- (r) Street name signs.
- (s) The final plat shall contain the signature and seal of a professional engineering and of a land surveyor, both registered in New York State.
- (t) Nature of any deed restrictions or protective covenants whereby the owner proposed to regulate land use in the subdivision and otherwise protect the proposed development.
- (u) A statement of intent which enables the Planning Board to determine the adequacy of the trees to be retained and/or planted throughout the subdivision.

D. Application for preliminary plat approval. The subdivider shall file an application for conceptual approval of his or her preliminary layout. The application shall:

- (1) Be made on forms available at the office of the Building Department.
- (2) Include all land which the applicant proposes to subdivide.

- (3) Be accompanied by 14 copies of the preliminary layout as specified in Subsection B above.
- (4) Be submitted to the Planning Board not less than 21 days prior to the regularly scheduled meeting.
- (5) Be accompanied by a fee according to the most recent fee schedule which is established periodically by the Town Board.
- (6) The final plat shall contain the signature and seal of a professional engineer and of a land surveyor, both registered in New York State.

E. The Planning Board shall follow the procedures of Town Law § 276, Subdivision 5, to approve, approve with conditions or disapprove the preliminary plat.

§ 104-10. Final subdivision plat procedure.

A. Subdivider procedure. Within six months after the approval of the preliminary layout by the Planning Board, the subdivider shall file with the Planning Board two Mylar and two paper drawings for approval of a final subdivision plat.

[Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003; 1-4-2005 by L.L. No. 1-2005]

(1) The application shall:

- (a) Be made on forms available at the office of the Building Department.
- (b) Be accompanied by the original drawing or one reproducible and five copies of the final subdivision plat, construction detail sheets and other information as described in Article VI, Plat Requirements, of these regulations.
- (c) Comply in all respects with the preliminary layout as approved.
- (d) Comply with the regulations of the State Health Department or Environmental Conservation Department and be stamped and endorsed by the responsible agency.
- (e) Comply with any county or Town ordinances or laws deemed pertinent by the Planning Board.
- (f) Be presented to the Chairman of the Planning Board at least three weeks prior to a regular meeting of the Board. However, the final subdivision plat shall be considered officially submitted as of the date of the regular meeting of the Board following completion of the above application procedure. The subdivider shall be represented at that meeting.

(2) In the event that a final subdivision plat is not submitted to the Planning Board within six months of the approval of the preliminary layout, the application may be considered withdrawn and any previous approval or waivers of required improvements by the Planning Board may be revoked.

(3) Filing.

- (a) Within 62 days next following the date of official approval action by the Planning Board or the date of issuance by the Town Clerk of a certificate of nonaction and after approval by the County

Health Department, if applicable, the subdivider shall file the final plat with the County Clerk. Otherwise, such final approval shall expire as provided in § 276 of the Town Law.

(b) Five black and white prints of the final plat showing the recording date of the County Clerk thereon shall be submitted to the Planning Board after filing with the County Clerk.

(c) It shall be the duty of the County Clerk, in accordance with § 279 of the Town Law, to notify the Planning Board in writing within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number.

(d) No changes, erasures, modifications or revisions other than those requested by the State Health Department or other such agency, or to correct metes and bounds, shall be made on any subdivision plat after final approval has been given by the Planning Board and the plat has been duly filed with the County Clerk unless such plat has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

(4) GIS submission.

(a) In addition to hard-copy maps, it is recommended that contractors provide digital data of the infrastructure features depicted on the map. Features must include, but are not limited to, roadway center lines, right-of-way boundaries, property line boundaries, water infrastructure (water mains, valves, manholes), sewer infrastructure (sanitary mains, storm sewer lines, cross-over lines, catch basins). Water mains, sanitary and stormwater sewer mains and sewer cross-over lines, and roadway center lines must be developed as line or polyline features. Water valves, water hydrants, manhole covers, and catch basins must be developed as point features. Parcel boundaries and right-of-way boundaries may be constructed as line, polyline, or polygons features.

(b) This data must be provided in one of the following digital formats: computer-automated drawing files - AutoCAD (.DWG) or Microdesk (.DGN); or geographic information system compatible file - ESRI Shapefile (.SHP). The data must be developed in the New York State Plane East (Zone 4801) coordinate system, North American Datum 1983 (NAD83), and units in feet. A metadata file in .TXT format should be included with the infrastructure feature data file(s) to state the name of the file(s), features represented, project name or reference, date the data was produced, name and address of the producer, and coordinate system. Data must be submitted on a 3.5-inch diskette or on CD-ROM with submission of the final, approved hard-copy subdivision map.

(5) Preconstruction meeting. After final subdivision approval by the Planning Board and before and site disturbance takes place, a preconstruction meeting shall be held. The following individuals shall be present:

(a) Applicant and/or representative.

(b) Highway Superintendent.

(c) Building Inspector.

(d) Town Engineer.

(e) Any other individuals as may be deemed necessary.

B. Planning Board procedure.

(1) Upon receipt of the final subdivision plat and if and when a County Official Map is established, the Chairman of the Planning Board shall notify the County Planning Board and the County Superintendent of Highways in accordance with § 239-k of the General Municipal Law. Editor's Note: General Municipal Law § 239-k was repealed by L. 1997, c. 451, § 2, effective 7-1-1998. Such notification shall be within one week after receiving advance copies of the final subdivision plat.

(2) The Town Planning Board shall issue a receipt of submission at a meeting of the Board within three weeks following presentation of the final subdivision plat to the Chairman in accordance with these regulations.

(3) The Planning Board shall follow the procedures of Town Law § 276, Subdivision 6, to approve, approve with conditions or disapprove the final subdivision plat. Editor's Note: Former Section 203, Subsection B(4), regarding approval procedures, which immediately followed this section, was deleted 9-5-2000 by L.L. No. 3-2000.

[Amended 9-5-2000 by L.L. No. 3-2000]

(4) Consultant review. The Planning Board may consult with the Town Zoning Enforcement Officer, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

[Added 9-30-2003 by L.L. No. 4-2003]

ARTICLE IV. Subdivision Design Requirements

[Amended 8-4-1992; 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003; 9-7-2004 by L.L. No. 6-2004; 6-12-2006 by L.L. No. 5-2006]

§ 104-11. Introduction; compliance.

This article sets forth general design requirements for all subdivisions no matter where they are located as well as specific design requirements for certain subdivisions depending on their type or Zoning District location. The subdivision applicant shall observe and design the proposed subdivision and the Planning Board shall review and make decisions on the proposed subdivision in accordance with the following requirements as applicable.

§ 104-12. General design requirements.

The requirements set forth in this section shall apply to all subdivisions located in any area of the Town.

A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

B. Conformity to Chapter 138, Zoning. Subdivisions shall conform to the Zoning Law. In case of a conflict between this chapter and Chapter 138, Zoning, Chapter 138, Zoning, shall control.

C. Preservation of existing features. The Planning Board shall, wherever practical, require preservation of all existing features which are important to the natural, scenic, rural and historic character of the Town or which add value to residential development, such as large trees or groves, watercourses, waterfalls, beaches, scenic views, historic places, and similar irreplaceable assets. The Planning Board may impose restrictions designed to preserve such features, including the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited, as a condition of subdivision approval. Development shall be designed to minimize disturbance to the existing landscape.

D. Lots.

(1) The size, width, depth, shape, orientation and yards of lots shall be not less than specified in Chapter 138, Zoning, of the Code of the Town of Ballston, for the district in which the lots are located and shall be appropriate for the type of development, the use contemplated and the economic feasibility of contemplated or future utilities.

(2) Residential lot dimensions where not served by public sewers shall be such as to meet the requirements of the State Department of Health and/or the Environmental Conservation Department, whichever is required.

(3) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets, logical further subdivisions and economy of establishing future utilities.

(4) Corner lots for residential use shall have required width at front property line for both streets.

(5) The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street or highway.

(6) Double frontage and reverse frontage lots should be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 20 feet wide, across which there shall be no right of access, shall be provided along the rear line of such lots abutting such a major traffic artery or other disadvantageous use.

(7) Side lot lines shall be substantially at right angles or radial to street right-of-way lines, except where topographic conditions require deviation from this criterion.

E. Flag lots. The Planning Board, in its discretion, may approve the inclusion of one or more flag lots within any proposed minor subdivision. Flag lots shall not be permitted in major subdivisions. In making its determination of allowing the inclusion of flag lots, the Planning Board will review the general design and configuration of the subdivision, the site topography and impact on adjoining properties along with those proposed in the subdivision in order to ensure that the flag lot is properly designed. Flag lots shall only be allowed in the Rural District and shall have a minimum lot size of two acres with a minimum frontage access of 60 feet, taken at the highway line. Where shared driveway access is proposed, the minimum frontage shall allow an aggregate minimum of 60 feet with no individual parcel having less than 20. For any subdivision that proposes to include a flag lot, all housing envelopes must be shown on the plat and the flag lot housing envelope must be at a minimum of 150 feet from any other proposed housing envelope or existing house and a minimum front yard setback of 100 feet, taken at the closest rear yard property line of the abutting parcel(s). Flag lots may be approved with or without shared driveways.

F. Easements.

(1) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall not be less than 30 feet wide.

(2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way which substantially follows the drainage course and shall be of such width or construction as will adequately confine a design storm as specified in the subdivision storm design standards, but in no case shall said right-of-way be less than 30 feet in width. It may also be necessary that parallel streets be provided in order to accommodate this drainage right-of-way.

(3) If a street is being dedicated in sections, a temporary turnaround easement of 150 feet in diameter must be granted at its end. Such easement will be terminated when the street is extended.

G. Streets.

(1) The arrangement, character, extent, width and location of all streets shall conform to the Master Plan and to the Official Maps of the Town and county, if any, and shall be considered in their relation to other existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of land to be served and/or abutted by such streets.

(2) Where such is not shown in the Master Plan, the arrangement of streets in a subdivision shall either:

(a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(b) Conform to a plan for the neighborhood approved or adopted by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable or undesirable.

(3) Minor streets shall be so laid out that through-traffic patterns will be discouraged.

(4) Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(5) Where a subdivision abuts or contains a railroad right-of-way or controlled access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way (marginal access street), at a distance suitable for the appropriate use of the intervening land, as for park purposes in Residential Districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(6) Reserve strips controlling access to streets, water or sewage treatment plants or to other land dedicated or to be dedicated to public use shall be prohibited, except where their control is definitely placed in the Town under conditions approved by the Planning Board.

(7) Cross (four-cornered) streets shall be avoided insofar as practicable.

(8) Street jogs shall be avoided and where no other system shall suffice, center-line offsets shall not be less than 150 feet.

(9) When continuing street lines of collector streets deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius at the inner street right-of-way line of not less than 350 feet; where continuing street lines of arterial streets deflect from each other by more than 5°, they shall be connected by a curve of not less than 800 feet radius.

(10) Streets shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle of intersection be less than 75°. Any change in street alignment to meet this requirement shall occur at least 100 feet from the intersection.

(11) Street right-of-way lines at street intersections shall be rounded with a radius of 25 feet or with a greater radius where the Planning Board may deem it necessary. The Planning Board may permit comparable cutoffs or chords in place of rounded corners.

(12) Right-of-way width.

(a) Street right-of-way widths shall be as shown on the Official Map, and where not shown thereon, shall not be less than as follows:

Street Type	Right-of-Way Width (feet)
Cul-de-sac	60
Local street	60
Marginal access street	60
Minor collector street	60
Major collector street	84
Arterial road	120

(b) In exceptional circumstances, to permit optimum use of land, short streets of a minimum width of 50 feet may be permitted by the Planning Board.

(13) Existing street rights-of-way within the subdivided property shall be widened as shown on the Official Map, if any, to achieve the width appropriate to the type of street.

(14) Partial width streets shall be prohibited regardless of location within or along the boundary of a subdivision.

(15) Permanent culs-de-sac shall not contain more than 21 lots and shall be provided with a turnaround at the closed end having a street right-of-way line diameter of at least 150 feet.

(16) Street grades shall be a minimum of 1% and shall not exceed the following, with due allowance for vertical curves and with not less than 200 feet between changes of grade:

[Amended 8-7-2007 by L.L. No. 8-2007]

Street Type	Maximum Grade (percent)
Arterial	4%
Collector	6%
Local and marginal access	7% (except that grades up to 10% may be permitted on short runs)

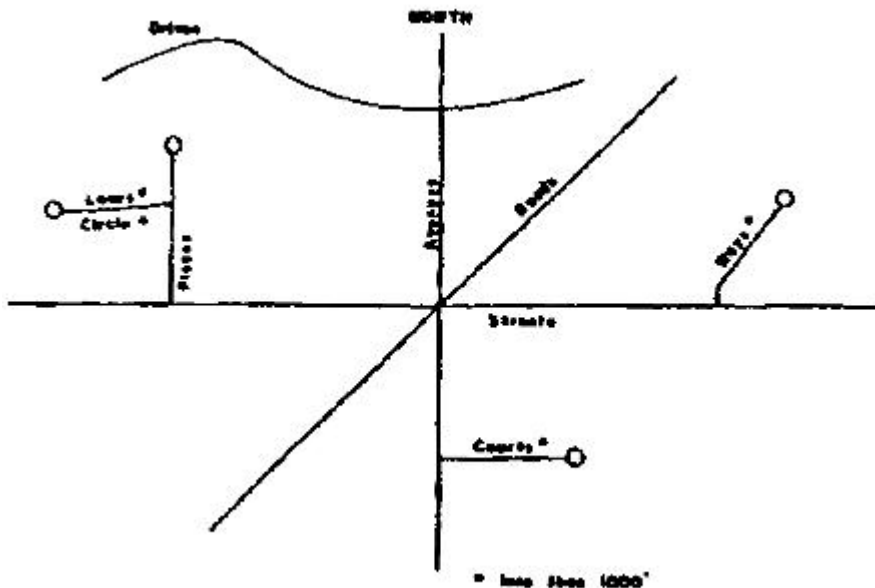
(17) Sight distance over grades shall not be less than 200 feet. Sight distance around curves shall not be less than 200 feet.

(18) Grades at street intersections shall be held to a maximum of 3% for a distance of 100 feet from the edge of pavement of the intersecting street. Vertical curves shall be introduced at changes of grade exceeding an algebraic difference of 2%.

[Amended 8-7-2007 by L.L. No. 8-2007]

(19) Street names.

(a) Street names shall be cleared with the Town Planning Board and with the Town Board to avoid duplications or use of similarly sounding or spelled names. Street names shall conform to the following sketch. House and lot numbers shall be identical and shall follow the standard United States Postal Service practice of house numbering.



(b) Other designations such as terraces and boulevards will be accepted for consideration where the owner feels they may be more appropriate.

(20) Curb radii at intersections shall be a minimum of 35 feet.

[Added 8-7-2007 by L.L. No. 8-2007]

(21) Culs-de-sac shall have a minimum grade of 1.5% and a minimum cross slope of 2% (no crown).

[Added 8-7-2007 by L.L. No. 8-2007]

H. Public sites and open spaces.

(1) The owner shall dedicate to the Town land usable for recreation purposes equal in size to not less than 5%, of the owner's tract to be subdivided for residential usage. This land shall be used by the Town for parks, playgrounds or for other specific public recreational uses as deemed desirable by the Planning Board. However, if the Planning Board should consider an owner's tract too small or unsuitable for dedication of 5% of the total area as usable recreational land, the Town Board shall direct the owner to make a money payment to the Town in lieu of the land. This payment must be equal to a fee as established by the Town Board, and will be assessed on each commercial building placed on a building lot created through subdivision after September 30, 2004, and on each dwelling unit placed on a building lot created through subdivision after September 30, 2004. Where a commercial building has within it one or more dwelling units, the fee shall be one fee for each commercial building and an additional fee for each dwelling unit within each commercial building. The first dwelling unit shall be exempt from the parks and recreation fee for two-family and multiple dwellings placed on lots created through subdivision before September 30, 2004. The parks and recreational fee may be used by the Town for the purchase of land for such public recreational uses and/or for the purchase of materials, equipment or necessary services to create a recreational facility for public use. The fee schedule is on file in the Town Clerk's office.

(2) Usable areas or areas bordering streams, lakes or other watercourses can be given special consideration by the Planning Board in excess of the minimum. The Planning Board may recommend that the Town Board accept these areas as a gift, or purchase them, should they be desirable for public open spaces.

(3) Where such sites and open spaces are not shown on the Master Plan and where deemed essential by the Planning Board upon consideration of the particular type of development proposed in the subdivision and especially in large-scale, neighborhood-unit developments, the Planning Board may recommend that the Town Board require the dedication or reservation of areas in excess of the minimum. Under such conditions, a money payment at current market value prior to subdivision will be made to the owner to compensate his or her loss in excess of the contribution.

(4) The owner of a parcel of land which shall be divided into a minor subdivision as set forth in the definitions in Article II of this chapter shall be liable for a fee as established by the Town Board in the fee schedule, said fee to be used for public recreational uses serving the neighborhood in proximity of the land subdivision.

I. Street trees.

(1) Existing trees within the subdivision shall be preserved insofar as is possible.

(2) No trees, hedges, shrubs, series of walls, etc., shall be placed within the street right-of-way or permitted outside a corner radius of 25 feet, which would obstruct a vision from motor cars, except in the case of specific examples such as a particularly large, beautiful tree or any other example deemed worth saving by the Planning Board.

J. Specifications for required improvements. All required infrastructure improvements shall be constructed or installed to conform to applicable Town specifications established by the Town Board or obtained from the Town Engineer.

K. Completion of improvements. No lot shall be conveyed and no building permit shall be issued for any lot within a subdivision in which a new road or street, or other infrastructure is proposed until such road, street or infrastructure is completed, inspected and approved by the Building Department.

L. Character of the development. In making any determination regarding streets, parks, and other required improvements, the Planning Board shall take into consideration the character and intensity of the development as well as the lands surrounding the proposed subdivision.

M. Reserve strips. Reserve strips of land that may prevent access from any portion of a subdivided property to streets or adjoining property shall not be permitted, unless the Planning Board finds such strips to be necessary for the protection of public health or safety. Reserve strips of land or easements for the purpose of future connections with other tracts of land or for future accommodation for blocks, roads, pedestrian or bike paths, may be required where appropriate.

N. Open space system. Existing natural features and open space resources shall be identified and connected in a coherent open space system that maintains to the maximum extent practical the integrity of ecosystems, watersheds, wildlife corridors, and other environmental resources.

O. Emergency service compliance. Compliance with 911 emergency requirements for posting lot or building 911 numbers shall be required for all driveways and lots. All shared driveways or private roads shall provide a minimum road width every 500 feet that is 20 feet wide by 40 feet long after review by the Town Engineer, for emergency vehicles.

P. Stormwater management. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles 1 and 2 of Chapter 91 (entitled "Stormwater Management") of the Town Code shall be required prior to, or as a condition of, final plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of Chapter 91. The layout and features of the plat must also be consistent with the provisions of Chapter 91.

§ 104-13. Rural development guidelines.

The following design guidelines apply to all subdivisions in the Rural Zoning Districts of the Town and should be implemented by the applicant and recommended by the Planning Board wherever feasible. The purpose of these design guidelines is to maintain and enhance the rural features existent in the aforesaid districts.

A. Existing stonewalls, hedgerows and mature tree lines should be preserved and utilized, for establishment of lot lines and considered in the lot layout.

B. The placement of buildings should be located in such a manner as to avoid placement in the middle of open fields to the extent feasible. Building locations should be encouraged at the edges of fields or in cleared areas next to fields wherever practical.

C. Buildings should be located where existing vegetation and/or topography provides a natural buffer and screening from roads and neighboring properties.

D. Clearing of vegetation and trees along roads should be minimized as much as possible so long as adequate site distances for driveways are maintained. The use of curves in driveways should be encouraged to screen buildings so long as right-angle intersections with roads are maintained.

E. Buildings should be sited so that existing vegetation and topography can be used as a background or integrated into the building design to reduce the prominence of the structure.

§ 104-14. Traditional neighborhood design (TND) standards.

A. The following design standards apply to all subdivisions in the Hamlet Residential and Ballston Lake Residential Zoning Districts of the Town. This development must utilize municipal sewer and water services. Extension of municipal sewer and water services are permitted. This section is divided into design standards that will be required of any subdivision in the aforesaid districts and shall be implemented by the applicant and/or required by the Planning Board wherever feasible; and design standards, density bonuses and other requirements for major subdivisions of 15 lots or more (or planned unit developments of 15 units or more) where the applicant wishes to create a traditional neighborhood and/or the Planning Board determines that a traditional neighborhood is warranted. A planned unit development shall be required for any proposal of more than 100 residential units. An applicant has the option to apply for a planned unit development for any proposal of less than 100 residential units.

B. Purpose. The purpose of these standards is to allow the optional development and redevelopment of land in the Hamlet Residential and Ballston Lake Residential Zoning Districts consistent with the design principles of traditional neighborhoods. A traditional neighborhood:

- (1) Is relatively compact.
- (2) Is designed for the human scale.
- (3) Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood.
- (4) Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes.
- (5) Incorporates a system of relatively narrow, interconnected streets with sidewalks or pedestrian paths, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments.
- (6) Retains existing buildings with historical features or architectural features that enhance the visual character of the community.
- (7) Incorporates significant environmental features into the design.
- (8) Is consistent with the Town's Comprehensive Plan.

C. General TND standards for all subdivisions. These minimum standards shall apply to all subdivisions, regardless of the number of lots proposed, in the Hamlet Residential and Ballston Lake Residential District so as to accommodate future development in such districts consistent with the TND design concept.

- (1) Easements with a minimum width of 10 feet shall be required along front of lots for provision of off-street sidewalks or paths, lighting and utilities.
- (2) Reserve strips of land or easements for provision of future streets and creation of blocks shall be required in locations that are consistent with traditional neighborhood design.

(3) The layout of lots shall accommodate future development consistent with traditional neighborhood design.

(4) In determining the layout of lots, the accommodation for future sidewalks, blocks and streets, the standards set forth in Subsection D below, should be utilized as guidance.

D. TND standards for specific TND subdivisions. The Traditional Neighborhood Development Ordinance is an alternative set of standards for development within the Hamlet Residential and Ballston Lake Residential District for new development of 15 lots or more unless the development can be considered a continuation of an adjacent TND development.

(1) Incentive bonus. For those subdivisions which utilize the TND requirements set forth below, the allowable density as calculated pursuant to a conventional subdivision may be increased at the discretion of the Planning Board depending on the extent of design standards utilized in the subdivision. For purposes of increasing density, the Planning Board is hereby expressly authorized to increase density in such cases where furtherance of the traditional neighborhood design is accomplished.

(a) In areas devoted to mixed residential uses:

[1] The number of single-family detached dwellings permitted shall be up to six dwellings per net acre.

[2] The number of multifamily units shall be up to 12 dwelling units per net acre.

[3] Secondary dwelling units shall not be permissible under this section.

[4] For each affordable housing unit (pursuant to the definition promulgated by the Department of Housing and Urban Development) provided under this section, one additional dwelling unit shall be permitted, up to a maximum increase of 15% in dwelling units.

[5] For each senior housing unit (a unit for persons 55 years and older) provided under this section, one additional dwelling unit shall be permitted, up to a maximum increase of 15% in dwelling units.

[6] Affordable and senior housing units shall be equally distributed throughout the TND.

(b) In mixed use areas:

[1] The number of single-family and multifamily dwelling units permitted shall be calculated the same as above.

[2] All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10%, whichever is greater.

[3] The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed 25% of the traditional neighborhood development.

(2) Design requirements.

(a) Lot and block standards.

[1] Introduction. Providing diversity in block and lot size can help to create an environment that is pedestrian friendly. Short blocks in traditional grids create multiple routes and more direct ones for pedestrians, bicyclists, and motorists. Lot and block design should promote development that is compatible with natural features, minimizes pedestrian and vehicular conflict, promotes street life and activity, reinforces public spaces, promotes public safety, and visually enhances development.

[2] Block and lot size diversity. Street layouts should provide for perimeter blocks that are generally in the range of 200 to 600 feet deep by 400 to 1,200 feet long. A variety of block and lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.

[3] Lot widths. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

[4] Setbacks.

[a] Building setback, front: areas of mixed residential uses. Single-family detached residences shall have a building setback in the front between 15 and 30 feet. Single-family attached residences and multifamily residences shall have a building setback in the front of 15 feet.

[b] Building setback, rear: areas of mixed residential uses. The principal building on lots devoted to single-family detached residences shall be set back no less than 30 feet from the rear lot line.

[c] Side setbacks. Provision for zero lot line single-family dwellings should be made, provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings; all dwellings have pedestrian access to the rear yard through means other than the principal structure; and Building Code requirements are complied with regarding firewalls between residential dwellings.

(b) Circulation standards. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off-street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development. Dead-end streets or culs-de-sac should be discouraged.

[1] Pedestrian circulation. Convenient pedestrian circulation systems that minimize pedestrian-motor-vehicle conflicts shall be provided continuously throughout the subdivision with the alignment with existing or future pedestrian circulation systems. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks or paths on both sides of the street. The following provisions also apply:

[a] Sidewalks in residential areas. Clear sidewalks or walkways, three to five feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.

[b] Sidewalks in mixed use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of five feet in width.

[c] Disabled accessibility. Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.

[d] Crosswalks. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be clearly marked with contrasting paving materials at the edges or with striping.

[2] Bicycle circulation. Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other nonmotorized users) and separate, striped, four-foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet.

[3] Public transit access. Where public transit service is available or planned or where senior housing is planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security and shall be well-lighted. School bus stops may also be planned and accommodated for.

[4] Motor vehicle circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as queuing streets, curb extensions, roundabouts, and medians may be used to encourage slow traffic speeds.

[a] Street hierarchy. Each street within a traditional neighborhood development shall be classified according to the following [major collector (arterial) streets should not bisect a traditional neighborhood development.]:

[i] Local street. This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is 25 miles per hour.

[ii] Marginal access. This street provides primary access to individual residential properties but is protected from through traffic. Usually they are parallel to and adjacent to arterial streets or county or state highways. Traffic volumes are relatively low, with a design speed of 20 miles per hour.

[iii] Minor collector street. This street carries traffic from local streets to a major collector street, including the principal entrance streets of a residential development and streets for circulation within such development. Traffic volumes are higher with a design speed that varies by location and use (30 to 45 miles per hour).

[iv] Alley. These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

[b] Street layout. The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

[i] Intersections shall be at right angles whenever possible, but in no case less than 75°. Low-volume streets may form three-way intersections creating an inherent right-of-way assignment where the through street receives precedence which significantly reduces accidents without the use of traffic controls.

[ii] Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of 15 feet for local streets and 20 feet for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet. The Town Engineer shall approve the selected curve radius dimension and shall recommend revisions as required.

[iii] Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at all intersections.

[iv] The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

[c] Parking requirements. Parking areas for shared or community use should be encouraged. In addition:

[i] In an area of mixed residential and commercial use, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided.

[ii] A parking lot or garage may not be adjacent to or opposite a street intersection.

[iii] In the mixed use area, a commercial use must provide one parking space for every 500 square feet of gross building area.

[iv] Commercial parking lots or garages must provide not less than one bicycle parking space for every 10 motor vehicle parking spaces.

[v] Adjacent on-street parking may apply toward the minimum parking requirements.

[vi] In the mixed residential/commercial areas, parking may be provided on-site. At least one off-street parking space with unrestricted ingress and egress shall be provided for each dwelling unit.

(c) Architectural standards. A variety of architectural features, building materials and designs should be implemented to avoid uniformity of building design and to give each building or group of buildings a distinct character.

(d) Guidelines for new structures.

[1] Height. New structures within a Traditional Neighborhood Development shall be no more than two stories for single-family residential, or three stories for commercial, multifamily residential, or mixed use.

(e) Open space guidelines. At least 10% to 20% of the gross acreage of the traditional neighborhood development must be open space. At least 50% of the open space must be common open space dedicated to the public for parkland and be useable land for such parkland use. Seventy-five percent of the lots within the areas devoted to mixed residential uses shall be within a 1/3 mile or a ten-minute walk from common open space.

(f) Guidelines for lighting.

[1] Streetlighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used and should be on a scale appropriate for a pedestrian environment. Streetlights shall be installed on both sides of the street at intervals of no greater than 100 feet.

[2] Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.

[3] A streetlighting and sidewalk district shall be created in order that the cost and maintenance be assessed against those properties in the district that are benefited by the lighting and sidewalks.

(g) Landscaping and screening guidelines. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed, contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this chapter, it shall be at least three feet in height, unless otherwise specified. Required screening shall be at least 50% opaque throughout the year. Required screening shall be satisfied by one or some combination of a decorative fence not less than 50% opaque behind a continuous landscaped area, a masonry wall, or a hedge.

[1] Street trees. A minimum of one deciduous canopy tree per 50 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.

[2] Parking area landscaping and screening.

[a] All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

[i] A landscaped area at least five feet wide along the public street or sidewalk.

[ii] Screening at least five feet in height and not less than 50% opaque.

[iii] One tree for each 25 linear feet of parking lot frontage.

[b] Parking area interior landscaping. The corners of parking lots, islands, and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can

include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

(h) Stormwater management standards. The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the following requirements in addition to applicable standards and requirements set forth in Chapter 91 (entitled "Stormwater Management") of the Town Code:

[1] Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.

[2] Postdevelopment peak discharge rates should not exceed predevelopment peak rates.

[3] Erosion and sediment controls must be implemented to meet or exceed NYSDEC requirements for removal of total suspended solids.

[4] Areas for snow storage shall be provided for commercial areas unless the applicant provides an acceptable snow removal plan.

[5] Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.

[6] All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.

§ 104-15. (Reserved)

§ 104-16. (Reserved)

§ 104-17. (Reserved)

ARTICLE V. Minimum Required Improvements

§ 104-18. General requirements.

The subdivider shall cause to be completed certain physical improvements within the proposed subdivision either at his or her own expense or through the formation of a special district pursuant to pertinent laws of the State of New York or, in lieu thereof, post a bond of performance. The final determination as to the need of any of the physical improvements listed in § 104-19, Specific physical improvements, within a residential subdivision shall be the prerogative of the Planning Board with the advice of the Engineer. When such needs have been determined as essential, this article applies. For nonresidential subdivisions, physical improvements shall be as determined by the Planning Board with the advice of the Engineer in accordance with Article VII, Special Requirements for Nonresidential Subdivisions.

§ 104-19. Specific physical improvements.

A. Monuments shall be located in sufficient number to control the subdivision, but as a minimum they shall be located at every point of tangency, point of curvature, point of deflection and all intermediate points necessary to provide visibility between adjacent monuments along one right-of-way line of each street. All easements shall be similarly monumented.

B. Lot corner markers as shown in the standards shall be placed at all lot corners after the lot is graded and shall be located as referenced to the monuments.

C. Grading, center-line gradients, pavement base, wearing surface, curbing, gutters, sidewalks, storm sewers and other drainage shall be approved by the Engineer in accordance with the Town Subdivision Standards. Editor's Note: The Land Subdivision Standards are included at the end of this chapter.

D. Street signs shall be approved by the Engineer and installed according to the Town Subdivision Standards.

E. Streetlighting shall be approved by the Town Board.

F. Street trees not fewer than two on the front of each lot shall be required in new subdivisions, unless exempted by the Planning Board. Type and size shall be approved by the Engineer and the Planning Board.

[Amended 9-30-2003 by L.L. No. 4-2003]

G. Water mains where public water supply is available, wells (including placement) and/or a private water supply system sufficient to make an adequate supply of potable water available for every lot shall be approved by the Engineer in accordance with standards approved by the Town Board.

H. Sanitary sewers and/or individual septic systems shall be approved by the Engineer or governing authority in accordance with standards approved by the Town Board. All sanitary sewer mains or septic systems shall be designed and constructed in accordance with New York State standards and standards set by the Town Board.

[Amended 9-30-2003 by L.L. No. 4-2003]

ARTICLE VI. Plat Requirements

§ 104-20. Final subdivision plat.

A. The final subdivision plat shall be submitted as two Mylar and two paper drawings for approval and subsequent recording.

[Amended 1-4-2005 by L.L. No. 1-2005]

B. The plat shall be clearly and legibly drawn. The scale shall not be greater than 100 feet to one inch. When more than one sheet is required, an index sheet shall be provided showing the entire subdivision at an appropriate scale. The final subdivision plat shall show the following:

(1) Proposed subdivision name or identifying title, which shall not too closely resemble that of any other development in the Town; date, North orientation and scale.

(2) Name, address and signature of the owner; name, license number and seal of the land surveyor and/or professional engineer. The surveyor and engineer holding an exemption under either Subdivision n or m of § 7208 of the Education Law shall so indicate.

(3) The names or identifying titles of adjacent subdivisions and the names of owners of adjacent acreage.

(4) Locations, names and widths of existing streets, highways and easements, building lines, parks and other public properties.

(5) Locations, names and widths of all streets and sidewalks and location, dimensions and status of all easements proposed by the owner, described as appropriate by the length of all straight lines, radii and length of curves, tangent distances and tangent bearings in sufficient detail to be reproduced upon the ground.

(6) Purpose for which sites other than residential lots are dedicated or reserved, their location and dimensions in sufficient detail to be reproduced upon the ground.

(7) Dimensions and bearings of intersection for each lot line as necessary for the location of each lot line in the field, plus individual lot areas.

(8) Number to identify each lot in keeping with the standard United States Postal Service practice of house numbering.

(9) Suitable primary control points, or descriptions and ties to such control points, to which all dimensions, bearings and similar data given on that plat shall be referred.

(10) The location and description of all existing or proposed permanent monuments.

(11) The boundary lines of the subdivision with accurate distances and bearings as necessary in sufficient detail to be reproduced upon the ground.

(12) Right to Farm Law. 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.

[Added 1-4-2005 by L.L. No. 1-2005]

§ 104-21. Construction detail sheets.

Construction detail sheets shall show the following information, except that where requirements have been waived, applicable specifications may be omitted:

A. Profiles showing existing and proposed elevations of all streets, with elevations referred to established United States government or approved local bench marks where they exist within 1/2 mile of the boundary of the subdivision.

B. Plan views and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; and the exact location and size of all water, gas or other underground utilities or structures.

§ 104-22. Other information.

A. Additional information shall include:

(1) Water supply and sewage disposal arrangements with details and certification of approval by the appropriate public health agency and/or other appropriate public agencies.

(2) Certificate of a licensed land surveyor and/or professional engineer. Those surveyors and engineers holding an exemption under either Subdivision n or m of § 7208 of the Education Law shall so indicate.

(3) A signed and notarized statement by the owner certifying that he or she will comply with one of the following alternatives before transfer of ownership of any portion of the subdivision.

(a) All improvements for that portion of the subdivision concerned will be installed in accordance with the requirements of these regulations and those of the Planning Board giving approval of the preliminary layout.

(b) A bond (satisfactory to the Town Board) or certified check will be posted available to the Town, and be of sufficient amount (as determined by the Engineer) to assure such completion of all required improvements for that portion of the subdivision concerned.

(4) Certification of title showing that the applicant is the owner.

(5) Protective covenants in form for recording, including covenants governing the maintenance of uncaded public spaces or reservations.

(6) Other data: such other certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in the enforcement of these regulations.

B. Prior to formal dedication of the road, the owner shall supply to the Town a surveyor's certificate stating that the control monuments are set accurately. The certificate shall be signed by a professional land surveyor or a professional engineer with an exemption under § 7208, Subdivision m, of the Education Law.

ARTICLE VII. Special Requirements for Nonresidential Subdivisions

§ 104-23. General procedural requirements.

It is recognized that the owner, in creating nonresidential subdivisions, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Board shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in Article III, Procedure for Filing Subdivision Applications, and to show the entire tract to be subdivided with necessary improvements and as many parcels as he or she cares to show, but at least two. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications and following informal discussions with the Planning Board, if the owner so requests, the owner may submit directly at a regular meeting of the Planning Board an amendment to the approved final subdivision plat for consideration. Regular procedural requirements of the Planning Board following receipt of a final subdivision plat shall then apply. A fee, the amount of which to be established from time to time by the Planning Board to defray advertising and other expenses, shall accompany this application.

§ 104-24. Street layout; curbs; blocks and parcels.

In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Planning Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

A. Proposed nonresidential street layout, blocks and parcels shall be suitable in area and dimensions to the types of development anticipated.

B. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to arterial or collector streets in such a way that the number of intersections with such arterials or collectors shall be minimized.

C. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at intersections shall be at least 50 feet. Curb radii at driveway intersections shall be at least 25 feet, or appropriate alternate approved by the Engineer.

D. The owner shall ensure that the nonresidential subdivision, as a whole, shall be self-sufficient with regard to providing necessary off-street parking. The owner, at his or her discretion, may make parking self-sufficiency a requirement of individual lots.

E. With respect to physical improvements, special requirements may be imposed by the Planning Board with the advice of the Engineer within the nonresidential subdivision.

F. Every effort shall be made to protect adjacent residential areas from potential nuisance from the nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

ARTICLE VIII. Variance and Modifications

§ 104-25. Procedure.

A. Where the Planning Board finds that because of unusual circumstances of shape, topography or other physical features of the proposed subdivision or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with these regulations, it may grant a variance from the regulations so that substantial justice may be done and the public interest secured, provided that no such change shall be granted which will have the effect of nullifying the Official Map (as it may be adopted), Chapter 138, Zoning, of the Code of the Town of Ballston or any other pertinent rules, regulations or ordinances of the Town. In granting such a variance, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so changed or modified.

B. The standards and requirements of these regulations may be modified by the Planning Board in the case of a plan and program for a complete community or other planned development, which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the community when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

ARTICLE IX. Lot Line Adjustment

[Added 9-30-2003 by L.L. No. 4-2003 Editor's Note: This local law also renumbered former Art. IX, § 104-26, as Art. XII, § 104-33.]

§ 104-26. Procedure.

[Amended 1-4-2005 by L.L. No. 1-2005]

Whenever any adjacent lots are proposed for lot line adjustments, before any deeds are filed with the County Clerk, the owner or his or her authorized agent shall apply for approval of such lot line adjustment by submitting to the Building Department, at least 21 days prior to a regular meeting of the Planning Board, 14 copies of a sketch plan of the proposed lot line adjustments.

§ 104-27. Procedure for approval

A. The applicant shall file with the Building Department an application for approval of the lot line adjustment.

(1) The application shall:

(a) Be made on forms available at the office of the Building Department.

(b) Be accompanied by a sketch plan that shall contain the following:

[1] Boundary information of the parcels to be adjusted, and the location of the proposed lot line adjustments.

[2] The revised areas of the lots.

[3] A map to be to scale at a minimum of one inch equals 50 feet and containing a North arrow.

[4] Names of the property owners and adjoining property owners.

[5] Existing building and structure locations, site improvements, and setback dimensions.

(c) Comply with any county or Town ordinances or laws deemed pertinent by the Building Department or the Planning Board.

(2) The Building Department shall review the application for lot line adjustment for conformance to applicable zoning requirements. Editor's Note: See Ch. 138, Zoning. If the lot line adjustments are in conformance with zoning regulations, the application will appear before the Planning Board.

(3) The proposal will be presented to the Planning Board by the Building Inspector with his or her recommendation for approval or disapproval.

(4) In the event that a lot line adjustment plan is not submitted to the Planning Board within six months of the approval of the preliminary layout, the application may be considered withdrawn and any previous approval or waivers of required improvements by the Planning Board may be revoked.

(5) Filing.

(a) Within 62 days next following the date of official approval action by the Planning Board or the date of issuance by the Town Clerk of a certificate of nonaction and after approval by the County Health Department, if applicable, the applicant shall file the final lot line adjustment plan with the County Clerk. Otherwise, such final approval shall expire as provided in § 276 of the Town Law.

(b) Five black-and-white prints of the final lot line adjustment plan showing the recording date of the County Clerk thereon shall be submitted to the Planning Board after filing with the County Clerk.

(c) It shall be the duty of the County Clerk, in accordance with § 279 of the Town Law, to notify the Planning Board in writing within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number.

(d) No changes, erasures, modifications or revisions other than those requested by the State Health Department or other such agency, or to correct metes and bounds, shall be made on any subdivision lot line adjustment plan after final approval has been given by the Planning Board and the lot line adjustment plan has been duly filed with the County Clerk unless such lot line adjustment plan has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any lot line adjustment plan so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void and the Board shall institute proceedings to have the lot line adjustment plan stricken from the records of the County Clerk.

ARTICLE X. Residential Cluster/Conservation Development

[Added 9-30-2003 by L.L. No. 4-2003; amended 6-1-2004 by L.L. No. 3-2004; 6-12-2006 by L.L. No. 5-2006]

§ 104-28. Purpose and intent.

The purpose of this article is to provide the ability for development of residential subdivisions to be flexible in design, lot size and layout, to preserve natural site features and provide for green space (with or without community recreational areas) in conjunction with residential development. It is intended that this type of development will result in less impact to natural features, reduce developed area, road construction and impacts to storm drainage. The overall intent is to maintain the prevalent rural character in the Rural District as identified in Section 3 of the Comprehensive Plan Editor's Note: The Comprehensive Plan is on file in the Town offices. by incorporating a subdivision design that conserves certain portions of the land that is to be developed that will add to or maintain the rural character.

§ 104-29. Authority of Planning Board.

A. Pursuant to the powers granted under § 278 of the Town Law and the Municipal Home Rule Law, the Town Board authorizes the Planning Board to vary the zoning requirements set forth in Chapter 138 of the Town Code simultaneously with the approval of any proposed residential subdivision in order to cluster or to create a conservation design development in furtherance of the purposes and objectives set forth herein subject to the standards and procedures set forth in this article.

B. An applicant for subdivision approval may propose or the Planning Board, in its discretion, shall require the submission of a conservation subdivision plat where the Planning Board finds that a clustered or conservation design subdivision is appropriate.

C. In addition to its authority to vary zoning requirements for purposes of clustering residential lots and conserving open space, natural features and rural character, the Planning Board is hereby authorized to provide additional density bonuses of up to 20% of the number of lots or residential units that would normally be allowed in order to encourage the use of cluster/conservation subdivisions. Additional residential units shall be added if affordable housing units are provided pursuant to § 104-30B below.

§ 104-30. Applicability; density; area and dimensional requirements; fees.

A. This article shall apply to major subdivisions in the Rural Zoning Districts. At the discretion of the Planning Board, conservation development shall be required only in areas within the Rural Zoning District currently serviced by municipal water and sanitary sewer service (areas where the municipal services are located at the property line of the parcel or parcels involved in the proposed subdivision). Conservation development shall not be required in areas not serviced by municipal water and sanitary sewer service if the soil conditions cannot support this form of development. The Planning Board shall have the authority to require conservation development if it is the Town Engineer's opinion that the site soil conditions would support this form of development. No privately owned or operated community water or sanitary sewer systems shall be allowed. Due to the condition of soils and concerns about the availability of potable water in much of the Rural District, the Planning Board may require third party review of water supply and suitability of soils for placement of septic systems.

(1) For a subdivision of land for which existing municipal water and sanitary sewer service is available, the applicant should submit a subdivision plan that conforms to this section unless the applicant can demonstrate through a conservation analysis (described below) that compliance with this section would be inappropriate given site conditions and/or would not result in any additional land conservation than would be provided under a conventional subdivision.

(2) For a subdivision of land for which existing municipal water and sanitary sewer is not available in the Rural Zoning District, the applicant is encouraged but is not required to submit a subdivision plan that conforms to this section.

(3) Conservation analysis.

(a) As part of its preliminary plat submission for all major subdivisions in the Rural District requiring compliance with this section as outlined above (See § 104-9.1C for additional information.), an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value, including but not limited to the following:

[1] Constrained land as defined in Subsection B(1)(a) below.

[2] Buffer areas necessary for screening from active agricultural parcels.

[3] Land exhibiting present or potential recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.

(b) The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial preliminary plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.

(c) The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved preliminary plat showing land to be permanently preserved by a conservation easement. The preliminary plat shall also show preferred locations for intensive development as well as acceptable locations for less dense development.

(d) The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land (the conservation findings). In determining conservation value, the Planning Board shall

make such determination which is consistent with the purpose of the conservation subdivision technique as set forth in § 104-28 above and in the Comprehensive Plan.

(e) The Planning Board shall deny an application for subdivisions requiring compliance with this section that does not include a complete conservation analysis sufficient for the Board to make its conservation findings.

(f) The preliminary plan for a conservation subdivision shall show the boundaries of the land to be preserved and shall identify whether such land is to be preserved by conservation easement, further development restrictions or some other method.

(g) Determination for conventional subdivision.

[1] If, based upon the conservation analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision, the Board may approve a conventional development of the site. In order for the Planning Board to make such a determination, the applicant must demonstrate at least one of the following:

[a] The land contains no substantial resources with conservation value;

[b] The set aside of open space will not significantly enhance or maintain rural character;

[c] The acreage is too small to preserve a substantial amount of land with conservation value and there is no opportunity to link other areas of land in future subdivisions of the same parent parcel or adjacent parcels; or

[d] The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value.

[2] In order to make the required conservation analysis under Subsection A(2)(g)[1][b] or [c] above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.

[3] An approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection of portions of the site identified in the conservation analysis and findings as having conservation value by no build or no further development restrictions.

B. Density calculation.

(1) The maximum number of residential units allowed on a site (base density) is calculated by a formula based upon the acreage of unconstrained land on the property.

(a) To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of constrained land. "Constrained land" includes wetlands, both state and federal, one-hundred-year floodplain, lands covered by water, steep slopes greater than 25%, and stream corridors of NYSDEC classified streams (fifty-foot setback from the center line of the stream).

(b) To determine the base number of allowable residential units on the site, divide the unconstrained acreage by the allowable number of acres per unit required within the zoning

district. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5. The resulting number is the base density allowed on the site.

(2) As an alternative to the formula-based approach described above, the maximum number of residential units allowed on a site (base density) may be calculated using a yield plan. The applicant may choose to utilize this alternative, rather than the formula-based approach described above, at his/her sole discretion. Yield plans shall meet the following requirements:

(a) A yield plan must be prepared as a sketch plan in accordance with the requirements of the Town zoning regulation containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of NYSDEC and federally jurisdictional wetlands, NYSDEC classified and named streams measured along the natural channel, and steep slopes greater than 25%, existing easements or encumbrances and, if not served by public sanitary sewer system, the suitability of soils for subsurface sewage disposal.

(b) The Planning Board, at its sole discretion, must determine whether the layout shown on the yield plan is realistic, reflecting a development pattern that could reasonably be expected to be implemented under conventional subdivision review. The number of housing lots identified on the yield plan then becomes the total number of housing lots allowed.

C. Lot size. There shall be no minimum or maximum lot size. The Planning Board shall determine appropriate lot sizes pursuant to its review taking into consideration the availability of public water and sanitary sewer service or, if not available, the suitability of soils for individual on-site septic systems and the capacity for on-site individual wells. Third-party review may be required to confirm suitability at the discretion of the Planning Board or the Town Engineer.

D. Other area and dimensional requirements. There shall be no required area, bulk, or dimensional standards in a conservation subdivision, except building height and, where such subdivision abuts an existing residence in a residentially zoned area, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the district in which the abutting land is located.

E. New York State Building Codes must be adhered to.

F. The applicant shall specify dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat.

G. Types of residential units. Only single-family residential dwellings shall be allowed.

H. Fees will be required per lot in accordance with the requirements set forth by the Planning Board for noncluster subdivisions.

§ 104-31. Design guidelines and additional requirements.

Introduction. The layout of residential lots and the establishment of open space areas in conservation subdivisions shall conform to the following standards and requirements.

A. Lot layout. The intent of this section is to allow flexibility of design that allows for enhancement of rural character and conservation of open space. Lots need not be uniform in size or shape but should utilize existing land features in arrangement.

B. Open space.

(1) Amount of open space required. The size of the open space area shall be determined on a case-by-case basis with the final determination to be made by the Planning Board in its discretion upon review of the subdivision application. The portion of the subdivision tract to be set aside for open space conservation shall be of such minimum dimensions and size as to be functional for its intended purpose taking into consideration environmental, density and other site specific factors. Areas unsuitable or of little or no value for open space preservation shall be excluded in the calculation of the size of the open space area.

(2) Location. Open space areas shall be convenient to the dwelling units they are intended to serve and shall be sited with sensitivity to surrounding land features and development. Open space areas shall be integrated wherever possible into a connected open space system within the development as well as outside the development. Open space areas should form a contiguous system with other open space areas in the vicinity of the subdivision development to the maximum extent practicable.

(3) Use of open space areas: Open space areas may include features and improvements for active and/or passive recreation, provided that such features do not materially detract from the purpose for preservation of the open space. As a general principal, open space areas should be left in its natural state. Accepted conservation management techniques may be employed to maintain its natural state and allow for passive recreational opportunities, such as, but not limited to, hiking trails, cross-country skiing or snowshoeing trails, picnic areas, etc. Where appropriate, active recreational facilities may be included in the open space areas upon approval of the Planning Board taking into consideration the character of the open space land, the amount of area such recreational facilities would require; the nature of the recreational facilities and activities proposed, and the compatibility of such activities and facilities with the development and the intended purpose of the open space area. In addition, farming activities are allowed to continue on open space areas.

(4) Deed restrictions: Any lands set aside for open space purposes shall contain appropriate easements, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town Attorney ensuring that:

(a) The open space area or areas will not be further subdivided or developed in the future.

(b) The use of the open space will continue in perpetuity for the purposes specified.

(c) Appropriate provisions are made for the continual maintenance, management and use of the open space with the purpose in preserving the open space.

(d) The delegation of authority for management of the open space area is appropriately placed in an association of property owners or other established entity or governmental body that will exist in perpetuity.

(e) The open space area will not be able to be converted or used for a for-profit commercial enterprise except for agricultural uses.

(f) The covenants and restrictions are enforceable by the Town.

(5) Open space ownership: The type of ownership of the land set aside for open space shall be selected by the subdivider subject to the approval of the Town Board. An acceptable type of ownership may include, but is not necessarily limited to, the following:

(a) Land preservation or conservation organizations or trusts.

- (b) Public agencies or governmental bodies.
- (c) The Town, subject to acceptance by the Town Board.
- (d) The owner or owners of an individual lot.
- (e) Homeowners' associations with the following requirements:

[1] The homeowners' association must be established prior to the conveyance of any lot or parcel within the proposed subdivision.

[2] Membership must be mandatory for each lot owner, and each lot owner must have an equal voting right within the association.

[3] The association organizational documents must be submitted to and approved by the Planning Board and/or its attorney as part of the subdivision approval process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations.

[4] An estimate of the association annual budget must take into account insurance, property taxes, and maintenance of the open space areas as well as other shared common areas or facilities such as access roads, recreational areas.

[5] The association must be able to adjust the homeowners' fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments.

[6] The association cannot be dissolved without a vote of the association membership and without the conveyance of the open space and common facilities to an entity acceptable by the Town Board.

[7] The deed conveying title to each individual lot in the subdivision must include reference to the fact that conveyance is subject to and includes membership in a homeowners' association pursuant to deed covenants either set forth in each deed or recorded against the entire subdivision. Both grantors and grantees should sign deeds of conveyance to ensure purchasers or grantees are aware of the homeowners' association requirements, obligations and fees, if any.

(6) Exception to or waiver of requirements or standards. The Planning Board may permit minor deviations to, or waive, certain open space requirements or standards when it determines that the objectives underlying the open space standards and requirements can still be met with such deviations or waivers; and/or because of peculiarities in the tract of land proposed for subdivision or the development proposed, it would be unreasonable to require strict adherence to such requirements or standards.

C. Rural design standards. To the maximum extent practicable, the rural design standards set forth in § 104-13 shall be adhered to in designing the layout of the subdivision.

§ 104-32. (Reserved)

ARTICLE XI. Enforcement and Penalties

§ 104-33. Penalties for offenses.

[Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003]

For any and every violation of the provisions of these regulations, the owner, general agent or contractor of a building or a premises where such violation has been committed or shall exist, and the lessee or tenant of any entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits or takes part or assists in any violation or who maintains any building or premises in which such violations shall exist, shall, upon conviction thereof, be liable to a fine of not more than \$350 or imprisonment for not more than 15 days, or both. Each week's continued violation shall constitute a separate and additional violation.

Attachments:

104 Land Subdivision Standards

104 Standard Detail 1

104 Standard Detail 2

104 Standard Detail 3

104 Standard Detail 4

CHAPTER 110. TAXATION

ARTICLE I. Veterans Exemption

§ 110-1. Effect of full assessments.

ARTICLE II. Business Investment Exemption

§ 110-2. Purpose.

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§ 110-11. Exemption granted.

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§ 110-13. Proof of disability.

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§ 110-15. Noneligibility where school-attending child resides on real property.

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§ 110-17. Residential purposes only.

§ 110-18. Residence of disabled person.

§ 110-19. Time of submission.

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ARTICLE VI. Cold War Veterans Exemption

§ 110-23. Definitions.

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§ 110-25. Exemption.

§ 110-26. Exception.

§ 110-27. Duration.

§ 110-28. Application.

§ 110-29. Effective date.

CHAPTER 110. TAXATION

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

ARTICLE I. Veterans Exemption

[Adopted 3-26-1985 by L.L. No. 1-1985]

§ 110-1. Effect of full assessments.

The veterans exemption provided by § 458 of the Real Property Tax Law shall be increased or decreased in proportion that the assessed valuation of real property on which the exemption has been granted is increased or decreased due to full value assessments in the Town of Ballston.

ARTICLE II. Business Investment Exemption

[Adopted 9-16-1986 by L.L. No. 4-1986]

§ 110-2. Purpose.

The purpose of this article is to declare the provisions of § 485-b of the Real Property Tax Law inapplicable as to the Town of Ballston by not allowing an exemption from taxation for real property as allowed by said statute for the purposes of Town taxes.

§ 110-3. Nonapplicability.

Pursuant to the provisions of Subdivision 7 of § 485-b of the Real Property Tax Law, the Town Board of the Town of Ballston hereby determines that the exemption provided for real property by said statute should not be allowed for real property within the Town of Ballston for the purpose of Town taxes.

§ 110-4. Copy on file.

[Amended 9-5-2000 by L.L. No. 3-2000]

A copy of this article shall be filed with the State Board of Real Property Services.

ARTICLE III. Senior Citizens Tax Exemption

[Adopted 1-3-1995 by L.L. No. 1-1995]

§ 110-5. Exemption granted; application forms.

[Amended 6-1-2004 by L.L. No. 3-2004]

A. Pursuant to § 467 of the Real Property Tax Law, the Town of Ballston Town Board hereby amends this article providing for an exemption from taxation for Town, county, and school tax purposes based on eligibility.

B. The exemption forms for the Star, Enhanced Star and senior citizen tax exemption are located in the Assessor's Office at the Town Hall.

§ 110-6. Applicability.

All provisions of § 467, Subdivision 1(b), of the Real Property Tax Law applicable to the granting of exemptions of Town tax, insofar as such provisions are not inconsistent with the provision of this article, shall be applicable to the effectuating of the exemption provided by this article.

§ 110-7. Eligibility.

The real property tax exemption provided by this article shall affect real property owned by a husband and wife, one of whom is 65 years of age or over. Once the exemption is granted, the exemption shall not be rescinded by the Town of Ballston solely because of the death of the older spouse, so long as the surviving spouse is at least 62 years of age.

ARTICLE IV. Alternative Veterans Exemption

[Adopted 1-6-1998 by L.L. No. 1-1998; amended in its entirety 1-3-2006 by L.L. No. 2-2006]

§ 110-8. Purpose.

The purpose of this article shall be to provide for an increase in the maximum exemption allowable in § 458-a of the Real Property Tax Law of the State of New York.

§ 110-9. Maximum assessed value eligible for exemption.

The amount of the maximum assessed value eligible for the veteran's exemption under § 458-a shall be increased to \$240,000 to conform to the state and county limits, subject to percentage limitations.

§ 110-10. Conflict with other provisions.

If the provisions of this article are inconsistent with the provisions of any other local law, the provisions of this article shall be controlling.

ARTICLE V. Exemption for Persons with Disabilities and Limited Income

[Adopted 3-3-1998 by L.L. No. 2-1998]

§ 110-11. Exemption granted.

Real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereinafter defined, is limited by reason of such disability shall be exempt from taxation to the extent of 50% of the assessed valuation thereof as hereinafter provided.

§ 110-12. Siblings.

For purposes of this article, a "sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

§ 110-13. Proof of disability.

A. A person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more

major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; and who is certified to receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits under the Federal Social Security Act; or is certified to receive railroad retirement disability benefits under the Federal Railroad Retirement Act; or has received a certificate from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind.

B. An award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the State Commission for the Blind and Visually Handicapped shall be submitted as proof of disability.

§ 110-14. Computation of exemption.

Any exemption provided by this article shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same municipal tax purpose pursuant to both this article and § 467 of the Real Property Tax Law of the State of New York.

§ 110-15. Noneligibility where school-attending child resides on real property.

Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

§ 110-16. Computation of income.

[Amended 9-5-2000 by L.L. No. 3-2000]

Where title is vested in either the husband or the wife, their combined income may not exceed the sum set forth in § 110-21, except where the husband or wife or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from self-employment, but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the Federal Foster Grandparent Program nor any such income which shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance.

§ 110-17. Residential purposes only.

[Amended 9-5-2000 by L.L. No. 3-2000]

No exemption shall be granted unless the property is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this article.

§ 110-18. Residence of disabled person.

[Amended 9-5-2000 by L.L. No. 3-2000]

No exemption shall be granted unless the real property is the legal residence of and is occupied in whole or in part by the disabled person, except where the disabled person is absent from the residence while

receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to that person shall be considered income for purposes of this article only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

§ 110-19. Time of submission.

[Amended 9-5-2000 by L.L. No. 3-2000]

Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the State Board of Real Property Services and shall be filed in the Assessor's office on or before the appropriate taxable status date; provided, however, that proof of a permanent disability need be submitted only in the year the exemption, pursuant to this article, is first sought or the disability is first determined to be permanent.

§ 110-20. Real property held in trust.

Notwithstanding any other provision of law to the contrary, the provisions of this article shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to § 110-11, Exemption granted, were such person or persons the owner or owners of such real property.

§ 110-21. Exemption schedule.

[Amended 9-5-2000 by L.L. No. 3-2000]

Income Range	Percentage Assessed Valuation Exempt from Taxation
\$0 to \$18,500	50%
\$18,500 but less than \$19,500	45%
\$19,500 but less than \$20,500	40%
\$20,500 but less than \$21,500	35%
\$21,500 but less than \$22,400	30%
\$22,400 but less than \$23,300	25%
\$23,300 but less than \$24,200	20%
\$24,200 but less than \$25,100	15%
\$25,100 but less than \$26,000	10%

§ 110-22. Construal of terms.

The meanings of words and expressions as used in this article shall be identical to their meanings as used in § 459-c of the Real Property Tax Law of the State of New York.

ARTICLE VI. Cold War Veterans Exemption

[Adopted 10-7-2008 by L.L. No. 5-2008]

§ 110-23. Definitions.

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

ACTIVE DUTY

Full-time duty in the United States Armed Forces, other than active duty for training.

ARMED FORCES

The United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

COLD WAR VETERAN

A person, male or female, who served on active duty in the United States armed forces, during the time period from September 2, 1945, to December 26, 1991, and was discharged or released therefrom under honorable conditions.

LATEST CLASS RATIO

The latest final class ratio established by the State Board pursuant to Title One of Article 12 of the New York Real Property Law for use in a special assessing unit as defined in § 1801 of the New York Real Property Tax Law.

LATEST STATE EQUALIZATION RATE

The latest final equalization rate established by the State Board pursuant to Article 12 of the New York Real Property Tax Law.

QUALIFIED OWNER

A Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY

Property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran, unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization.

SERVICE CONNECTED

With respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval or air service.

§ 110-24. Purpose.

The purpose of this article is to grant a partial exemption from real property taxation to the extent of 15% of the assessed value up to \$12,000 of assessed value of qualified residential real property which is owned by a Cold War veteran who is a qualified owner, or in the case of a Cold War veteran who is a qualified owner and received a compensation rating from the United States Veterans Administration or from the United States Department of Defense because of a service-related disability, to the extent of the product of the assessed value of such qualified residential real property multiplied by 50% of the Cold War veteran's disability rating up to an assessed valuation of \$40,000 of assessed value, in accordance with the requirements of § 458-b of the Real Property Tax Law.

§ 110-25. Exemption.

Qualified residential real property owned by qualified owners who are Cold War veterans shall be exempt from Town of Ballston real property taxes to the extent as follows:

A. To the extent of 15% of the assessed value of such qualified residential real property; provided, however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of the assessing unit, whichever is less;

B. In addition to the exemption provided by Subsection A of this section, where the Cold War veteran received a compensation rating from the United States Veterans Administration or from the United States Department of Defense because of a service-related disability; provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate, whichever is less.

§ 110-26. Exception.

If a Cold War veteran has a real property tax exemption under § 458 or § 458-a of the Real Property Tax Law, such veteran shall not be eligible to receive this exemption.

§ 110-27. Duration.

The exemption provided herein shall be granted for a period of 10 years, the commencement of which is as follows:

A. Where a qualified owner owns qualifying residential real property at the effective date of this article, the ten-year period shall be measured from the date of the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this article.

B. Where a qualified owner does not own qualifying residential property on the effective date of this article, such ten-year period shall be measured from the date of the assessment roll prepared pursuant to the first taxable status date occurring at least 60 days after the date of purchase of the qualifying residential real property.

C. If exempt property is sold before the expiration of such ten-year period and replaced by other qualified residential real property, an exemption may be granted for such property for the unexpired portion of the ten-year exemption period.

§ 110-28. Application.

An application for the exemption shall be made by a qualified owner on a form prescribed by the State Board. The owner shall file the completed form in the local assessor's office on or before the appropriate taxable status date. A form filed in the local assessor's office for the Saratoga County exemption shall be considered as filed for the Town of Ballston exemption. The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to refile each year. Applicants shall be required to refile on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increased or decreased amount of exemption. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the Penal Law.

§ 110-29. Effective date.

This article shall take effect July 1, 2009.

CHAPTER 113. TELECOMMUNICATIONS TOWERS

- § 113-1. Definitions.
- § 113-2. Purpose.
- § 113-3. Compliance required.
- § 113-4. Collocation on approved tower.
- § 113-5. Applicability.
- § 113-6. Compliance with federal regulations.
- § 113-7. Fees; escrow.
- § 113-8. General permit application requirements.
- § 113-9. Shared use of existing tall structures.
- § 113-10. New telecommunications towers.
- § 113-11. Shared usage of existing tower site for placement of new tower.
- § 113-12. New tower at new location.
- § 113-13. New towers; future shared use.
- § 113-14. Site plan review; submission requirements.
- § 113-15. Lot size and setbacks.
- § 113-16. Visual impact assessment.
- § 113-17. New tower design.
- § 113-18. Existing vegetation.
- § 113-19. Screening.
- § 113-20. Access.
- § 113-21. Parking.
- § 113-22. Fencing.
- § 113-23. Removal.
- § 113-24. Procedures; notification; hearings.
- § 113-25. Telecommunications facility siting permit.
- § 113-26. Information for Assessor.
- § 113-27. Bond.
- § 113-28. Legislative authority; supersession of statutes.
- § 113-29. Penalties for offenses.

CHAPTER 113. TELECOMMUNICATIONS TOWERS

[HISTORY: Adopted by the Town Board of the Town of Ballston 6-2-1998 by L.L. No. 5-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 62.
Site plan review — See Ch. 91.
Zoning — See Ch. 138.

§ 113-1. Definitions.

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

TELECOMMUNICATIONS TOWER

Any structure greater than 35 feet in height, which is capable of receiving and/or transmitting signals (for the purpose of communication). When referring to the height of a telecommunications tower or structure, "height" shall mean the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

§ 113-2. Purpose.

The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of Ballston; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment and appropriate landscaping.

§ 113-3. Compliance required.

As of the effective date of this chapter, no telecommunications tower, except those approved prior to the effective date of this chapter, shall be used unless in conformity with these regulations. No telecommunications tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with these regulations.

§ 113-4. Collocation on approved tower.

Applicants proposing to collocate on a previously approved telecommunications tower do not require a special permit. They are, however, subject to site plan review in accordance with Chapter 91, Site Plan Review, of the Code of the Town of Ballston, describing site plan requirements and procedures. The Planning Board of the Town of Ballston may require the applicant to submit any of the items under § 113-9A below as part of the site plan review process.

§ 113-5. Applicability.

The regulations shall apply to all property within the Industrial Zone. Telecommunications towers shall be specifically excluded from all other zones.

§ 113-6. Compliance with federal regulations.

Applications for construction of new telecommunications towers shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated within Federal Aviation Regulations (FAR), Part 77. Additionally, no application for construction of a new telecommunications tower will be approved if the proposed tower violates the criteria for obstructions to air navigation as established by FAR, Part 77, Subpart C, Obstruction Standards.

§ 113-7. Fees; escrow.

A. An application to the Planning Board for a new telecommunications tower shall be accompanied by an application fee as established by the Town Board in the fee schedule. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. An application for collocation on existing towers or completely camouflaged installations shall be accompanied by an application fee as established by the Town Board in the fee schedule and proof of issuance of the special use permit by the Zoning Board of Appeals (if necessary). Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. All applicants will be required to deposit with the town funds sufficient to reimburse the town for the actual reasonable costs of the town's consulting engineer, attorney or other consultant and expert assistance to the Planning Board in connection with review of the application. The Town Building Department will maintain a separate account for all escrow deposits. The town's consultants shall provide at the Planning Board's request estimates and the basis for their charges and shall bill the

town monthly for their services in reviewing such application and performing their duties. These monthly billings shall be charged against the applicant's escrow balance. If, at any time during the review and approval process, the applicant's escrow account shows a negative balance, additional funds shall be submitted to the Town Building Department before any further action can be taken on the application. If, at the conclusion of the review and approval process, the amount of such services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the Town Building Department prior to issuance of any building permits or certificates of compliance, and in the event that the amount held in escrow by the Town Building Department is more than the amount of the actual billing, the difference shall be refunded to the applicant.

§ 113-8. General permit application requirements.

A. The Town Planning Board may require the applicant to supply such further and additional information as it deems necessary in order to carry out its responsibility under the law. The Town Building Inspector shall determine the number of copies of the application which must be submitted. The applicant is encouraged to confer with the Building Inspector to explore whether some portions of the application need not be reproduced in all copies. Absent a determination by the Building Inspector, the applicant must submit 12 copies of the complete application.

B. An applicant must demonstrate to the Planning Board's satisfaction that the telecommunications tower, antennas and related facilities will meet the conditions set forth herein, and in all cases, the burden of proof shall be upon the applicant.

§ 113-9. Shared use of existing tall structures.

At all times, shared use of existing tall structures (for example, municipal water towers, multistory buildings, church steeples, farm silos, etc.) and existing or approved towers (see § 113-4 above) shall be preferred to the construction of new towers.

A. An applicant proposing to share use of an existing tall structure shall be required to submit to the Planning Board:

- (1) A completed application for a special use permit.
- (2) Documentation of intent from the owner of the existing facility to allow shared use.
- (3) A site plan. The site plan shall show all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.
- (4) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure and explaining what modifications, if any, will be required in order to certify to the above.
- (5) A completed short environmental assessment form (EAF) and a completed visual EAF addendum.
- (6) A copy of its Federal Communications Commission (FCC) license.

B. If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with Subsection A above, and if modifications indicated according to Subsection A are deemed insignificant by the Board, and after the Board conducts a public hearing

and complies with all State Environmental Quality Review Act (SEQRA) Editor's Note: See Article 8 of the Environmental Conservation Law. provisions, the Board shall grant a special permit without further review under this chapter. If the Board determines that any modifications indicated according to Subsection A are significant, it may require further review according to § 113-14, Site plan review; submission requirements and § 113-24, Procedures; notification; hearings.

§ 113-10. New telecommunications towers.

The Planning Board may consider a new telecommunications tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower, as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided to the Planning Board.

§ 113-11. Shared usage of existing tower site for placement of new tower.

Where shared use of existing tall structures and existing or approved towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with § 113-10, New telecommunications towers. Any proposals for a new telecommunications tower on an existing tower site shall also be subject to the requirements of §§ 113-13 through 113-24 below.

§ 113-12. New tower at new location.

The Planning Board may consider a new telecommunications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical and submits a report as described in § 113-10, New telecommunications towers, and when the Planning Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's investigation in accordance with § 113-11, Shared usage of existing tower site for placement of new tower. Any proposal for a new telecommunications tower shall also be subject to the requirements of §§ 113-13 through 113-24 below.

§ 113-13. New towers; future shared use.

The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower and his or her successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and his or her successors in interest to:

- A. Respond within 90 days to a request for information from a potential shared-use applicant.
- B. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.

C. Allow shared use of the new tower if another telecommunications provider agrees, in writing, to pay reasonable charges. The charge may include, but is not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

§ 113-14. Site plan review; submission requirements.

A. An applicant shall be required to submit to the Planning Board a site plan in accordance with Chapter 91, Site Plan Review, describing site plan requirements and procedures. The site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower(s), guy wire and anchors, antennas, parking and landscaping, and shall include grading plans for new facilities and roads.

B. Supporting documentation. The applicant shall submit a complete short EAF, a complete visual environmental assessment form (visual EAF addendum) and documentation on the proposed intent and capacity of use, as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.

§ 113-15. Lot size and setbacks.

All proposed telecommunications towers and accessory structures shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on site all icefall or debris from tower failure and preserve the privacy of any adjoining residential properties.

A. Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Board determines that this provision may be waived.

B. Telecommunications towers shall comply with all existing setback requirements of the underlying zoning district or shall be located with a minimum setback from any property line equal to 1/2 of the height of the tower, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.

§ 113-16. Visual impact assessment.

The Planning Board may require the applicant to undertake a visual impact assessment which may include:

A. A Zone of Visibility Map shall be provided in order to determine locations where the tower may be seen.

B. Pictorial representations of before and after views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key sites at a presubmission conference with the applicant.

C. Assessment of alternative tower designs and color schemes, as described in § 113-17, New tower design.

D. Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

§ 113-17. New tower design.

Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

A. Any new tower shall be designed to accommodate future shared use by other telecommunications providers.

B. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.

C. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law and/or regulation. The Planning Board, at its discretion, may modify this requirement if the applicant can justify the need to exceed this height limitation.

D. The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for and the design of any new tower. The cost of this review shall be borne by the applicant.

E. Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.

F. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.

§ 113-18. Existing vegetation.

Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the special permit.

§ 113-19. Screening.

Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property, as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

§ 113-20. Access.

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

§ 113-21. Parking.

Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.

§ 113-22. Fencing.

The tower and any accessory structures shall be adequately enclosed by a fence, the design of which shall be approved by the Planning Board. This requirement may be waived by the Planning Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

§ 113-23. Removal.

The applicant shall submit to the Planning Board a letter of intent committing the tower owner and his or her successors in interest to notify the Building Inspector within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Building Inspector prior to issuance of a building permit (assuming the telecommunications tower is approved according to this chapter). Obsolete or unused towers and accessory structures shall be removed from any site within four months of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable according to Chapter 52, Buildings, Unsafe, and Chapter 138, Zoning, Article XXII, Administration and Enforcement, of the Code of the Town of Ballston.

§ 113-24. Procedures; notification; hearings.

A. Prior to issuing a telecommunications facility siting permit, a public hearing shall be held by the Planning Board, notice of which shall be published in the official newspaper for the town no less than 10 days in advance. The applicant shall be required to mail the notice of the public hearing directly to all landowners whose property is located within 1,500 feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail or other reliable method acceptable to the town no less than 10 days in advance of the hearing. Proof of notification shall be submitted to the Planning Board at least seven days prior to the hearing.

B. The Planning Board will schedule the public hearing referred to above once it tentatively finds that the application is complete. The Planning Board, at any stage prior to issuance of a permit, may require such further information as it deems necessary.

C. The applicant, its successors or assigns shall file annually with the town, within 30 days of the anniversary date of the permit, certification that the applicant, its successors or assigns are complying with its maintenance and inspection procedures, including all visual screening conditions in the permit; that the tower and related facilities are not a hazard or a threat to the health, safety, welfare of the public and to the environment; that RF emissions comply with current FCC or other applicable standards; and that the facility is in use. If the applicant, its successors or assigns fail to make certification, the Planning Board, upon reasonable notice and giving the applicant an opportunity to cure, may by resolution revoke the permit.

D. In order to keep neighboring municipalities informed and to facilitate the goal of collocation and shared use, an applicant who proposes a new telecommunications tower shall notify the legislative body of each municipality that borders the Town of Ballston and the Saratoga County Planning Board. Notification shall include the exact location of the proposed tower, a general description of the project, including but not limited to the height of the tower and its capacity for future shared use. Proof of this notification shall be submitted to the Planning Board at the time of application.

§ 113-25. Telecommunications facility siting permit.

A. The Planning Board may issue a permit or a permit with conditions or deny the application. Its decision shall be in writing and based on substantial evidence upon a record. The burden of proof is upon the applicant at all times.

B. Before the Planning Board issues any permit, it shall find that the applicant has complied with all requirements of this chapter.

C. The permit shall be comprehensive and not severable. If part of a permit is overturned by a competent authority, the permit shall be void in total.

D. The Planning Board may waive provisions or requirements of this chapter when such waiver advances the goals and purposes of this chapter or where particular provisions would impose a material adverse financial impact upon an applicant.

E. For good cause shown, the Planning Board may review a permit if industry or scientific standards raise new relevant information concerning the health and safety of the facility. Upon review, the Planning Board may require the applicant, its successors or assigns to take appropriate mitigation and abatement steps to the extent allowed by law.

F. Permits shall be for a five-year term. The owner shall be entitled to renewal of the permit if the facility is in compliance with this chapter; is in compliance with all the permit conditions; and is in compliance with all current applicable federal standards regarding RF emissions. Ninety days before the permit expires the owner may submit a brief written request to the Building Inspector for a permit renewal certifying the compliance of the facility with this chapter. Within a reasonable time after receipt of the written request demonstrating compliance with this provision, the Building Inspector shall issue a renewed permit incorporating by reference the relevant conditions from the initial permit.

§ 113-26. Information for Assessor.

Before the building permit is issued for any telecommunications tower or facility, the applicant shall provide to the Assessor of the Town of Ballston such information concerning the deed, lease or license as is reasonably required by the Assessor for real property tax purposes. The applicant or owner will have an ongoing duty to report the cost of any material improvements to the site. Such information may be exempt from public disclosure pursuant to Public Officers Law § 87, Subdivision 2, or similar provisions of law.

§ 113-27. Bond.

The applicant and the owner of record of any proposed property site shall be jointly required to execute and file with the town a bond or other form of security acceptable to the Town Attorney and Town Supervisor as to form and manner of execution in an amount deemed sufficient by the Planning Board for the faithful performance of the terms and conditions of this chapter and permit. The bond or security shall remain in full force and effect until the removal of the tower and related facilities, and site restoration.

§ 113-28. Legislative authority; supersession of statutes.

This chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede the provisions of the New York State Town Law §§ 130, 261, 262, 263, 264, 265, 267, 268, 269 and 274-a to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute.

§ 113-29. Penalties for offenses.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Violations of this chapter shall be punishable as provided in Chapter 138, Zoning, of the Code of the Town of Ballston, specifically § 138-91.

CHAPTER 121. VEHICLES, ALL-TERRAIN

§ 121-1. Legislative findings and purpose.

§ 121-2. Definitions.

§ 121-3. Prohibited acts.

§ 121-4. Operation on highways.

§ 121-5. Penalties for offenses.

CHAPTER 121. VEHICLES, ALL-TERRAIN

[HISTORY: Adopted by the Town Board of the Town of Ballston 10-1-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Unlicensed motor vehicles in parks — See Ch. 84, Art. I.

Damage to town property from snowmobiles — See Ch. 100, Art. I.

Vehicles and traffic — See Ch. 125.

§ 121-1. Legislative findings and purpose.

A. The Town Board hereby finds that it is in the public interest to promote the proper and safe use and operation of such vehicles; to limit the operation of ATV's upon public highways and private property without the consent of the owner; to protect and preserve the town's natural resources, including its wildlife, wild forests, waters and scenic and wilderness character; to reduce the effect on the environment of excess noise; to ensure privacy of remote areas; and to afford opportunity for compatible enjoyment of various recreational activities on the town's lands and open spaces.

B. It is the purpose of this chapter to promote the safe and proper use of ATV's for recreation and commerce in this town by encouraging their use and development and minimizing detrimental effects of such use upon the environment.

§ 121-2. Definitions.

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

ALL-TERRAIN VEHICLE or ATV

A. Any motorcycle, or any motor vehicle not equipped in conformity for registration under § 401, 410, 411-b or 2261 of the Vehicle and Traffic Law, provided that such vehicle does not exceed 60 inches in width or 800 pounds' dry weight.

B. Any motor vehicle registered under Article 48-B of the Vehicle and Traffic Law and is manufactured and sold for operation primarily on off-highway trails or in off-highway competitions and only incidentally operated on designated public highways.

AUTHORIZED CIVIL DEFENSE ATV

An ATV designated as such in writing and filed with the Commissioner of Motor Vehicles by the Chief Executive Officer of a municipality and operated by a member of a civil defense

organization of the municipality and equipped with emergency lights. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

AUTHORIZED EMERGENCY ATV

An ATV designated as such in writing and filed with the Commissioner of Motor Vehicles by the Chief Executive Officer of any duly organized volunteer ambulance company, fire department or paid fire department operated by a member thereof and equipped with emergency lights. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

AUTHORIZED POLICE ATV

An ATV operated by a police or other peace officer while engaged in the performance of his or her official duties within the area of his or her territorial jurisdiction and equipped with emergency lights.

DEALER

Any person engaged in the business of selling ATV's at wholesale or retail, but excluding an individual who is not customarily engaged in such business who is attempting to sell his or her own used ATV.

GOVERNMENTAL AGENCY

Any agency of the Town of Ballston and all municipalities within the state.

HIGHWAY

The entire width between the boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

OPERATE

To ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way.

OPERATION AS EMERGENCY VEHICLE

The operation or parking of an authorized emergency ATV, police or civil defense ATV, including attendant equipment, displaying one or more lighted, red or combination red or white lights which are revolving, rotating, flashing, oscillating or constantly moving light and which ATV is engaged in transporting a sick or injured person to the nearest appropriate site for transfer to an ambulance as defined in Article 30 of the Public Health Law, transporting emergency medical services, personnel and equipment to sick or injured persons, pursuing an actual or suspected violator of the law or responding to or working or assisting at the scene of an accident disaster, police call, alarm or other emergency, but shall not include returning from such service.

OPERATOR

Every person who operates or is in actual physical control of an ATV.

OWNER

Any person having title to an ATV. If an ATV is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his or her assignee shall not, after delivery of such ATV, be deemed an owner within the provisions of this chapter, but the vendee or his or her assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract until the vendor or his or her assignee shall retake possession. A person holding only a security interest in an ATV shall not be deemed an owner unless such person also has possession of such ATV.

SHOULDER

That portion of a highway which lies outside the paved or unpaved roadway immediately adjacent to the portion of the roadway which may be used by motor vehicles.

SPECIAL EVENT

An organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

§ 121-3. Prohibited acts.

It shall be unlawful for any person to drive or operate any ATV in the following unsafe or harassing ways:

A. Imprudent speed. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

B. Reckless operation. In a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto.

C. Intoxication and drugs. While in an intoxicated condition or under the influence of narcotics or drugs as defined by § 114-a of the Vehicle and Traffic Law.

D. Lighting equipment. Operating other than as an emergency vehicle and displaying one or more lighted red or combination red or white lights which are revolving, rotating, flashing, oscillating or constantly moving light.

E. Railroad tracks. On the tracks of an operating railroad.

F. Plantings. In any tree nursery or planting in a manner which damages or destroys growing stock or creates a substantial risk thereto.

G. On lands of another. On private property, without the consent of the owner or lessee thereof. Any person operating an ATV upon lands of another in violation of this section shall stop and identify himself or herself upon the request of the landowner, his or her duly authorized representative or lessee, and, if requested to do so by said landowner, representative or lessee, shall promptly remove said ATV from the premises.

H. Failure to stop and yield. In any place at any time failing to stop and yield to an authorized ambulance, civil defense or police ATV, or police vehicle being operated as an emergency vehicle, and approaching from any direction.

I. Failure and refusal to comply. In any place at any time, failure or refusal to comply with any lawful order or direction of any police officer or other person duly empowered to enforce all laws of the state relating to ATV's.

§ 121-4. Operation on highways.

A. An ATV may not be driven or operated on a highway or the shoulder. Such vehicle may make a direct crossing on a street or highway other than the thruway, interstate highway and controlled access highways at any time of the day, provided that:

(1) The crossing is made at an angle of approximately 90° to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

(2) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

(3) The driver yields the right of way to all oncoming traffic that constitutes an immediate hazard.

(4) In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.

(5) If the crossing is made between the hours of 1/2 hour after sunset to 1/2 hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

B. Other limitations.

(1) No person shall operate an ATV while pulling a person on skis or drawing or towing a sleigh, sled, toboggan or wheeled object which carries or transports any person unless attached by a rigid support, connection or towbar, and no person shall ride on or in a sleigh, sled, toboggan or wheeled object which is being towed or trailed by an ATV unless attached by a rigid support, connection or towbar.

(2) No person shall operate an ATV on the frozen surface of public waters within 100 feet of a person, including but not limited to a skater, not in or upon an ATV or within 100 feet of a fishing shanty or shelter, except at the minimum speed required to maintain forward movement of the ATV, or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(3) No person shall operate an ATV within 100 feet of a dwelling between 11:00 p.m. and 8:00 a.m. at a speed greater than the minimum required to maintain forward movement of the ATV.

§ 121-5. Penalties for offenses.

A. A violation of this chapter shall be deemed a violation.

B. Upon conviction, after a hearing before a court of competent jurisdiction, a fine of not more than \$250 or an imprisonment term of not more than 15 days, or both, may be imposed. Failure to pay such a fine may result in the impoundment of the offending ATV until such fine is paid. Three convictions of violations of this chapter within a continuous 18 months may also result in the impoundment of the offending ATV for a period of time, not to exceed 90 days. Such ATV may after 90 days be redeemed by the owner thereof after paying storage fees, if any, and after paying an impoundment fee, as established by the Town Board in the fee schedule, to the Town Clerk. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The parent, legal guardian or other person having custody of a person who is under the age of 16 years at the time of the violation of this chapter by such person under the age of 16 years shall likewise be guilty of a violation, if after a hearing by a court of competent jurisdiction it is determined that such violation was committed by such person under 16 years, and shall be subject to a fine not to exceed \$250 or an imprisonment term of not more than 15 days, or both. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

CHAPTER 125. VEHICLES AND TRAFFIC

ARTICLE I. Parking

§ 125-1. Statutory authority: purpose.

§ 125-2. No parking certain times on certain streets.

§ 125-3. Authority to remove vehicles in violation.

ARTICLE II. Speed Limits

§ 125-4. Limits established.

ARTICLE III. Stop Signs

§ 125-5. Stop signs.

§ 125-6. Four-way stop signs.

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§ 125-7. Weight limits established.

ARTICLE V. Winter Parking

§ 125-8. No parking in winter months.

§ 125-9. Signage.

ARTICLE VI. Violations

§ 125-10. Penalties for offenses.

CHAPTER 125. VEHICLES AND TRAFFIC

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

GENERAL REFERENCES

Unlicensed motor vehicles in parks — See Ch. 84, Art. I.

All-terrain vehicles — See Ch. 121.

ARTICLE I. Parking

[Adopted 6-6-1972]

§ 125-1. Statutory authority; purpose.

This article shall be adopted by the Town Board of the Town of Ballston pursuant to § 1660, Subdivision (a)18, of the Vehicle and Traffic Law and §§ 130, Subdivision 7, and 135, Subdivision 2, of the Town Law of the State of New York to prohibit the parking of motor vehicles and trailers on the following roads and streets at the time indicated.

§ 125-2. No parking certain times on certain streets.

Editor's Note: See also Art. V, Winter Parking, of this Ch. 125.

A. No parking shall be permitted on Saturdays, Sundays and holidays on the north side of Outlet Road between Lake Road and westerly to the Delaware Hudson Railroad tracks.

B. No parking shall be permitted on Saturdays, Sundays and holidays on either side of Lake Road from the Outlet Road for a distance of one mile south of said Outlet Road.

C. No parking shall be permitted from 8:00 a.m. to 1:00 p.m. on Sundays on either side of Buell Avenue from Williams Street to Charles Street, on the south side of Edward street from Buell Avenue to Midline Road.

D. No-parking signs shall be posted on both sides of Lawmar Lane from Lakehill Road through the "s" curve.

[Added 12-1-1987]

§ 125-3. Authority to remove vehicles in violation.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Authority is hereby given to remove any motor vehicle or trailer in violation of this article, the cost and expense to be paid for by the owner of said motor vehicle or trailer.

ARTICLE II. Speed Limits

[Adopted 8-2-1977]

§ 125-4. Limits established.

A. The speed shall be reduced to 30 miles per hour on Route 50 from the village line south to V Corners.

B. The following areas have been presented to have a speed limit established at 30 miles per hour:

[Added 8-1-1978]

(1) Brier Hill Manor and Seelye Estates, including Lawmar Lane, Townley Drive, Roseland Boulevard, Ridge Terrace, Brynal Road, Kohlner Drive, Hollister Drive and Ramble Lane.

(2) Carpenter's Acres and Ballston Manor, including Pinegrove Avenue, Sunset Avenue, Harold Street, Reita Street, North Avenue, Cindy Lane, Robert Drive and Moonlight Drive.

(3) Fruitwood Acres, including Fruitwood Drive, Wealthy Lane, Merchant Lane, Parkwood Drive, Wendy Lane and Stonewall Road.

(4) Applewood Manor, including Apple Street.

(5) Beechwood Drive, Marlyn Drive and Conifer Drive.

ARTICLE III. Stop Signs

[Adopted 7-1-1980]

§ 125-5. Stop signs.

A. A stop sign shall be put at the intersection of Jacob Street and Phillips Street.

§ 125-6. Four-way stop signs.

A. The installation of four-way stop signs is authorized as a possible solution to the traffic problem at Ballston Avenue and Garrett Road.

[Added 12-4-1990]

ARTICLE IV. Weight Limits

[Adopted 6-1-1982]

§ 125-7. Weight limits established.

Editor's Note: The preamble for this ordinance cited § 1660, Subdivision (a)17, of the Vehicle and Traffic Law of New York State as the authorizing statute.

A. Trucks, commercial vehicles, tractors, tractor-trailer combinations having a gross vehicle weight in excess of 10,000 pounds are excluded from traveling on Mourningkill Drive in the Town of Ballston, Saratoga County, and State of New York.

B. The Town of Ballston establishes a ten-ton weight limit on Ballston Avenue.

[Added 8-2-1983]

ARTICLE V. Winter Parking

[Adopted 2-3-1987]

§ 125-8. No parking in winter months.

No person shall stop, stand or park any vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal, during the period November 1 through April 1, on the pavement or shoulder of any and all town roads or streets.

§ 125-9. Signage.

The Town of Ballston Highway Superintendent is hereby authorized and directed to erect official signs prohibiting the stopping, standing or parking of vehicles on any town highway during the period November 1 of any year to April 1 of the subsequent year. Editor's Note: Original Section 3, Penalties, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Art. V, Violations, of this Ch. 125.

ARTICLE VI. Violations

[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 125-10. Penalties for offenses.

A. Violations of this chapter shall be considered traffic infractions and shall be subject to the penalties provided in § 1800 of the Vehicle and Traffic Law of the State of New York.

B. In addition thereto, the town authorities shall have other remedies as are provided by law to restrain, correct or abate any violation of this chapter.

CHAPTER 127. VENDORS

§ 127-1. Definitions.

§ 127-2. Exemptions from provisions.

§ 127-3. License required.

§ 127-4. Application for license; bond.

§ 127-5. License regulations.

§ 127-6. License fees.

§ 127-7. Name and address to be on vehicle.

§ 127-8. Revocation of license.

§ 127-9. Restrictions.

§ 127-10. Penalties for offenses.

Attachments:

127a Application for Vendor Hawker and Peddler License

127b Vendor Hawker and Peddler License

CHAPTER 127. VENDORS

[HISTORY: Adopted by the Town Board of the Town of Ballston 2-1-2005. Amendments noted where applicable.]

§ 127-1. Definitions.

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

PERSON

Means and include 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

Means and include 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 or thing whatsoever for future delivery.

VENDOR, HAWKER and PEDDLER

Means and include, except as hereinafter expressly provided, any person, either principal or agent, who, from any boat or car, or on a railroad track or in any public street or public place or 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.

§ 127-2. Exemptions from provisions.

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 article or to any person selling personal property from their home if these sales do not exceed more than six days per year. The licensing provisions of this chapter shall not apply to merchants having an established place of business within the Town of Ballston 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. 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. This chapter shall not apply to children under the age of 14, nor to children selling or soliciting for school functions.

§ 127-3. License required.

It shall be unlawful for any person within the corporate limits of the Town of Ballston 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.

§ 127-4. Application for license; bond.

[Amended 4-7-2009 by L.L. No. 5-2009]

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. 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. 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 Ballston 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 Attorney will determine the amount of bond. 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 Ballston for a period of 90 days after the expiration of any such license, unless sooner released by the Town Board. Additionally, a person who desires to sell, barter, offer for sale or barter or exposes for sale or barter any goods, wares or merchandise, except milk or newspapers, from a stationary location shall make his or her application to the Building Department and follow the following criteria:

- A. Written permission or lease agreement from the landowner or current leaseholder of the property where the activity or sale will be held.
- B. The location is zoned accordingly for the activity planned.
- C. Provide a simple plan or sketch of the planned display.
- D. Allow a minimum twenty-foot setback from the edge of pavement or if on a corner lot not obstruct the line of sight of vehicle traffic.

§ 127-5. License regulations.

- A. Upon filing of the application, bond and certificate as provided in the preceding section, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided in § 127-3 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.
- D. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order which they are issued and shall 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 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.
- F. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed.

G. No license shall be granted to a person under 14 years of age.

H. 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.

I. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§ 127-6. License fees.

The license fee shall be according to the schedule established by the Town Board of the Town of Ballston.

§ 127-7. Name and address to be on vehicle.

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 at all times while such vehicle is in use during the continuance of the license.

§ 127-8. Revocation of license.

The Town Board may, at any time, for a violation of this or any other chapter 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.

§ 127-9. Restrictions.

A. A licensed vendor, hawker, peddler or solicitor shall:

(1) Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions of merchandise.

(2) Not use the license provided by the Town after the expiration or revocation of the license represented by them.

(3) Keep the vehicles and receptacles used by him in a clean and sanitary condition and the food stuffs and edibles offered for sale well-covered and protected from dirt, dust and insects.

(4) Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.

(5) 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.

(6) 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.

(7) Not permit any vehicle used by him to stop or remain on any crosswalk.

(8) 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.

(9) Not stand in any public street to hawk his wares.

(10) Not state or imply that the issuance of the license in any way represents approval, endorsement or guarantee by any part of the government of the Town of Ballston.

B. Signage shall conform to the Zoning District Regulation of 138-37.

§ 127-10. Penalties for offenses.

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 penalty of not more than \$500 for each offense.

Attachments:

127a Application for Vendor Hawker and Peddler License

127b Vendor Hawker and Peddler License

CHAPTER 132. WATER

§ 132-1. Water District No. 2, Burnt Hills-Ballston Lake Water District.

§ 132-2. Water District No. 2 extensions.

§ 132-3. Water District No. 4.

§ 132-4. Water District No. 6, Extension No. 1.

§ 132-5. Water rates in Water District Nos. 2 and 5.

§ 132-6. Meter reading fee.

Attachments:

132 end

CHAPTER 132. WATER

[HISTORY: Adopted by the Town Board of the Town of Ballston 6-17-1969. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 138.

§ 132-1. Water District No. 2, Burnt Hills-Ballston Lake Water District.

A water district shall be established in the Town of Ballston, Saratoga County, New York, as described in the Order of the State Comptroller aforesaid, to be designated as "Water District No. 2 of the Town of Ballston (Burnt Hills-Ballston Lake Water District)" and to be of the following description and boundaries, to wit:

"Beginning at a point in the centerline of New York State Route 50, said point being located on the county line marking one of the westerly lines of Saratoga County and one of the easterly lines of Schenectady County; and running thence southerly along the aforesaid county line to its intersection with a line easterly of, parallel to, and two hundred feet (200') distant from the center line of New York State Route 50; thence northerly along this line which is easterly of, parallel to, and two hundred feet (200') distant from the centerline of New York State Route 50 to its intersection with a line southerly of, parallel to, and two hundred feet (200') distant from the centerline of New York State Route 339 (Lake Hill Road); thence easterly along this line which is southerly of, parallel to, and two hundred feet (200') distant from the centerline of New York State Route 339 to its intersection with a line westerly of, parallel to, and one hundred fifty feet (150') distant from the centerline of Lawmar Lane; thence southerly along this line which is westerly of, parallel to, and one hundred fifty feet (150') distant from the centerline of Lawmar Lane and the extension thereof to its point of intersection with a line southerly of, parallel to, and two thousand feet (2,000') distant from the centerline of New York State Route 339; thence easterly along this line which is southerly of, parallel to, and two thousand feet (2,000') distant from the centerline of New York State Route 339 to its point of intersection with the easterly town line of the Town of Ballston and westerly town line of the Town of Clifton Park; thence northeasterly along the aforesaid town line to the northerly town line of the Town of Clifton Park; thence westerly along a westerly extension of the aforesaid northerly line of the Town of Clifton Park to the centerline of Ballston Lake; thence northerly along the centerline of Ballston Lake to its intersection with a line perpendicular to the Delaware and Hudson Railroad tracks at a point seven thousand six hundred fifty feet (7,650') as measured along the centerline of the railroad tracks northerly of the centerline intersection of said Delaware and Hudson Railroad tracks and New York State Route 146A; thence westerly along the aforesaid line which is perpendicular to the Delaware and Hudson Railroad tracks to its point of intersection with the easterly line of lands of the Delaware and Hudson Railroad; thence southerly along this easterly line of lands of the Delaware and Hudson Railroad to its point of intersection with an extension of a line northerly of, parallel to, and two hundred ten feet (210') distant from the centerline of Gartner Drive; thence westerly along this extension of a line which is northerly of, parallel to, and two hundred ten feet (210') distant from the centerline of Gartner Drive and continuing on this course along the line northerly of, parallel to, and two hundred ten feet (210') distant from the centerline of Gartner Drive to its intersection with a line easterly of, parallel to, and one hundred sixty feet (160') distant from the centerline of Buell Avenue; thence northerly along this line which is easterly of, parallel to, and one hundred sixty feet (160') distant from the centerline of Buell Avenue to its point of intersection with a line northerly of, parallel to, and one hundred fifty feet (150') distant from the centerline of North Street; thence westerly along this line which is northerly of, parallel to, and one hundred fifty feet (150') distant from the centerline of North Street to its intersection with a line westerly of, parallel to, and two hundred fifty feet (250') distant from the centerline of Frank Street; thence southerly along this line which is westerly of, parallel to, and two hundred fifty feet (250') distant from the centerline of Frank Street to its intersection with a westerly extension of the centerline of Phillips Street; thence westerly along this westerly extension of the centerline of Phillips Street to its intersection with an easterly line of lands of Burnt Hills-Ballston Lake Central School District; thence northerly along the aforesaid easterly line of lands of Burnt Hills-Ballston Lake Central School District to the northeasterly corner of lands of Burnt Hills-Ballston Lake Central School District and the southeasterly corner of lands now or formerly of Earl Townley; thence along the northerly line of lands of Burnt Hills-

Ballston Lake Central School District to its intersection with the easterly line of New York State Route 50; thence along an extension of the aforesaid northerly line of lands of Burnt Hills-Ballston Lake Central School District to its intersection with the centerline of New York State Route 50; thence northeasterly along the aforesaid centerline of New York State Route 50 to a point of intersection with an extension of the northerly line of lands now or formerly of Daniel Schiavo; thence northwesterly along the aforesaid extension of the northerly line of lands now or formerly of Daniel Schiavo and continuing along the aforesaid northerly line of lands now or formerly of Daniel Schiavo to its intersection with a line easterly of, parallel to, and two hundred feet (200') distant from the centerline of Goode Street; thence northerly along this line which is easterly of, parallel to, and two hundred feet (200') distant from the centerline of Goode Street to its intersection with an extension of a line northerly of, parallel to, and two thousand one hundred feet (2,100') distant from the centerline of Jenkins Road; thence westerly along the aforesaid extension and continuing westerly along this line which is northerly of, parallel to, and two thousand one hundred feet (2,100') distant from the centerline of Jenkins Road to its point of intersection with an extension of a line westerly of, parallel to, and two hundred feet (200') distant from the centerline of Beechwood Drive; thence southerly along the aforesaid extension of a line which is westerly of, parallel to, and two hundred feet (200') distant from the centerline of Beechwood Drive and continuing southerly and easterly along this line which is westerly of and continuing southerly of, parallel to, and two hundred feet (200') distant from the centerline of Beechwood Drive to its point of intersection with a line westerly of, parallel to, and two hundred fifty feet (250') distant from the centerline of Goode Street; thence southerly along this line which is westerly of, parallel to, and two hundred fifty feet (250') distant from the centerline of Goode Street to its point of intersection with a line southerly of, parallel to, and five hundred twenty feet (520') distant from the centerline of Jenkins Road; thence westerly along this line, which is southerly of, parallel to, and five hundred twenty feet (520') distant from the centerline of Jenkins Road to its point of intersection with a line westerly of, parallel to, and one thousand seven hundred feet (1,700') distant from the centerline of Goode Street; thence southerly along this line which is westerly of, parallel to, and one thousand seven hundred feet (1,700') distant from the centerline of Goode Street to its intersection with the county line marking one of the southerly lines of Saratoga County and the northerly line of Schenectady County; thence easterly along the aforesaid county line to a county line corner at Goode Street; thence continuing southerly along the aforesaid county line to the point and place of beginning."

§ 132-2. Water District No. 2 extensions.

A. Extension No. 1.

[Added 2-15-1984]

(1) The notice of hearing was published in the Ballston Journal on February 15, 1984, and posted at Town Hall on February 15, 1984, as required by law, and such notice of hearing, publication and posting is otherwise sufficient.

(2) All of the property and property owners within the proposed water district extension of Burnt Hills-Ballston Lake Water District No. 2 are benefited thereby.

(3) All of the property and property owners benefited are included within the proposed water district extension of Burnt Hills-Ballston Lake Water District No. 2.

(4) It is in the public interest to establish the proposed water district extension of Burnt Hills-Ballston Lake Water District No. 2 as hereinafter described.

(5) The Town Board does hereby approve the establishment of the water district extension to the Burnt Hills-Ballston Lake Water District No. 2, as hereinafter described, to be known as the "Burnt Hills-Ballston Lake Water District No. 2 - Extension No. 1," a description of which is on file in the Town Clerk's Office of the Town of Ballston.

(6) There are no improvements proposed in order to complete this water district extension, as all water district facilities, including mains, laterals and hydrants are currently in place.

(7) The maximum amount proposed to be expended for the improvement for the water district extension shall be \$5,000, represented by engineering costs of approximately \$3,000 and legal costs of approximately \$2,000.

(8) The method of financing the cost for the water district extension shall be based on the assessed value for all properties located within the extension district boundaries, and each property owner in the extension district shall be assessed a proportionate share of the total cost of such extension district, as such assessed value of each owner bears to the total assessed value of the extension district area, and further this additional assessment will be repaid to the Town of Ballston on the 1985 county tax billing.

(9) This resolution is subject to a permissive referendum Editor's Note: No petition was filed. in the manner provided in Article 7 of the Town Law and Subdivision 3 of § 209-e of the Town Law.

(10) Pursuant to §§ 82 and 90 of the Town Law, within 10 days from the date of this resolution, the Town Clerk shall post and publish a notice which shall set forth the date of the adoption of the resolution, shall contain an abstract of such resolution concisely setting forth the purpose and effect thereof, shall specify that this resolution was adopted subject to permissive referendum and shall publish such notice in the Ballston Journal, a newspaper published in Saratoga County having general circulation in the Town of Ballston, and in addition thereto, the Town Clerk shall post or cause to be posted on the signboard of the Town of Ballston a copy of such notice within 10 days after the date of the adoption of this resolution.

B. Extension No. 4.

[Added 12-1-1992]

(1) A map, plan and report relating to the establishment of the Burnt Hills-Ballston Lake Water District No. 2, Extension No. 4, in the Town of Ballston, County of Saratoga, prepared by Northeast Consultants, P.C., in a manner and in such detail as has been determined by this Town Board, has been duly filed with the Town Clerk, in accordance with the requirements of Article 12-A of the Town Law.

(2) An order was duly adopted by this Town Board on November 5, 1992, reciting the filing of said map, plan and report, the improvements proposed, the boundaries of the proposed district, the proposed method of financing, the fact that the map, plan and report describing the same were on file in the Town Clerk's Office for public inspection and stating all other matters required by law to be stated and specifying December 1, 1992, at 7:50 p.m. on said day as the time, at the Town Hall, Charlton Road, Ballston Spa, New York, as the place where this Town Board would meet and

consider said map, plan and report and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law.

(3) A hearing on said matter was duly held by said Town Board on December 1, 1992, at 7:50 p.m. on said day, in the Town Hall, Charlton Road, Ballston Spa, New York, at which all interested persons desiring to be heard were heard, including those in favor of and those opposed to the establishment of said Extension No. 4.

(4) Upon the evidence adduced at such public hearing, it is resolved and determined that:

(a) The notice of hearing was published and posted as required by law and is otherwise sufficient.

(b) All property and property owners within the proposed extension are benefited thereby.

(c) All property and property owners benefited are included within the limits of the proposed district.

(d) It is in the public interest to establish said extension.

(5) The establishment of the proposed extension as set forth in said map, plan and report is approved; and said extension shall be designated and known as the "Establishment of the Burnt Hills-Ballston Lake Water District No. 2, Extension No. 4 in the Town of Ballston," situate wholly outside of any incorporated village or city, and shall be bounded and described as set forth in Exhibit "A" attached hereto and made a part hereof. Editor's Note: Exhibit "A" is on file in the office of the Town Clerk.

C. Extension No. 7.

[Added 3-4-1997]

(1) A water district extension is established in the Town of Ballston, Saratoga County, New York, as described in the order of the State Comptroller aforesaid, to be designated as "Extension No. 7 to Burnt Hills-Ballston Lake Water District No. 2 of the Town of Ballston" and to be of the following description and boundaries, all as described upon the attached legal description made a part hereof. Editor's Note: Said legal description is on file in the office of the Town Clerk.

(2) The Town Clerk of the Town of Ballston is hereby authorized and directed to cause a certified copy of this order to be duly recorded in the office of the Clerk of Saratoga County in which the Town of Ballston is located, within 10 days after adoption of this order.

(3) The Town Clerk is hereby authorized and directed to file a certified copy of this order in the office of the State Department of Audit and Control, Albany, New York, within 10 days after the adoption of this order.

D. Extension No. 8.

[Added 9-26-1995]

(1) The establishment of the water district extension as proposed shall be approved and shall be bounded and described as follows:

All that tract, piece or parcel of situate in the Town of Ballston, County of Saratoga, New York, being designated as "Extension No. 8 to the Burnt Hills-Ballston Lake Water District No. 2" and being further bounded and described as follows:

Beginning at the point of intersection of the centerline of Scotchbush Road with the Northerly line of Jenkins Road and runs thence along the Northerly line of Jenkins Road Westerly 430± feet to a point; thence along the boundary line of lots fronting on Scotchbush Road the following six courses: 1) Northerly 900± feet to a point; 2) Westerly 340± feet to a point; 3) Northerly 440± feet to a point; 4) Easterly about 50± feet to a point; 5) Northerly 500± feet to a point; 6) Easterly 490± feet to the centerline of Scotchbush Road; thence along the centerline of Scotchbush Road Northerly 200± feet to a point; thence along the Northerly bounds of Kelly Meadows Subdivision and an extension Easterly thereof, Easterly about 3035± feet to a point; thence along the bounds of Water District No. 2 and Water District No. 2, Extension No. 5 the following three courses: 1) Southwesterly 400± feet to a point; 2) Southerly 1350± feet to a point; and 3) Southerly 430± feet to a point in the centerline of Jenkins Road; thence along the centerline of Jenkins Road along the bounds of Water District No. 2, Extension No. 5 and a projection Westerly of said line, Westerly 1600± feet to a point; thence along the boundary of lots fronting on Jenkins Road the following six courses: 1) Southerly 280± feet to a point; 2) Westerly 420± feet to a point; 3) Southerly 20± feet to a point; 4) Westerly 400± feet to a point; 5) Northerly 150± feet to a point; and 6) Westerly 240± feet to a point in the centerline of Scotchbush Road; thence along said centerline Northerly 200± feet to the point or place of beginning.

(2) The above described extension to Water District No. 2 is shown on a drawing entitled "Burnt Hills-Ballston Lake Water District No. 2, Extension No. 8" prepared by Northeast Land Survey and Land Development Consultants, P. C. bearing Drawing No. 95-85. Editor's Note: Said drawing is on file in the office of the Town Clerk.

§ 132-3. Water District No. 4.

[Added 9-16-1986]

A. Advisory committee. The Town Board will annually appoint three resident property owners of the district to act as an advisory committee on all affairs affecting the district such as tax levies, emergency repair, relations with village and applications to connect.

B. Additional users. Applications to connect to the district water main shall be referred to the advisory committee and the Village of Ballston Spa. Upon approval of these bodies, the Town Board of Ballston, acting as Water Commissioners, may approve the request. A fee of \$200 will be required for a single- or two-family dwelling. Other users will be given individual consideration.

C. Connections. All plumbing connections must be approved by the Village of Ballston Spa. Such connections may not be interconnected with any other systems from a different source.

D. Costs to the homeowner.

(1) Water rent shall be payable to the Village of Ballston Spa at its established rate for outside-the-village users and under the terms established by the village.

(2) Taxes shall be levied by the Town Board of the Town of Ballston, acting as Water Commissioner as needed, to maintain a repair fund.

E. Delinquent payments. Upon notification by the village of delinquency in the payment of water rents, the Town Supervisor shall notify the resident of such delinquency. If payment does not result, the delinquent sum plus penalty shall be levied as an addition to the owner's town and county tax bill and remitted by the town to the village.

F. Emergencies. In the event that a leak or break in the system is detected, notification should be made to the Town of Ballston Water Superintendent, Town Supervisor or Town Highway Superintendent. Any of these officials shall be authorized to order necessary repairs in an emergency.

§ 132-4. Water District No. 6, Extension No. 1.

[Added 9-28-1993]

A. The name of the water district at the end of Silver Lane was originally listed as "Burnt Hills-Ballston Lake Water District No. 2, Extension No. 5." The name of this district should be "Town of Ballston Water District No. 6, Extension No. 1."

B. This section shall designate the name of the Silver Lane Water District extension as "Town of Ballston Water District No. 6, Extension No. 1," changing it from the original name of "Burnt Hills-Ballston Lake Water District No. 2, Extension No. 5."

§ 132-5. Water rates in Water District Nos. 2 and 5.

[Added 6-7-1988]

A. Water rates in Water District No. 2 shall be raised from \$1.15 per thousand gallons to \$1.40 per thousand gallons.

B. In Water District No. 5, the rates shall be raised from \$0.85 per thousand gallons to \$1 per thousand gallons.

§ 132-6. Meter reading fee.

[Added 3-4-1997]

The fee schedule is amended to include a fee of \$25 for reading water meters when the resident has not read the meter and/or filled out and returned the card; this fee will be applied after the resident has been given a ten-day grace period after notification.

Attachments:

132 end

CHAPTER 138. ZONING

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§ 138-1. Title.

§ 138-2. Purpose and scope.

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§ 138-4. Establishment of districts.

ARTICLE IV. Nonconforming Uses

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ARTICLE V. Hamlet Residential District Regulations

§ 138-8. Uses permitted.

§ 138-8.1. Area requirements.

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§ 138-8.3. TND traditional neighborhood design.

ARTICLE VI. Mixed Use Center District Regulations

§ 138-9. Uses permitted.

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ARTICLE VII. Rural District Regulations

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ARTICLE VIIA. Ballston Lake Waterfront District Regulations

§ 138-11. Uses permitted.

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§ 138-11.3. Site plan approval required.

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ARTICLE VIIB. Business Highway Districts 1 and 2

§ 138-12. Uses permitted.

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ARTICLE VIII. Industrial District Regulations

§ 138-13. Uses permitted.

§ 138-13.1. Area requirements.

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§ 138-13.2. Adult-oriented businesses or adult use businesses.

§ 138-14. Environmental regulations.

§ 138-15. Facility and site requirements.

§ 138-16. Water and sewer requirements.

§ 138-17. Construction standards.

§ 138-18. Permit requirements and administration.

§ 138-19. Developer to provide roads and utilities.

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ARTICLE VIIIA. Ballston Lake Residential District

§ 138-21.1. Uses permitted.

§ 138-21.2. Area requirements.

§ 138-21.2.1. Purpose and intent.

§ 138-21.2.2. Design standards.

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ARTICLE VIIIB. Ballston Lake Neighborhood Commercial District Regulations

§ 138-21.3. Uses permitted.

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ARTICLE IX. Senior Citizen and Handicapped Housing District

§ 138-22. District regulations.

ARTICLE X. Planned Unit Development District

§ 138-23. Purpose.

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§ 138-25. Sketch plan.

§ 138-26. District standards.

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ARTICLE XI. Watershed Protection Overlay District

§ 138-27.1. Introduction; purpose.

§ 138-27.2. Findings of fact.

§ 138-27.3. Definitions.

§ 138-27.4. Applicability.

§ 138-27.5. Exemptions.

§ 138-27.6. Prohibited practices.

§ 138-27.7. Review and approval.

§ 138-27.8. Agricultural uses.

§ 138-27.9. Industrial uses.

§ 138-27.10. Severability.

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CHAPTER 138. ZONING

[HISTORY: Adopted by the Town Board of the Town of Ballston 7-2-1985 by L.L. No. 2-1985 (and subsequently amended); revised and readopted during codification 9-5-2000 by L.L. No. 2-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 5.
Farming — See Ch. 59.
Fire prevention and building construction — See Ch. 62.
Fire Protection District — See Ch. 65.
Flood damage prevention — See Ch. 68.

Stormwater Management — See Ch. 91.
Subdivision of land — See Ch. 104.
Telecommunications towers — See Ch. 113.

ARTICLE I. General Provisions

§ 138-1. Title.

This document shall be known and may be cited as the "Zoning Law of the Town of Ballston." Reference in this document will also refer to it as "chapter."

§ 138-2. Purpose and scope.

A. This chapter is enacted for the purpose of promoting the health, safety, morals and general welfare of the people of the Town of Ballston. The zoning regulations and districts described in this chapter as outlined upon the Zoning Map Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk or is available through eCode360™. A copy of the map may be included in a pocket at the end of this volume. are made and have been developed in accordance with this goal. The regulations and districts have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each zoned district and its particular suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Ballston.

B. The Zoning Board of Appeals, Planning Board, Building Inspector and the agents of these offices have been created by the Town Board of the Town of Ballston for the purposes of implementation of the regulations and districts established by this chapter. These offices have been established in order to assist the residents of the Town of Ballston in understanding and complying with the various rules and regulations set forth in this document. It is the ultimate purpose of this chapter to assist the residents of the Town of Ballston to create the most prudent use of the land within the town, by considering appropriate health, safety and welfare standards that affect all residents.

C. Unless otherwise specifically excepted in this document, no building or land within the Town of Ballston shall hereafter be used or occupied unless in conformity with both the regulations herein specified for the district in which the land or building is located and with the supplementary regulations set forth.

ARTICLE II. Terminology

§ 138-3. Definitions; word usage.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

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

ACCESSORY

The term applies to a use, building or other structure customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

AGRICULTURE

See "customary agricultural uses."

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or enlargement, whether by extending on a site or by increasing in height, or the moving from one location or position to another.

ALTERATION, STRUCTURAL

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

AREA, BUILDING

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

AREA, LOT

The total area within the property lines, excluding external streets.

ASSEMBLY HALL

A building or a part of a building whose principal use is the assembly of 50 or more people for such uses as lodges, clubs, banquet rooms, etc. Community services are excluded from this category.

AUTOMOBILE WRECKING YARD

The use of any area or portion of any lot or plot, whether inside or outside a building for the temporary storage of automobiles awaiting dismantling or the dismantled parts of automobiles or the dismantling, cutting, demolition and burning of automobiles.

BASEMENT

A story partly underground.

BILLBOARD

A sign that is maintained by a business which contracts to advertise for other businesses.

BOARDINGHOUSE

A private dwelling in which at least four but not more than 10 sleeping rooms are offered for rent and table board may be furnished to roomers and in which no transients are accommodated. A rooming house or furnished room shall be deemed a boardinghouse.

BUILDING

Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

BUILDING, HEIGHT OF

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of mansard roofs and to a mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINES

The line from the front of the building to the nearest front line of the lot. Side and rear building lines shall be determined in a comparative manner.

[Amended 9-30-2003 by L.L. No. 4-2003]

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMP and CAMP PARK

Any area of land or water on which are located two or more cabins, tents, trailers, camp cars, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes and wherein no such accommodation is occupied more than four months of the year.

CELLAR

See "basement."

COMPREHENSIVE PLAN

The Town of Ballston Comprehensive Plan, dated December 2005 and adopted by the Town Board on June 12, 2006.

[Added 6-12-2006 by L.L. No. 5-2006]

COVERAGE

That percentage of the plot or lot area covered by building area, including accessory buildings and structures.

CUSTOMARY AGRICULTURAL USES

Ordinarily, the raising of crops, livestock or poultry, fruit or fur-bearing animals; where interpretation is required to determine whether a particular activity constitutes a customary agricultural use, the Zoning Board of Appeals shall consider whether said type of activity is traditional in the Town of Ballston and is recognized as an agricultural pursuit by a government agency or by an agricultural bureau.

DRIVE-THROUGH SERVICE

A business where a customer is permitted or encouraged, either by the design of physical facilities or by service and/or packaging procedures, to conduct business, or the providing and/or sale of goods and services, in the off-street parking area accessory to the business, while seated in a motor vehicle. Drive-through services are ancillary to the principal use and are typically associated with banks and fast-food restaurants.

[Added 11-4-1999 by L.L. No. 6-1999; amended 6-12-2006 by L.L. No. 5-2006]

DUMP

A lot or piece of land used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash or solid or liquid waste of any kind.

DWELLING

A building designed or used principally as the living quarters for one or more families. The term "dwelling," "one-family dwelling," "multiple dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include motel, automobile court, rooming house or tourist home.

DWELLING, ONE-FAMILY

A detached building containing one dwelling unit.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units.

DWELLING, MULTIPLE

See "multiple dwelling."

DWELLING UNIT

A room or group of rooms providing complete housekeeping facilities for one family and occupied by a single-family unit, plus not more than three lodgers.

EXTENSION or EXPANSION

An increase in land or floor area occupied by a use or time devoted to use or scope of a use.

FAMILY

One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants; a number of persons living together as a single housekeeping unit, although not related by blood, marriage or adoption shall be deemed to constitute a family unit. A fraternity club or boardinghouse shall not be considered a family.

FARM

See customary agricultural uses.

FILLING STATION

Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or servicing such motor vehicles.

FRONTAGE (also ROAD FRONTAGE and/or STREET FRONTAGE)

The distance along which a lot adjoins a road or street at the right-of-way line. A road or street which provides frontage may be a state, county or Town road or a private road or street that has been approved by the Planning Board as part of a subdivision plat.

[Added 6-12-2006 by L.L. No. 5-2006]

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage other than a private garage available 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.

HOME OCCUPATION

(1) An accessory use of a service character which is clearly secondary to the use of the dwelling unit and its premises for residential living purposes of the person(s) carrying on such activity; and is conducted entirely within a dwelling unit; or is conducted entirely within an accessory structure to the dwelling unit on the same premises; and is solely carried on by a member or members of the family residing in the dwelling unit; and employs no more than one paid assistant who does not reside on the premises; and does not involve the keeping of stock in trade or the consignment, purchase and resale of goods, wares or merchandise in a volume or manner that adversely affects the character of the district; and does not display any exterior sign (except as permitted in Article XI, Signs); and does not result in the storage or display of materials in any open space outside the structure in which the home occupation takes place or variation from the residential character of the principal building on the premises; and does not produce any offensive noise, vibration, smoke, dust, odors, heat or glare; and parking provides for adequate off-street parking for any customer.

(2) In particular a "home occupation" may include the professional office of a physician, accountant, dentist, lawyer, management consultant or other professional persons, including violin, piano, other individual musical instrument or voice instruction, arts or craft instruction limited to a single pupil at a time, who offers skilled services to clients, and the occupation of dressmaker, milliner or seamstress shall also be deemed to be a "home occupation," including low-impact businesses such as computer work, consulting and trade persons who work out of their home and can meet the other criteria set forth herein and shall be allowed on special permit.

(3) Dancing instruction in groups, band instruction in groups, tearooms, tourist homes, convalescent homes, funeral homes, stores, trades or businesses of any kind herein excepted shall not be deemed to be "home occupations."

[Amended 9-30-2003 by L.L. No. 4-2003]

HOTEL

A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

HOUSE TRAILER

See "mobile dwelling."

JUNKYARD

(1) Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles or vehicles no longer in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom; for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise; for the disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which taken together equal in bulk two or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

(2) Such term shall also not be construed to mean an establishment having facilities for and engaged in the business of the repair of damaged and/or temporarily disabled motor vehicles unless two or more of said vehicles are individually so kept on said premises for a consecutive period of more than 14 days. Nor shall said term be construed to mean any place where said vehicles are enclosed in a building which when closed completely removes said vehicles from public view.

(3) This definition shall not apply to vehicles actively in use at agricultural and industrial work sites.

LINE, STREET

The dividing line between the street and the lot.

LODGING HOUSE

See "boardinghouse."

LOT

A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use and the customary accessories or open spaces belonging to the same.

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT, DEPTH OF

A mean horizontal distance between the front and rear lot lines.

LOT, WIDTH OF

The mean width measured at right angles to its depth.

LOT LINES

Any line dividing one lot from another.

LOT FRONTAGE

A lot line which is coincident with a street line.

MANUFACTURING

Any process whereby the nature, size or shape of articles or raw materials are changed or where articles are assembled or packaged.

MANUFACTURING, HEAVY

Any industrial process whereby the nature, size or shape of articles or raw materials are changed into a product which generally could be stockpiled in outdoor storage areas and would require shipping by rail or heavy truck.

MANUFACTURING, LIGHT

Any industrial process whereby the nature, size or shape of articles or raw materials are changed into a product which generally shall be finished product not greater than two cubic feet in volume and which ordinarily would not be stockpiled in an outdoor storage area.

MEAN HIGH-WATER MARK

The average annual high water level.

[Added 6-12-2006 by L.L. No. 5-2006]

MIXED USE

Where more than one use occupies a structure, site or parcel, and may include a variety and mixture of nonresidential uses and/or residential uses.

[Added 6-12-2006 by L.L. No. 5-2006]

MOBILE DWELLING

A vehicle which is used or designed to be used for living or sleeping purposes and which is customarily standing on wheels or rigid supports, whether propelled by its own power or power of another vehicle to which it is attached.

MOTEL

A building or group of buildings, whether attached or detached, containing for hire individual living and sleeping accommodations, each of which is considered a unit, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins" or "roadside hotel."

MOTOR VEHICLE

Any vehicle propelled or drawn by power other than muscular power, originally intended for use on public highways.

MULTIPLE DWELLING

Any building that contains or is proposed to contain more than two dwelling units for rent.

NONCONFORMING USE

A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

OPEN SPACE

An unoccupied space open to the sky on the same lot with the building.

OWNER

The title holder of record of real property, or if he or she be deceased, then his or her estate.

PARCEL

Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk's office and for which a Tax Map parcel identification number has been assigned.

[Added 6-12-2006 by L.L. No. 5-2006]

PARKING SPACE

The area required for parking one automobile, which in this chapter is held to be an area nine feet wide and 20 feet long, not including passageways. Each parking area shall have direct open passageways to public roadways at all times.

RESTAURANT

Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building, elsewhere on the premises, or via a drive-through service.

[Added 6-12-2006 by L.L. No. 5-2006]

SERVICE (or SERVICE ESTABLISHMENT)

Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

[Added 6-12-2006 by L.L. No. 5-2006]

SHORELINE

That line at which land adjoins the water of lakes at the mean high-water mark.

[Added 6-12-2006 by L.L. No. 5-2006]

SIGN

A message-bearing board, wall or other display, mounted, freestanding or portable, used to identify or advertise a business, organization, function or community development.

SIGN, DISPLAY AREA

The area contained within the largest regular geometric figure surrounding all letters, figures, symbols, displays or other illustrations which are printed, painted, stamped, cut, raised or attached to the surface of any building or other structure. When letters, symbols, etc., are attached to a sign board, the sign display area shall include such backing.

SIGN, TEMPORARY

A sign not permanently affixed to a structure or the ground.

SITE

The total area to be used for development of a project, including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel.

[Added 6-12-2006 by L.L. No. 5-2006]

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STRUCTURE

A combination of materials to form a construction that is safe and stable, and includes among other things stadiums, platforms, radio towers, sheds, storage bins, signs, satellite dishes, solar panels and pole-framed canvas or plastic-sided storage sheds.

SWIMMING POOL

Any artificial pool or structure intended for bathing or swimming purposes made of concrete, masonry, metal or other impervious materials having a depth in excess of 18 inches and located within 600 feet of a residence, home or dwelling other than the one associated with the pool.

[Added 6-12-2006 by L.L. No. 5-2006]

THEATER, OUTDOOR

An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical production on a paid admission basis to patrons seated in automobiles or on outdoor seats.

TOURIST CABINS

See "motel."

TOURIST HOME

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

TRADITIONAL NEIGHBORHOOD DESIGN or TND

A set of design standards applied to subdivisions and developments in the Hamlet and Ballston Lake Residential Districts for the purpose of promoting pedestrian friendly and compact residential neighborhoods.

[Added 6-12-2006 by L.L. No. 5-2006]

TRAILER

See "mobile dwelling."

TRAILER PARK (MOBILE HOME PARK)

A land or floor area occupied or designed for occupancy by two or more trailers in use for living purposes.

TRAILER SITE

A unit of land or floor area within a trailer park for occupation by an individual trailer.

UNFINISHED BUILDING

A structure shall be deemed unfinished if it does not have a permanent roof, completely enclosed outside walls with the finished materials installed, all glazing in place, permanent heating system with masonry chimney ready for operation, permanent electric service and sewage installed.

USE

This term is employed in referring to the purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied; any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structure or on land. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use or use requiring a special use permit.

USED CAR LOT

Any place outside a building where two or more used motor vehicles in operating condition are offered for sale or are displayed.

ARTICLE III. Establishment of Districts

§ 138-4. Establishment of districts.

[Amended 11-4-1999 by L.L. No. 6-1999]

A. The Town of Ballston is hereby divided into the following types of districts:

[Amended 9-30-2003 by L.L. No. 4-2003; 6-12-2006 by L.L. No. 5-2006; 2-3-2009 by L.L. No. 3-2009]

Hamlet Residential

Ballston Lake Residential District

Mixed Use Center Districts

Ballston Lake Waterfront District

Business Highway District

Ballston Lake Overlay District

Rural Business Overlay District

Rural District

Industrial District

Ballston Lake Neighborhood Commercial District

Senior Citizen and Handicapped Housing District

Planned Unit Development District

Watershed Protection Overlay District

B. Said districts are bounded and defined as shown on maps entitled "Zoning Map of the Town of Ballston" and "Amended Zoning Map of the Town of Ballston," adopted, certified and held by the Town Clerk. Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk and is available through eCode360™. A copy of the map may be included in a pocket at the end of this volume. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.

(2) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets or highways, street lines or highway right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map.

ARTICLE IV. Nonconforming Uses

§ 138-5. Existing uses.

The lawful use of any building or land, which use is existing at the time of the enactment of this chapter, may be continued although such use does not conform to the provisions of this chapter. Any changes to a nonconforming use following the date of enactment of this chapter shall be subject to the provisions of this chapter. It is the intent of this article to deal solely with the use to which a building or land is being put and not the nonconformity of the area requirements dealt with under Article V of this chapter.

§ 138-6. Changes in structure or use.

A. Unsafe structures. Any structure, or portion of that structure in nonconforming use, declared unsafe by the Building Inspector in accordance with Chapter 52, Buildings, Unsafe, of the Code of the Town of Ballston must be removed or restored to safe condition within six months of notification.

B. Restoration. Any building damaged by fire or other causes may be repaired or rebuilt for the same, but not a different, nonconforming use. The size may not be increased in rebuilding the structure.

C. Extension. Limited extension of a nonconforming use may be allowed upon special permit by the Zoning Board of Appeals and subject to such conditions as may be deemed necessary by said Board to comply with the intent of this chapter and to preserve the character of the district.

D. Displacement. No nonconforming use shall be extended to displace a conforming use.

E. Abandonment. No nonconforming use, including signs, which shall have ceased for a period exceeding one year, shall be resumed.

F. Changes. Once changed to a conforming use, no building, or land shall be permitted to revert to a nonconforming use unless permitted by appeal to the Zoning Board of Appeals.

§ 138-7. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of § 138-6, Changes in structure or use, shall also apply to any nonconforming uses existing therein.

ARTICLE V. Hamlet Residential District Regulations

[Amended 9-30-2003 by L.L. No. 4-2003; 6-12-2006 by L.L. No. 5-2006]

§ 138-8. Uses permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Hamlet Residential District Table located at the end of this chapter.

§ 138-8.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements Table located at the end of this chapter.

§ 138-8.2. Purpose and intent.

The Hamlet Residential Districts (as described in the Comprehensive Plan, Section 3.3 Editor's Note: The Comprehensive Plan is on file in the Town offices.) serves as a transition between the Mixed Use Center Districts and/or the Highway Business District which they surround and the less densely developed Rural District. As such, open space preservation gives way to neighborhood parks or playgrounds, trails, and walkways in order to promote pedestrian friendliness and the traditional neighborhood feel. Higher density is allowed with the expectation that more amenities will be required in order to enhance or create traditional-type neighborhoods

§ 138-8.3. TND traditional neighborhood design.

A. For all subdivisions proposed in the Hamlet Residential Districts, the standards set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code shall apply.

B. For all other development that does not include residential subdivisions such as planned unit developments, the design standards set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code shall also apply.

C. Density bonuses may be applied by the Planning Board as set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code, if in the Planning Board's discretion, such density bonuses are necessary to encourage, facilitate and/or offset additional development costs incurred by the imposition of the TND design standards; will not adversely effect adjacent properties, the surrounding neighborhood and the objectives in creating traditional style neighborhoods; and adequate infrastructure is available or to be made available in order to support the increased densities.

ARTICLE VI. Mixed Use Center District Regulations

[Amended 9-30-2003 by L.L. No. 4-2003; 6-12-2006 by L.L. No. 5-2006]

§ 138-9. Uses permitted.

All uses permitted and all uses requiring site plan approval, a special permit or planned unit development approval are listed on the Uses, Area, Frontage and Setback Requirements Table located at the end of this chapter. For purposes of this article and the Mixed Use Center Districts, more than one principal use and/or structure is allowed on any one lot or parcel.

§ 138-9.1. Area requirements.

Area requirements for each use are indicated on the Uses, Area, Frontage and Setback Requirements for Mixed Use Center District Table located at the end of this chapter and as set forth in this article.

§ 138-9.2. Purpose and intent.

Section 3.2 of the Comprehensive Plan Editor's Note: The Comprehensive Plan is on file in the Town offices. provides, in detail, the land use policies and goals behind the establishment of the Mixed Use Center Zoning Districts. Generally, these Districts, identified as North and South, are established for the purpose of creating a commercial and social core for the Town emphasizing a small-town feel. This requires a balancing of a variety of uses on a scale and design so that the various uses can not only co-exist but complement each other to create a vital and active community of shopping, service, social and residential opportunities. It is the intent of these Districts to encourage growth and development but on a scale and design that is pedestrian friendly, calms traffic, discourages large parking lots and promotes vertical development and integration of land uses rather than separation. The only difference between the North and South Districts is one of scale. Since much of the South District has already been developed, it is necessary to keep the scale and density consistent with existing development patterns. Thus, future development in the South District will be restricted to smaller scale buildings on a less dense basis than what is encouraged in the North District where is appropriate to have a higher density of development and taller buildings.

§ 138-9.3. Review processes.

In order to effectuate the purpose and intent of the Mixed Use Center Zoning Districts, the particular type of use together with its proposed building footprint size will dictate the required review and approval process. Since building scale is crucial to these Districts, one of three different review processes will be triggered based on use and building footprint size. As scale increases, issues that directly affect the purposes of these Districts, such as community character, compatibility with surrounding properties and harmony with present and future development, become heightened thereby triggering a heightened level of the applicable review process. For purposes of this article, the term "site" means the total area to be used for development of a project, including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel. Generally, the review requirements can be summarized as follows:

A. Mixed Use Center - North.

(1) For all nonresidential projects (includes any project involving nonresidential uses regardless of whether residential dwelling units are also included):

(a) Site plan review shall be required for proposals that include buildings with a single-floor footprint of 20,000 square feet or less and/or sites of one acre or less;

(b) A special permit shall be required for proposals that include buildings with a single-floor footprint greater than 20,000 square feet and less than or equal to 90,000 square feet and/or sites of eight acres or less.

(c) Planning Unit Development District.

[1] A Planned Unit Development District shall be required for proposals that include buildings with a single-floor footprint greater than 90,000 square feet, or if any one side is longer than 300 linear feet and/or sites of more than eight acres.

[2] Rationale. Based on the Comprehensive Plan vision, goals, and recommendations, there is a clear desire to address the size of commercial development in the Town based upon concerns for community character impacts. In order to protect the community character of the Town and therefore comply with the recommendations, vision and goals of the Comprehensive Plan, applicants proposing buildings that exceed the thresholds outlined above in Subsection A(1)(c)[1] of this section shall demonstrate to the Town Council that the project:

[a] Will not result in adverse impacts on the community character of the Town of Ballston;
and

[b] Is consistent with the purpose and intent of the Mixed Use Center Districts as outlined in § 138-9.2.

(2) For all residential projects (without any nonresidential uses mixed in):

(a) Site plan review shall be required for proposals that include no more than eight residential units and/or sites of one acre or less.

(b) A special permit shall be required for proposals that include more than eight residential dwelling units but no more than 64 dwelling units and/or sites of eight acres or less.

(c) A Planned Unit Development District shall be required for proposals that include more than 64 residential units and/or sites of more than eight acres.

B. Mixed Use Center - South.

(1) For all nonresidential projects (includes any project involving nonresidential uses regardless of whether residential dwelling units are also included):

(a) Site plan review shall be required for proposals that include buildings with a single-floor footprint of 14,000 square feet or less and/or sites of one acre or less;

(b) A special permit shall be required for proposals that include buildings with a single-floor footprint greater than 14,000 square feet and less than or equal to 60,000 square feet and/or sites of eight acres or less.

(c) Planned Unit Development District.

[1] A Planned Unit Development District shall be required for proposals that include buildings with a single-floor footprint greater than 60,000 square feet, or if any one side is longer than 300 linear feet and/or sites of more than eight acres.

[2] Rationale. Based on the Comprehensive Plan vision, goals, and recommendations, there is a clear desire to address the size of commercial development in the Town based upon concerns for community character impacts. In order to protect the community character of the Town and therefore comply with the recommendations, vision and goals of the Comprehensive Plan, applicants proposing buildings that exceed the thresholds outlined above in Subsection B(1)(c)[1] of this section shall demonstrate to the Town Council that the project:

[a] Will not result in adverse impacts on the community character of the Town of Ballston;
and

[b] Is consistent with the purpose and intent of the Mixed Use Center Districts as outlined in
§ 138-9.2.

(2) For all residential projects (without any nonresidential uses mixed in):

(a) Site plan review shall be required for proposals that include no more than six residential units
and/or sites of one acre or less;

(b) A special permit shall be required for proposals that include more than six residential dwelling
units but no more than 48 residential units and/or sites of eight acres or less.

(c) A Planned Unit Development District shall be required for proposals that include more than 48
residential units and/or sites of more than eight acres.

C. Mixed Use Center - Ballston Lake.

[Added 9-5-2006 by L.L. No. 6-2006 Editor's Note: This local law also redesignated former Subsection C
as Subsection D.]

(1) For all nonresidential projects (includes any project involving nonresidential uses regardless of
whether residential dwelling units are also included):

(a) Site plan review shall be required for proposals that include buildings with a single floor
footprint of 10,000 square feet or less and/or sites of one acre or less.

(b) A special permit shall be required for proposals that include buildings with a single-floor
footprint greater than 10,000 square feet and less than or equal to 20,000 square feet and/or sites
of four acres or less.

(c) Planned Unit Development District.

[1] A Planned Unit Development District shall be required for proposals that include buildings
with a single-floor footprint greater than 20,000 square feet, or if any one side is longer than
150 linear feet and/or sites of more than four acres.

[2] Rationale. Based on the Comprehensive Plan vision, goals, and recommendations, there is
a clear desire to address the size of commercial development in the Town based upon
concerns for community character impacts. In order to protect the community character of the
Town and therefore comply with the recommendations, vision and goals of the Comprehensive
Plan, applicants proposing buildings that exceed the thresholds outlined above in Subsection
B(1)(c)[1] of this section shall demonstrate to the Town Council that the project:

[a] Will not result in adverse impacts on the community character of the Town of Ballston;
and

[b] Is consistent with the purpose and intent of the Mixed Use Center Districts as outlined in
§ 138-9.2.

(2) For all residential projects (without any nonresidential uses mixed in):

(a) Site plan review shall be required for proposals that include more than one residential unit. Design standards do not apply to single-family residences in the Ballston Lake Mixed Use District.

[Amended 4-7-2009 by L.L. No. 6-2009]

(b) A special permit shall be required for proposals that include more than three residential dwelling units but no more than 10 residential units and/or sites of four acres or less.

(c) A Planned Unit Development District shall be required for proposals that include more than 10 residential units and/or sites of more than four acres.

D. Public benefits. The Planning Board shall encourage all applicants proposing projects that exceed a single floor footprint of 20,000 square feet to provide one or more of the following public benefits.

(1) Acquisition and/or construction of a new Town park or recreational facility.

(2) Improvements or rehabilitations to existing Town parks or recreational facility.

(3) Implementation of one or more of the proposed improvements for the Route 67 Corridor outlined in the Route 67 Corridor Study - The Town of Ballston's approved Intended Transportation Plan in addition to the required improvements identified during the review process.

§ 138-9.4. Site restrictions.

The various thresholds set forth in § 138-9.3 above shall direct what type of review will apply to a given project depending on the proposed building footprint or the size of the site. There is no prohibition on the size of the site, the total aggregate square footage of buildings, or the number of dwelling units allowed on any one site (for either single-floor or multistory buildings), except that the site must be able to accommodate all of the features of the project including the parking areas, stormwater detention or drainage areas, landscaping, buffers, sidewalks and other site features that may be applicable.

§ 138-9.5. Design standards.

The design standards that are applicable for all uses in the Mixed Use Center Districts are set forth in Appendix 1 of this chapter. Editor's Note: Appendix 1 is on file in the Town offices or is available through eCode360™.

ARTICLE VII. Rural District Regulations

[Amended 6-5-2001 by L.L. No. 1-2001; 9-30-2003 by L.L. No. 4-2003; 6-12-2006 by L.L. No. 5-2006]

§ 138-10. Uses permitted.

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

§ 138-10.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Rural District Table located at the end of this chapter.

§ 138-10.2. Purpose and intent.

As set forth in Section 3.1 of the Comprehensive Plan, Editor's Note: The Comprehensive Plan is on file in the Town offices. the area of the Town defined by this District is highly valued for its rural character and contributions to the Town's overall quality of life. It is characterized by working landscapes and open spaces, with single-family residential development along the road frontage and an occasional small scale commercial parcel. Although many working farms are present, the vitality of agriculture in this area has been reduced by recent economic trends. Much residential development pressure to replace existing farmland and open spaces is expected. Compounded by difficult soils for development and the lack of public sewer and water, such development pressure has the potential to alter the valued rural character and lifestyles which currently predominate. However, it is recognized that the land itself, like many agricultural areas, remains the primary asset of many landowners in this area. Thus, the purpose of the Rural District is to appropriately balance the future development of this District with preserving its open spaces and rural character.

§ 138-10.3. Design guidelines.

In this District, the following principles shall be observed for the siting of residences, businesses, and accessory structures.

- A. Wherever feasible, retain and reuse existing old farm roads and country lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
- B. Wherever feasible, preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
- C. Where feasible and practical, avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.
- D. Unless buildings are designed traditionally and located close to the road in the manner historically found in the Town, use existing vegetation and topography to buffer and screen them.
- E. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
- F. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
- G. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multilevel structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas. Use best management practices for erosion and sedimentation control, as recommended by the Saratoga County Soil and Water Conservation District or other natural resource agencies.

H. For subdivisions in this district, the rural design guidelines set forth in Chapter 104 should be applied in addition to the above for all subdivisions, and the provisions of Article X of Chapter 104 shall apply to all cluster/conservation subdivisions.

ARTICLE VIIA. Ballston Lake Waterfront District Regulations

[Added 6-12-2006 by L.L. No. 5-2006]

§ 138-11. Uses permitted.

All uses permitted and all uses requiring either site plan approval or a special permit are listed on the Uses, Area, Frontage and Setback Requirements Table located at the end of this chapter.

§ 138-11.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Ballston Lake District Table located at the end of this chapter.

§ 138-11.2. Purpose and intent.

The Ballston Lake District is created to protect the visual environment of the Ballston Lake Shoreline and, along with the Watershed Protection Overlay District (Article XA of this chapter), protect the water quality of Ballston Lake.

§ 138-11.3. Site plan approval required.

[Amended 6-5-2007 by L.L. No. 7-2007]

Site plan approval from the Planning Board shall be required to place, expand, or alter or replace any retaining wall or bulkhead; in addition, site plan approval is required for any filling, grading, lagooning, dredging, ditching and/or excavating within the district where such activities affect an area greater than 1,000 square feet.

§ 138-11.4. Septic systems.

The expansion or replacement of septic systems shall be designed by a licensed design professional.

§ 138-11.5. Design standards.

A. General standards.

(1) All structures, except docks and boathouses, shall be screened by vegetation, landscaped and/or placed in such a manner so that the view of the structures from the water and to the water is filtered or obscured and the visual impact is minimized to the maximum extent practicable.

(2) All parking, loading, access driveways, patios or service areas shall be constructed of permeable materials wherever practicable.

(3) All construction activities shall be carried out the shortest time possible and in such a manner so as to minimize the erosion that may be caused by such activities. Best practice erosion and stormwater management shall be required. A plan for such management shall be approved by the

Stormwater Management Coordinator and implemented prior to the commencement of any construction activities.

(4) Shoreline areas, excepting beaches, shall not be exposed without vegetation for longer than the time period designated by the Building Inspector, and when exposed for such allowable time period, shall adequately be protected from erosion using best management practices.

(5) Lighting devices shall be oriented and limited so as to minimize disturbances on surrounding properties and so as not to unreasonably diminish or obstruct views from the water or to the water.

B. Shoreline alteration. The following standards shall apply to shoreline alteration:

[Amended 6-5-2007 by L.L. No. 7-2007]

(1) General standards.

(a) The activity shall not alter the natural contours of the shoreline.

(b) The activity shall not disturb shoreline vegetation except in a minimal way. Where vegetation is destroyed, harmed or removed, it shall be restored or replaced with indigenous vegetation. Stabilization shall be in accordance with the U.S. Soil Conservation Service Engineering standards and specifications.

(c) The activity shall be carried out in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.

(d) The activity shall be designed and carried out to preserve or enhance the aesthetic features of the shoreline area to be disturbed and the shoreline and not aesthetically detract from the shoreline areas in the immediate vicinity of the area to be disturbed.

(e) All applicable federal, state and other governmental agency permits shall be obtained.

(2) Specific standards.

(a) Filling. No fill shall be placed in this district except as associated with shoreline protective structures, beach replenishment, agricultural uses or other uses approved by the Planning Board. Any fill placed in this district shall be protected against erosion.

(b) Dredging. There shall be no removal or rearrangement of materials in the water, except at those locations where such removal or rearrangement is found to be beneficial to existing shoreline conditions, uses, and water quality and clarity. Where dredging is permitted by the Planning Board, soil materials shall not be deposited in this district unless approved by the Planning Board.

(c) Retaining walls/bulkheads. The addition, expansion or replacement of any type of retaining wall or bulkhead shall be discouraged, except in the case where the alternative of shoreline restoration to a natural state is impossible due to excessive slope or severe erosion problems, a condition to be determined by the Planning Board. Construction of retaining walls or bulkheads shall not be permitted for only aesthetic reasons. When permitted, retaining walls or bulkheads shall not exceed 16 feet in height, as measured from the stationary mean high-water mark, and shall be constructed of native stone or wood. When treated lumber is used for the construction of a retaining wall or bulkhead, it shall be the sealed nonleaching type.

(3) Tree cutting and land clearing regulations. The purpose of the tree cutting and land clearing regulations is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreline area. These provisions shall not apply to the removal of dead, diseased or dying trees or to other vegetation that present safety or health hazards.

(a) Within this district, the removal of vegetation, including trees, shall be permitted on shorefront lots, provided a development permit is issued by the Planning Board and the following standards are met:

[1] Within 35 feet extending inland from all points along the mean high-water mark, no more than 25% of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.

[2] Within six feet inland of the mean high-water mark, no more than 30% of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to Subsection B(3)(a)[1] above.

(b) The general exception to the above standards shall be an allowance for lake access and beaches. The creation of a contiguous clear-cut opening in the buffer strip shall not exceed 20% of the shoreline frontage on any individual lot or a maximum of 75 linear feet, whichever is less. The clear-cut should be angled across the lot so as to allow for a view and access, but reduce runoff. The pathway created should be constructed or surfaced to be effective in controlling erosion.

(c) The above cutting standards shall not prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.

(d) As an alternative to the above standards, a cutting plan allowing greater or different cutting may be permitted by the Planning Board by review and approval of a cutting site plan. Such site plan shall include a sketch of the lot and provide information on the topography and existing vegetation of the area in question, a proposed cutting plan and proposed revegetation plan. The Planning Board may approve such plan only if it finds that the cutting plan:

[1] Will not cause undue erosion or destruction of scenic beauty.

[2] Will ensure that natural vegetation is preserved as far as practicable and, where removed, is replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

[3] Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the Planning Board may require the submission of a bond, which will guarantee the performance of the replacement plantings by the lot owner.

[4] Will not violate the standards of the shoreline restrictions of the other governmental agencies, if applicable.

[5] Where a shoreline lot owner violates this section, the Planning Board may require total revegetation so as to create a buffer strip area, which is in compliance with this section.

(4) Provisions for access.

(a) Within this district, the following minimum shoreline frontages shall be required for deeded, easement, right-of-way or other contractual access to the shoreline of Ballston Lake for three or more lots, parcels, or sites or multifamily dwelling units not having separate and distinct ownership of shore frontage:

(b) Site plan review and approval by the Planning Board pursuant to the standards below.

(c) A plan shall be submitted showing areas for swimming, recreation, docking, building placement, parking and landscaping.

(d) Compliance with the provisions of this section and this zoning chapter.

(e) Such use shall not significantly impair the natural appearance of said parcel; does not overcrowd the parcel or the adjacent water surface; does not produce unreasonable noise or glare to the surrounding properties; and does not pose any substantial hazards.

(f) The first three lots, sites or dwelling units shall require a total of not less than 75 feet and each additional lot, site or dwelling unit shall require an additional five feet of shoreline frontage.

(g) Waterfront access parcels may be developed for contractual access for five or more lots or units only if those lots or units are part of an overall development plan for land that is located adjacent to the waterfront parcels.

(h) Each parcel used for contractual access shall measure at least the minimum lot area for the zoning district where the access is proposed and shall measure an average depth of 100 feet from the mean high water mark.

(i) No structures other than toilet, changing facilities, picnic shelters shall be constructed on the waterfront access parcel. The total combined square footage of all structures shall not exceed 1,000 square feet.

(j) Commercial activities of any kind are prohibited.

(k) Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 75 feet.

ARTICLE VIIB. Business Highway Districts 1 and 2

[Added 6-12-2006 by L.L. No. 5-2006]

§ 138-12. Uses permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Highway Business District Table located at the end of this chapter.

§ 138-12.1. Area requirements.

Area requirements for each use are indicated on the Uses, Area, Frontage and Setback Requirements Table for Highway Business District located at the end of this chapter and as set forth in this article.

§ 138-12.2. Purpose and intent.

This district is created to provide for commercial uses that traditionally are located along highway corridors and which require a large flow of traffic and ease of access while at the same time requiring new development and redevelopment to conform to design standards that will effectively manage access points along Route 50 for safety and function and that will maintain community character. Given the lack of depth of this district from Route 50, building size and site features should remain relatively small in scale. Since the Business Highway Districts provide the main connection with the Mixed Use Centers (North and South), a similar review process based on the scale of development will also be incorporated.

§ 138-12.3. Design standards.

The design standards that are applicable for all uses in the Mixed Use Center Districts are set forth in Appendix 1 of this chapter. Editor's Note: Appendix 1 is on file in the Town offices or is available through eCode360™.

§ 138-12.4. Review processes.

For purposes of this article, the term "site" means the total area to be used for development of a project, including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel. Generally, the review requirements can be summarized as follows:

A. Business Highway 1.

(1) For all nonresidential projects (includes any project involving nonresidential uses, regardless of whether residential dwelling units are also included):

(a) Site plan review shall be required for proposals that include buildings with an aggregate single floor footprint of 20,000 square feet or less and/or sites of one acre or less;

(b) A special permit shall be required for proposals that include buildings with an aggregate single floor footprint greater than 20,000 square feet and less than or equal to 90,000 square feet and/or sites of eight acres or less;

(c) Planned Unit Development District.

[1] A Planned Unit Development District shall be required for proposals that include buildings with an aggregate single floor footprint greater than 90,000 square feet, 300 linear feet and/or sites of more than eight acres.

[2] Rationale. Based on the Comprehensive Plan vision, goals, and recommendations, there is a clear desire to address the size of commercial development in the Town based upon concerns for community character impacts. In order to protect the community character of the Town and therefore comply with the recommendation, vision and goals of the Comprehensive Plan, applicants proposing buildings that exceed the thresholds outlined above in Subsection A(1)(c)[1] of this section shall demonstrate to the Town Council that the project:

[a] Will not result in adverse impacts on the community character of the Town of Ballston;
and

[b] Is consistent with the purpose and intent of the Business Highway Districts as outlined in § 138-12.2.

(2) For all residential projects (without any nonresidential uses mixed in):

(a) Site plan review shall be required for proposals that include no more than eight residential units.

(b) A special permit shall be required for proposals that include more than eight residential dwelling units but no more than 64 dwelling units.

(c) A Planned Unit Development District shall be required for proposals that include more than 64 residential units.

B. Business Highway 2.

(1) For all nonresidential projects (includes any project involving nonresidential uses regardless of whether residential dwelling units are also included):

(a) Site plan review shall be required for proposals that include buildings with a single floor footprint of 14,000 square feet or less and/or sites of one acre or less;

(b) A special permit shall be required for proposals that include buildings with a single floor footprint greater than 14,000 square feet and less than or equal to 60,000 square feet and/or sites of eight acres or less.

(c) Planned Unit Development District.

[1] A Planned Unit Development District shall be required for proposals that include buildings with a single floor footprint greater than 60,000 square feet, 300 linear feet and/or sites of more than eight acres.

[2] Rationale. Based on the Comprehensive Plan vision, goals, and recommendations, there is a clear desire to address the size of commercial development in the Town based upon concerns for community character impacts. In order to protect the community character of the Town and therefore comply with the recommendation, vision and goals of the Comprehensive Plan, applicants proposing buildings that exceed the thresholds outlined above in Subsection B(1)(c)[1] of this section shall demonstrate to the Town Council that the project:

[a] Will not result in adverse impacts on the community character of the Town of Ballston;
and

[b] Is consistent with the purpose and intent of the Business Highway Districts as outlined in § 138-12.2.

(2) For all residential projects (without any nonresidential uses mixed in):

(a) Site plan review shall be required for proposals that include no more than six residential units.

(b) A special permit shall be required for proposals that include more than six residential dwelling units but no more than 45 dwelling units.

(c) A Planned Unit Development District shall be required for proposals that include more than 45 residential units.

C. Public benefits. The Planning Board shall encourage all applicants proposing projects that exceed a single floor footprint of 20,000 square feet to provide one or more of the following public benefits.

- (1) Acquisition and/or construction of a new Town park or recreational facility.
- (2) Improvements or rehabilitations to existing Town parks or recreational facility.
- (3) Implementation of one or more of the proposed improvements for the Route 67 Corridor outlined in the Route 67 Corridor Study - The Town of Ballston's approved Intended Transportation Plan, in addition to required transportation improvements as identified during the review process.

§ 138-12.5. Site restrictions.

The various thresholds set forth in § 138-12.4 above are not maximum limitations but merely direct what type of review will apply to a given project depending on the proposed aggregate building footprint or the size of the site. There is no prohibition on the size of the site, the total aggregate square footage of buildings, or the number of dwelling units allowed on any one site (for either single-floor or multistory buildings) except that the site must be able to accommodate all of the features of the project including the parking areas, stormwater detention or drainage areas, landscaping, buffers, sidewalks and other site features that may be applicable.

ARTICLE VIII. Industrial District Regulations

§ 138-13. Uses permitted.

[Amended 3-9-2000 by L.L. No. 1-2000; 6-5-2001 by L.L. No. 2-2001; 9-30-2003 by L.L. No. 4-2003]

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Industrial District Table located at the end of this chapter.

§ 138-13.1. Area requirements.

[Added 9-30-2003 by L.L. No. 4-2003]

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Industrial District Table located at the end of this chapter.

§ 138-13.1.1. Purpose and intent.

[Added 6-12-2006 by L.L. No. 5-2006]

The Industrial District is that portion of the Town which has been utilized by, and set aside for, uses that involve production, manufacturing, distribution or fabrication activities and is an area where pedestrians are few and where uses are set back far from the frontage roads with natural buffering. This district is addressed in the Comprehensive Plan at Section 3.5, Editor's Note: The Comprehensive Plan is on file in the Town offices. where it is noted that the district should also allow for a mixture of uses compatible with industrial uses especially in the gateway areas of this district.

§ 138-13.2. Adult-oriented businesses or adult use businesses.

[Added 3-9-2000 by L.L. No. 1-2000]

Adult-oriented businesses (also referred to as "adult use businesses") are authorized in the Industrial District of the Town of Ballston as a permitted use and shall be regulated and governed by § 138-13.2 of the Zoning Ordinance of the Town of Ballston.

A. Legislative intent and findings of fact.

(1) Background. The Town Board of the Town of Ballston has become aware of serious and substantial interests in the establishment of adult-oriented businesses in the Town of Ballston and has noted an increase in the number of neighboring communities enacting legislation seeking to regulate the establishment of adult-oriented businesses. Concern over the potential adverse secondary effects associated with adult-oriented businesses led the Town Board of the Town of Ballston to enact a ninety-day moratorium, effective February 5, 1999, which ninety-day moratorium was subsequently extended through April 1, 2000. During the moratorium period, the Town Board, along with Robert M. Penna, PhD., has caused an "Adult Use Study: Town of Ballston, New York," to be prepared to assess the probable adverse secondary impacts on the Town of Ballston which would result from the unregulated opening and establishment of adult-oriented businesses within the town.

(2) 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 City of Renton v. Playtime Theaters, Inc. [475 U.S. 41 (1986)] and commissioned by the Town Board of the Town of Ballston, the Town of Ballston finds that:

(a) There are adverse secondary impacts associated with the establishment and operation of adult-oriented businesses within a community.

(b) Among these adverse secondary impacts are a deterioration in the local quality of life, an adverse effect upon economic viability, an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby, an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior, a threat to the health and safety of children and young adults and an undermining of the established sense of community.

(c) These adverse secondary impacts of the establishment and operation of adult-oriented businesses are a threat to the general health, safety and economic viability of the community.

(d) The unregulated establishment and operation of adult-oriented businesses would lead to the widespread imposition of adverse secondary impacts upon 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.

(e) The United States Constitution, and the Constitution and laws of the State of New York grant to the Town of Ballston the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of adult-oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.

(3) Statement of intent.

(a) It is the express intent of the Town of Ballston in adopting this section to:

[1] Ameliorate, mitigate, reduce or prevent the widespread and unregulated imposition of the adverse secondary impacts of adult-oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.

[2] Protect the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

(b) It is not the intent of the Town of Ballston in adopting this section to:

[1] Deny any person the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

[2] Impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the 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 adult-oriented businesses.

[3] Impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the 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 adult-oriented businesses.

(4) Aware that, according to numerous decisions by both federal courts and courts of the State of New York, the regulation of the location of adult businesses must be based upon a finding of the adverse secondary impact of these businesses upon the community and must be directed solely toward the mitigation of these impacts, not be directed toward any form of speech or expression, be no broader than necessary and must provide alternative locations within the town for adult use businesses, the Town of Ballston hereby adopts the following amendment to its Town Zoning Law.

B. Definitions.

(1) For the purpose of this section, an adult-oriented business or adult use business shall be defined as any business which:

(a) Is the use of land, structures or location for an "adult entertainment business" or as an "adult physical contact establishment" as herein defined; and

(b) Is any use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors; and

(c) Is an establishment, location, building or structure which features topless dancers, nude dancers or strippers, male or female; and

(d) Is a location, building or structure used for presenting, lending or selling motion-picture films, videocassettes, cable television or any other such visual media, or used for presenting, lending or selling books, magazines, publications, photographs or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specific anatomical areas" as defined below.

(2) Adult use businesses. Adult use businesses, including adult book stores, adult video stores, adult motion-picture theaters, adult mini-motion-picture theaters, adult cabarets and adult drive-in theaters shall be defined as follows:

ADULT BOOK STORE

An establishment having a substantial or significant portion of its stock-in-trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas as defined below.

ADULT VIDEO STORE

An establishment having as a substantial or significant portion of its stock-in-trade video films, videocassettes or other films for sale or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas as defined below.

ADULT MOTION-PICTURE THEATER

A building with a capacity of 50 persons or more used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

ADULT MINI-MOTION-PICTURE THEATER

An enclosed building with a capacity of less than 50 person used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

ADULT CABARET

An establishment which features live go-go dancers, exotic dancers, strippers, male or female, male or female impersonators or similar entertainers whose performances are characterized by partial or full nudity.

ADULT DRIVE-IN THEATER

A drive-in theater utilized for the presentation of materials distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

ADULT PHYSICAL CONTACT ESTABLISHMENT

Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices of persons licensed or otherwise authorized by the Education Law as a physical therapist or physical therapist assistant and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments under this section.

ADULT MOTEL

A motel which is not open to the public generally, but excludes minors by reason of age, or which makes available to its patrons in their rooms closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which, if presented in a public movie theater, would not be open to the public generally, but would exclude any minor by reason of age, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions or offers a sleeping room for rent for a period of time that is less than 10 hours.

ADULT PEEP SHOW

A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure for which a fee is charged and which is not open to the public generally, but excludes any minor by reason of age.

(3) SPECIFIED SEXUAL ACTIVITIES:

(a) Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or

(b) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

(4) SPECIFIED ANATOMICAL AREAS:

(a) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola; or

(b) Human male genitals in a discernable turgid state, even if completely or opaquely covered.

C. Location of adult-oriented business or adult use business within Industrial District.

(1) Adult-oriented businesses or adult use businesses are permitted within the Industrial District, provided that no adult use be allowed within 300 feet of any of the Industrial District's boundary lines with an adjoining zoning district nor within 1,000 feet of the property line of any residential use or a zoning district that permits residential use.

(2) Adult-oriented businesses or adult use businesses shall not be allowed within 1,000 feet of the property line of a church or other house of worship, playground, park, school, day-care center, senior center, cemetery or structure, including fire stations and meeting halls or structures used as a community center, nor within 500 feet of a commercial or business zone.

(3) Adult-oriented businesses shall not be permitted to locate less than 500 feet from another such use, and not more than one adult-oriented business shall be permitted to locate within a single building or single lot.

(4) Adult-oriented businesses shall not exceed, in total, 2,500 square feet of floor area and cellar space not used for enclosed storage or mechanical equipment.

(5) Adult-oriented businesses shall be required to comply with all other development standards and requirements of the laws of the Town of Ballston, including, but not limited to, district lot and bulk regulations, parking requirements, signage, facade and screening regulations.

(6) Adult-oriented businesses shall not be permitted within any building where a portion of the floor area of the building is in residential use, including nonconforming residential uses, a school, house of worship, public or private recreational facility, community center or other public facility, motel or hotel.

(7) Adult-oriented businesses shall not be permitted to provide live entertainment on the premises which involves nude dancing that is lewd, indecent or grossly sexual in nature. This shall not be construed to include conduct of being nude that constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to, and necessary for, the conveyance or communication of a genuine message or public expression and is not a guise or pretense utilized to exploit nudity, nor shall it include conduct that is protected by the United States or New York State Constitution.

(8) Any adult-oriented business that seeks to provide booths or areas, either for the viewing of motion pictures or live performances, shall meet the following requirements:

(a) Any and all such booths, cubicles, studios, studies and rooms for the private viewing of adult motion pictures and/or live performances or areas shall be open to public view from the common areas of the establishment. There shall not be any doors, curtains, blinds or other structures or devices that shall impede observation of the entire area of such private viewing areas from the common area of the establishment.

(b) Such private viewing areas shall be well lighted and readily accessible at all times and shall continuously be open to view.

(c) Lighting throughout an adult establishment shall be sufficient to illuminate every place to which patrons are permitted access.

(9) The exterior appearance of any building containing an adult-oriented business shall be consistent with the character of surrounding structures and shall not detract from the appearance of the neighborhood.

(10) Adult-oriented businesses shall conform with all existing applicable sign regulations in addition to the following specific requirements:

(a) Signs which are illuminated in neon or which contain flashing lights shall be prohibited.

(b) Exterior signs, displays or other advertisements which contain nude, semi-nude or provocative pictures shall be prohibited.

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

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

(11) Special use permits granted to adult-oriented businesses shall be nontransferable and shall be subject to renewal by the Zoning Board of Appeals on an annual basis. Property owners within 1,000 feet of the location of a proposed adult-oriented business shall be notified in writing of the day, time and location of the public hearing.

§ 138-14. Environmental regulations.

The following restrictions shall also be subject to applicable New York State and/or federal regulations that apply to industrial districts. No facility will be allowed that shall:

A. Cause the emission of excessive smoke, fumes, gas, dust or other atmospheric pollutant beyond the boundaries of the user's lot; and, for the purpose of this subsection, smoke shall be deemed excessive when its shade or appearance is darker than Number 2 on Ringelmann's scale for grading density of smoke.

B. Cause noise audible beyond the boundaries of the user's lot.

C. Discharge any waste material into any sanitary disposal system or sewage system, except as permitted by the public health authorities of the municipality controlling such sewerage system and as permitted by the Town of Ballston with respect to any town-owned or -operated sewerage system.

D. Store or stock any waste material on the premises of the user, other than that used in day-to-day operations.

E. Cause any adverse effect on town water sources, including groundwater supplies and Ballston Lake.

F. Protection of water sources and water quality shall be given the highest priority by the Zoning Board of Appeals or Planning Board in considering the regulations of this article and any site plan review.

G. Create an adverse effect on the environment, as defined by New York State Environmental Quality Review Act Editor's Note: See Article 8 of the Environmental Conservation Law. and its supplemental regulations. Specific attention shall be given by the Zoning Board of Appeals and Planning Board to wetland areas located in the boundaries of the industrial district, and all New York State regulations regarding the protection of such wetland areas shall be strictly complied with by all industrial district owners or developers.

H. Violate any of the provisions of Article XII, Activity Standards for Annoying and Injurious Substances, Conditions and Operations, of this chapter.

§ 138-15. Facility and site requirements.

A. All users shall attractively landscape the unoccupied or unused portions of the premises with lawn, trees, shrubs or other plant material with due consideration to the natural growth and the nature and condition of the terrain.

B. There shall be a minimum lot size of 40,000 square feet or six times the total square footage (outside dimensions) of the building or buildings on the site, whichever is greater.

C. All building setbacks shall be a minimum of 100 feet from the front property line on all state or county roadways. All other building setbacks shall be 50 feet from the front property line for lots fronting on any municipal or private interior roads located within this Industrial Zone. All rear and side yard depths shall be not less than 30 feet from the property lines, except for residential buffer zones as required in Subsection E of this section. No structures or uses associated with the principal use of the property (i.e., parking) shall be permitted within the required yard areas.

D. Off-street parking regulations shall be governed by Article XV, Off-Street Parking and Loading.

E. Where an industrial facility or use adjoins an existing residential property boundary line, a buffer strip along the property boundary of at least 100 feet in depth and landscaping shall be provided. A one-hundred-foot buffer strip must also be provided along the boundary line of any residential district.

F. All users shall comply with such additional conditions and requirements as may be required by the Planning Board, including Planning Board regulations concerning maximum height of structures, security fencing and other such site requirements necessary to meet any of the standards hereinafter set forth.

G. The Zoning Board of Appeals may waive any of the requirements contained in the article where it finds that such requirements will impose an undue or unreasonable hardship or inconvenience and where such waiver will not adversely affect the surrounding area.

H. Access to the Industrial Zone shall be by Route 50, Route 67 and Underpass Road only.

§ 138-16. Water and sewer requirements.

[Amended 9-30-2003 by L.L. No. 4-2003]

A. Buildings shall be provided with potable water, if required by regulations of the New York State Department of Health; municipal water supply to be used if accessible. If municipal water is not accessible, the use of individual wells will be permitted upon approval of the Planning Board. When individual wells are used as a water supply, the applicant shall provide information as to the water requirements, and the production rate of the well will be required to meet the demands in accordance with the New York State Department of Health regulations.

B. Sewage disposal shall be in accordance with the contents of Chapter 73, Health and Sanitation, § 73-2.

§ 138-17. Construction standards.

All construction within the Industrial Zone shall conform to the applicable standards of the New York State Uniform Fire Prevention and Building Code. Editor's Note: See Ch. 62, Fire Prevention and Building Construction. All building plans and site plans for construction within the Industrial Zone shall be approved by a New York State licensed design professional, as such professional is defined by § 7208 of the New York State Education Law.

§ 138-18. Permit requirements and administration.

A. Construction shall begin within one year from final approval and issuance of all required permits. The developer or his or her successors and assigns shall be solely and exclusively responsible for obtaining any permits required to commence development of the land as authorized by this chapter.

B. Nothing in this chapter shall be construed to satisfy the obligations of any person to obtain any governmental approval or permit from any governmental agency other than the Town of Ballston for activities proposed with the Industrial Zone.

C. Administration. This section shall be administered in accordance with the provisions set forth in Article XXII, Administration and Enforcement, of this chapter, and the provisions of such law relating to building permits, certificates of occupancy, interpretations, variances, special permits and violations shall apply to all uses and proposed uses within the Industrial Zone unless noted otherwise in this article. This chapter shall also be administered in accordance with the provisions of Chapter 91, Site Plan Review, of the Code of the Town of Ballston. Construction within the Industrial Zone shall be subject to review and approval by the Town of Ballston Planning Board according to the standards and criteria established in the Town of Ballston site plan review procedures.

§ 138-19. Developer to provide roads and utilities.

The access roads and all water, sewage and stormwater control facilities shall be installed at no cost or expense to the town. Roads to be dedicated to the Town of Ballston will be built in accordance with town highway specifications.

§ 138-20. Use and change of use.

Any use of any of the land or buildings in the district shall be approved by the Planning Board of the Town of Ballston or its agent. Any change in use must comply with the regulations established by this article.

"Change in use" shall include any use of the land or buildings for any purpose other than that for which approval has previously been given.

§ 138-21. Signs.

A. Industrial District sign regulations shall include those regulations established in Article XI, Signs, of this chapter, and any additional regulations described herein. Any inconsistency between the regulations of Article XI, Signs, and this section shall be governed by this section.

B. Each industrial site containing up to 10 acres of land shall be allowed one identification sign of no more than 40 square feet for purposes of site and business location. Within each such designated industrial site of up to 10 acres, there shall be no restriction on the number of signs used for business identification. Sign placement and the total number of signs shall be regulated and approved by the Planning Board during site plan review. It is the intention of this section to allow a sufficient number of business identification signs to be placed within such a designated industrial site, in order to provide adequate directional and building location information. The size, shape, height aboveground, quality of lettering and other such details shall comply with Article XI, Signs, of this chapter and such other requirements as may be imposed by the Town of Ballston Planning Board during the site plan review process.

ARTICLE VIIIA. Ballston Lake Residential District

[Added 11-4-1999 by L.L. No. 6-1999; amended 6-12-2006 by L.L. No. 5-2006]

§ 138-21.1. Uses permitted.

All uses permitted and all uses requiring site plan approval or a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Residential District Table located at the end of this chapter.

§ 138-21.2. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Residential District Table located at the end of this chapter.

§ 138-21.2.1. Purpose and intent.

The Ballston Lake Residential District (as described in the Comprehensive Plan, Section 3.4 Editor's Note: The Comprehensive Plan is on file in the Town offices.) is an area that is conducive to greater density for residential dwelling purposes due to its location and proximity to infrastructure particularly water and sewer connections via extensions from existing systems. It also is nearby or adjacent to areas of higher density in the neighboring Town of Malta. As such, this District is appropriate for future residential development, and traditional neighborhood design features should be implemented so as to further the provision of neighborhood amenities such as small parks and playgrounds, trails and walkways in order to promote pedestrian friendliness and the traditional neighborhood feel. Higher density is allowed with the expectation that more amenities will be required in order to enhance or create traditional-type neighborhoods.

§ 138-21.2.2. Design standards.

A. For all subdivisions proposed in the Ballston Lake Residential District, the standards set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code shall apply.

B. For all other development that does not include residential subdivisions including Planned Unit Development, the standards set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code shall also apply.

§ 138-21.2.3. Density bonuses for TND design.

Density bonuses may be applied by the Planning Board set forth in § 104-14 of Chapter 104 (Subdivision of Land) of the Town Code, if, in the Planning Board's discretion, such density bonuses are necessary to encourage, facilitate and/or offset additional development costs incurred by the imposition of the TND design standards; will not adversely effect adjacent properties, the surrounding neighborhood and the objectives in creating traditional style neighborhoods; and adequate infrastructure is available or to be made available in order to support the increased densities.

ARTICLE VIII.B. Ballston Lake Neighborhood Commercial District Regulations

[Added 1-4-2005 by L.L. No. 1-2005]

§ 138-21.3. Uses permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Neighborhood Commercial District table located at the end of this chapter.

§ 138-21.4. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Neighborhood Commercial District table located at the end of this chapter.

ARTICLE IX. Senior Citizen and Handicapped Housing District

§ 138-22. District regulations.

A. The regulations for Senior Citizen and Handicapped Housing Districts are intended to provide a means for the development of senior citizen and handicapped housing without departing from the spirit and intent of this chapter. In no case shall the regulations of this article be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of such district or occupants or residents of adjoining property. Senior Citizen and Handicapped Housing District as defined herein may be established only in accordance with the procedure specified in this article.

B. Application for the establishment of a Senior Citizen and Handicapped Housing District shall be made to the Town Board. The Town Board shall refer the application to the Town Planning Board within 30 days of the date of application. The Planning Board shall require the applicant to furnish site data in accordance with the applicable site plan laws in effect, which laws are by reference made a part of this chapter. Editor's Note: See Ch. 91, Site Plan Review.

C. The Planning Board shall approve, approve with modifications or disapprove such application and shall report its findings to the Town Board within 45 days of receipt of all required material.

[Amended 9-30-2003 by L.L. No. 4-2003]

D. The Town Board shall hold a public hearing on the proposal, with public notice as provided by law as in the case of an amendment to a zoning law.

E. The Town Board may then amend this chapter so as to define the boundaries of the Senior Citizen and Handicapped Housing District. Such action shall have effect only of granting permission for development of the preliminary plans filed with the Town Board. Such amendment of this chapter shall not constitute or imply a permit for construction or approval of construction plans.

F. In the event that the Planning Board disapproves such proposal or approval is granted with modifications which the applicant is unwilling to make, an affirmative vote of not less than 4/5 of the members of the Town Board shall be required to establish such Senior Citizen and Handicapped Housing District.

G. Upon approval of the Senior Citizen and Handicapped Housing District by the Town Board. Site plans prepared in accordance with Chapter 91, Site Plan Review, shall be submitted to the Planning Board for review and approval. Prior to the issuance of a permit to commence construction, the applicant shall post a performance bond guaranteeing installation of the required access roads to said Senior Citizen and Handicapped Housing District.

[Amended 9-30-2003 by L.L. No. 4-2003]

H. If construction work on the proposed district is not begun within time limits specified by the Town Board or such work is not completed within the period of time specified by the Town Board, approval of the application and all rights to the same regulations and restrictions as were effective before such approval shall become null and void, unless the Town Board, for good cause, authorizes an extension of either period. Such extension may be authorized after a public hearing.

I. All conditions imposed by the Town Board, including the performance of which are conditions precedent to the issuance of any permit necessary for the development to the entire site, shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any of all said area. Such conditions shall be part of any certificate of occupancy issued for any use of structure in such district.

J. The following special restrictions and regulations apply only to Senior Citizen and Handicapped Housing District:

(1) The minimum required plot area for a Senior Citizen and Handicapped Housing District shall be three acres.

(2) The total building area, including accessory buildings, shall not occupy more than 40% of the total lot area. Accessory buildings shall not occupy more than 10% of the total lot area.

(3) The maximum density shall be 16 dwelling units per acre.

(4) The minimum habitable space shall be 525 square feet. Each dwelling unit shall contain at least one bedroom, and no dwelling unit shall contain more than two bedrooms.

(5) Building heights shall not exceed the height limit of the zoning district designation in effect at the time of Senior Citizen and Handicapped Housing District zoning application.

(6) Buildings or portions thereof shall be set back from property lines a minimum of one foot for every foot of building height, plus one foot for every 10 feet of building length. In no case shall an accessory building be set back less than 25 feet from any property line or 60 feet from the road.

(7) Accessory buildings or portions thereof shall be set back from property lines a minimum of 10 feet, plus one foot for every foot of building height, plus one foot for every 10 feet of building length.

In no case shall an accessory building be set back less than 25 feet from any property line or 60 feet from the road.

(8) Buildings must be separated by a minimum of one foot for every two feet of building height. Building heights shall be determined by the taller building. Distance between buildings shall be a minimum of 20 feet.

(9) Driveways and interior roadways shall not be closer than 20 feet to property lines, except for entrance and exits. Interior roadways will be in accordance with town highway specifications.

(10) Parking areas shall not be closer than 15 feet to any building nor closer than 20 feet to any property line.

(11) On-site parking shall be provided at a rate of not less than one parking space for every unit.

(12) Curbs, curb cuts, sidewalks, landscaping, lighting, drainage, grading and other site work shall be approved by the Planning Board.

(13) Additional site development programs may be directed by the Town Board and/or its designee for any specific site and may be required to be formalized as deed covenants and restrictions.

(14) If after two years from the date of rezoning the Senior Citizen and Handicapped Housing District, a building permit has not been issued for said rezoned parcel, then said parcel shall revert to the previous zoning.

(15) No business or commercial establishments shall be permitted, except a limited general purpose store for the benefit of the tenants with a total area thereof not to exceed 500 square feet and/or coin-operated vending machines and/or coin-operated service machines.

K. Occupancy within a Senior Citizen and Handicapped Housing District is limited to elderly or handicapped families and to handicapped persons, as defined and discussed below.

(1) An "elderly or handicapped family" means:

(a) Families of two or more persons, the head of which (or his or her spouse) is 62 years of age or over or is handicapped;

(b) The surviving member or members of any family described in Subsection K(1)(a) above, living in a Senior Citizen and Handicapped Housing District with the deceased member of the family at the time of his or her death;

(c) A single person who is 62 years of age or over, or a nonelderly, handicapped person between the ages of 18 and 62; or

(d) Two or more elderly or handicapped persons living together or one or more such persons living with another person who provides essential care to said elderly or handicapped persons based upon a certification of such by a licensed physician provided by a tenant family or a prospective tenant family.

(2) A "handicapped person" means:

(a) Any adult having an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently and is of a nature that such ability could be improved by more suitable housing conditions; or

(b) A person who is developmentally disabled, i.e., if he or she has a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition found by the United States Secretary of Health and Human Service to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18 and which constitutes a substantial handicap to such individual.

ARTICLE X. Planned Unit Development District

Editor's Note: See also the Existing Planned Unit Developments Appendix located at the end of this chapter.

§ 138-23. Purpose.

The purpose of the planned unit development classification is to provide for the rezoning of land to residential, commercial and industrial development zones, either jointly or separately, in conformance with provisions and standards which ensure compatibility among all the land uses, foster innovations in site planning and development and encourage sound design practices. Provision is included for planned unit developments to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In planned unit developments, land and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein.

§ 138-24. Procedure.

The procedure for obtaining a change in zoning district to a planned unit development shall be as follows:

A. The owner of the land (or agent thereof, hereafter referred to as the "owner") shall apply in writing to the Town Board for a change in district to a Planned Unit Development District, said application to include seven copies of a sketch plan and narrative as described in § 138-25, Sketch plan, and seven copies of a completed environmental assessment form, Part 1. However, if the Town Board determines that the application does not merit review because it does not meet the objective of Chapter 138 and/or the Town Comprehensive (Master) Plan, it shall so notify the applicant, shall not refer the application to the Planning Board, and no further action on the application shall be taken. If the Town Board determines that the application does merit Planning Board review, the application, plus an additional 14 copies of the sketch plan and narrative and 14 copies of the completed environmental assessment form Part 1 shall be provide to the Planning Board.

[Amended 1-4-2005 by L.L. No. 1-2005]

B. The Town Board will review the application, and the Town Clerk shall forward two copies of the application, sketch plan, and environmental assessment form (EAF) to the Town Planning Board. However, if the Town Board determines that the application does not merit review because it does not meet the objectives of Chapter 138 and/or the Town Comprehensive (Master) Plan, it shall so notify the applicant, shall not refer the application to the Planning Board, and no further action on the application shall be taken. If the Town Board determines that the application does merit Planning Board review, the application shall be filed with the Town Clerk.

[Amended 9-30-2003 by L.L. No. 4-2003; 8-3-2004 by L.L. No. 5-2004]

C. After consideration by the Town Planning Board, the Secretary of the Planning Board shall forward a copy of the application, sketch plan and EAF (long form) to the County Planning Board in accordance with §§ 239-l and 239-m of the General Municipal Law.

D. The Planning Board shall review the application with the owner to determine if it meets the standards of this chapter as outlined in § 138-26, Planned Unit Development District standards. The Planning Board may require additional changes to the sketch plan as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the town.

E. In reaching its decision on the proposed development and changes, if any, in the sketch plan, the Planning Board shall consider the following:

- (1) The need for the proposed land use in the proposed location.
- (2) The existing character of the neighborhood in which the uses will be located.
- (3) The pedestrian circulation and open space in relation to structures.
- (4) The traffic circulation features within the site and the amount, location and access to automobile parking areas; the impact of the proposal on existing transportation systems.
- (5) The adequacy of the proposed public/private utilities, including water supply, sewage treatment and stormwater drainage facilities.
- (6) The height and bulk of buildings and their relation to other structures in the vicinity.
- (7) The proposed location, type and size of display signs, driveways and/or loading zones and landscaping.
- (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- (9) Such other matters as the Planning Board may consider pertinent.

F. As part of the sketch plan review phase, the owner shall prepare a proposed local law for the creation of the Planned Unit Development District. The proposed law shall follow the format of a model law provided by the Planning Board, and any recommendations of the Planning Board shall be incorporated into the proposed law. The Planning Board shall approve, approve with modifications or disapprove such application and shall make recommendation to the Town Board within 60 days after receipt of all requested submittals to the Planning Board.

G. The Town Board shall hold a public hearing on the proposal with public notice as provided by law as in the case of an amendment to a zoning law. The Town Board, in reaching its decision on the proposal, should consider the standards of this article.

H. If the Town Planning Board's recommendation is to disapprove the proposal or for substantial modification thereof, the Town Board shall not act contrary to such recommendation, except by a vote of not less than 4/5 of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

I. Upon approval of the application, the Town Board may amend the Zoning Map Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk or is available through

eCode360™. A copy of the map may be included in a pocket at the end of this volume, so as to define the boundaries of the Planned Unit Development District subject to the submission of a boundary and topographical survey of the property by a licensed engineer or land surveyor. The Town Board may attach to its zoning resolution any additional conditions or requirements it feels are necessary to fully protect the public health, safety and welfare of the community. Any conditions imposed by the Town Board shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area.

J. The law adopted by the Town Board will specify the owner's obligation to secure subdivision approval and/or site plan approval in accordance with the provisions of Chapter 104, Subdivision of Land, and Chapter 91, Site Plan Review, of the Code of the Town of Ballston. The law adopted by the Town Board will further specify that if after one year from date of approval of a Planned Unit Development District substantial site work has not begun, the approval given under the terms of this article is revoked and the land returned to the classification which is held prior to any action consummated pursuant to the provisions of this article. However, the applicant may, for valid reasons, request an extension of time from the Town Board.

K. The applicant shall reimburse the Town for all engineering and other professional fees incurred in review of the development project. The Town Board shall require payment of the applicant of an amount equal to the estimated cost of such professional fees to be held in escrow by the Town, which estimated cost shall be paid prior to the Town incurring any professional costs.

[Added 8-3-2004 by L.L. No. 5-2004]

§ 138-25. Sketch plan.

[Amended 9-30-2003 by L.L. No. 4-2003]

The sketch plan shall be to scale and shall delineate the parcel(s) to be developed. Definite boundary line information will be required. In addition, the sketch plan shall consist of the following elements:

A. Sketch plan based upon generalized topographical data (USGS five-foot contour interval) and soil conditions; said plan to show land use areas, approximate building locations, easements, natural features to be preserved, data concerning the number and type of residential units proposed and the amount (in area) of any other uses to be built.

B. Sketch plan to show proposed traffic circulation, including existing public roads to be used, on-site circulation and/or approximate parking and loading.

C. Schematic of proposed landscape and open space plan.

D. Sketches of typical structures proposed.

E. Proposed public utilities concept plan, including water supply, wastewater disposal and storm drainage facilities to be constructed.

F. Proposed construction sequence for buildings, recreation and open spaces, parking areas and public utilities and roads.

G. Traffic impact analysis. The applicant shall submit for review a traffic impact analysis to indicate the trip generations from the project and any potential impacts that may occur on the surrounding road network. The analysis should discuss any possible mitigation measures that may be required. Upon

review of the impact analysis, the Planning Board may require that a traffic impact study be performed with the scope of the report to be determined by the Planning Board and its engineering consultant.

H. Stormwater management. The applicant shall submit for review a stormwater management analysis that describes the existing runoff and hydrology of the project site and the impacts of the proposed project. The analysis should contain a description of how the runoff will be collected, treated and controlled in accordance with Town and New York State requirements. Upon review of the impact analysis, the Planning Board may require a stormwater management report containing, as a minimum, hydraulic computations, analysis and mitigation measures; additional scope of the report to be determined by the Planning Board and its engineering consultant.

I. Project narrative. A narrative description of the proposed project is required, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (school, traffic generation, population, utilities aesthetics and land use compatibility) and including the following:

- (1) Address of site (street and number, Tax Map block and section).
- (2) Name of applicant.
- (3) Type of proposed tenant/business.
- (4) Site zoning.
- (5) Description of existing site and use.
- (6) Description of intended site development and use.
- (7) Proposed gross floor area.
- (8) Building heights.
- (9) Number of dwelling units, where applicable.
- (10) Number of employees.
- (11) Hours and days of operation.
- (12) Proposed number of parking lots.
- (13) Site coverage statistics (building coverage, paved areas, green area, by percentage of site and square footage).
- (14) Impact on adjoining property: noise, visual, drainage, other.
- (15) Anticipated impact on services (quantify and discuss impacts): traffic, sewer, water, solid waste.
- (16) Storage and disposal method of chemicals used (solvents, soaps, etc.).

J. Any other information that the Planning Board may deem necessary for its review of the project.

§ 138-26. District standards.

[Amended 9-30-2003 by L.L. No. 4-2003]

The standards for Planned Unit Development Districts are to provide the Planning Board with a means of evaluating applications for the districts considering the provisions and general intent of this chapter. The Town Board may modify these standards based on review of written justification for such modifications provided by the applicant. Permitted uses: Uses within an area designated as a Planned Unit Development District are determined by the provisions of this section as well as the conditions of the approval of any actual planned unit development project.

A. Residential and mixed-use planned unit development shall permit principally residential and mixed uses of a variety of types that may be deemed appropriate by the Town Board for the area of construction.

(1) Minimum acres: five acres for residential and mixed uses.

[Amended 6-12-2006 by L.L. No. 5-2006]

B. Planned development business, commercial industrial planned unit development shall permit principally commercial, business and industrial uses of a variety of types such that may be deemed appropriate by the Town Board for the area under construction.

(1) Minimum area. The minimum area requirements for consideration of a Business, Commercial, or Industrial Planned Unit Development District shall be three contiguous acres of land.

[Amended 6-12-2006 by L.L. No. 5-2006]

(2) Location. The planned unit development may be applicable to any area of the town where the applicant can demonstrate that the characteristics of his or her holdings will meet the objective of this article.

(3) Density. Because land is used more efficiently in a planned unit development, improved environmental quality can usually be produced with greater density than is usually permitted in traditional zoning districts. The Town Board shall determine in each case the appropriate land use intensity and/or dwelling unit density for individual projects. The determination of land use intensity or dwelling unit density shall be thoroughly documented, including all facts, opinions and judgments justifying the selection.

(4) Ownership. The tract of land under application for consideration for a planned unit development 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 or their agent(s) of all property included in the project. In the case of multiple ownership, the approved plan shall be binding upon all property owners, and such owners shall provide written certification of such binding agreements.

C. Public benefits. Applicants proposing projects that require planned unit development approval pursuant to the requirements of Articles VI and VIIB of this chapter, are strongly encouraged to consider one or more the following public benefits towards justification of the proposed project and to offset any identified adverse impact(s).

[Added 6-12-2006 by L.L. No. 5-2006]

(1) Acquisition and/or construction of a new Town park or recreational facility.

(2) Improvements or rehabilitations to existing Town parks or recreational facilities.

(3) Implementation of one or more of the proposed improvements for the Route 67 Corridor outlined in the Route 67 Corridor Study, the Town of Ballston's approved Intended Transportation Plan, in addition to required transportation improvements as identified during the review process.

§ 138-27. Fees.

A. A nonrefundable fee as determined by the Town Board shall be paid to the Town of Ballston upon each application.

B. The applicant shall also be responsible for reasonable expenses (legal, engineering, etc.) incurred by the town in reviewing the application. The Town Planning Board will provide the applicant with a nonbinding, good faith estimate of these expenses within 30 days from the receipt of the application by the Town Board and referral to the Planning Board. The applicant shall have the right to appeal to the Town Board for a review of the estimate as determined by the Planning Board.

ARTICLE XA. Watershed Protection Overlay District

[Added 2-3-2009 by L.L. No. 3-2009]

§ 138-27.1. Introduction; purpose.

A. The Town of Ballston finds that special protection of Ballston Lake and its nearby lands within the Watershed Protection Overlay District where surface and groundwaters flow into Ballston Lake is necessary to minimize the ecological degradation of the Town's waterways, to preserve the lake's scenic character, to provide active and passive recreational opportunities in a clean environment, and to reduce the risk of harm to property and life from flooding. The purpose of the Ballston Lake Overlay District is to provide additional requirements and standards for protection of the quality of the water in this particular area of the Town that is identified on the Town Zoning Map. Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk or is available through eCode360. A copy of the map may be included in a pocket at the end of this volume.

B. The Watershed Protection Overlay District will meet the goals of protection of Ballston Lake, its nearby lands and the waters that flow from these lands, as outlined in the preceding paragraph. Chapters 91 and 92 of the Town of Ballston Code have provisions that apply to the Watershed Protection Overlay District. Within the Overlay District, as shown on the Town of Ballston Zoning Map, Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk or is available through eCode360. A copy of the map may be included in a pocket at the end of this volume. the underlying zoning shall remain in effect, except as modified below in this article. Modifications to the underlying zoning within the Watershed Protection Overlay District are related to density bonuses for residential development with water and sewer.

§ 138-27.2. Findings of fact.

It is hereby determined that:

A. Land development activities, loss of native vegetation, 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, pollution rates, and sediment transport and deposition;

B. Clearing and grading during construction and other land development activities increases soil erosion and adds to the loss of native vegetation necessary for viable land and water habitats;

C. Land development activities and associated increases in site impervious cover reduce water percolation into the soil, thereby decreasing groundwater recharge and increasing runoff;

D. Preserving vegetative cover can improve runoff and erosion rates. Typical examples include:

- (1) Tree canopies and ground covers protect soil surfaces from the erosive impacts of rainfall;
- (2) The surface cover provided by roots, leaves, and other plant matter slows the velocity of water, thereby reducing its sediment-carrying capability; and
- (3) Suitable plant matter cover can increase water percolation into the soil, thereby reducing runoff and increasing groundwater recharge.

E. Pollutants of concern having a negative impact on water quality are known to originate from construction activities, land development, from other land alteration activities, poorly performing or failing septic systems, and from the use of substances necessary for domestic, commercial, agricultural and industrial activities. These pollutants of concern are regulated by provisions in this article:

- (1) Silt;
- (2) Human pathogens and sewage-based nutrients;
- (3) Herbicides, pesticides, fungicides, and fertilizers;
- (4) Petroleum products and automobile fluids;
- (5) Garbage and yard waste.

F. Increased runoff negatively impacts receiving waters by changing the physical, biological and chemical composition of water resulting in unhealthy environments for aquatic life, other desirable species, and humans.

G. The adverse impacts on the waters of the Town can result in substantial economic losses and can harm public health and safety. These negative impacts are to be controlled and minimized through the appropriate regulation of land development and other activities within the Watershed Protection Overlay District.

§ 138-27.3. Definitions.

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

HAZARDOUS MATERIAL

Includes, but is not limited to:

- A. Paints, varnishes and solvents;
- B. Oil and other automobile fluids;
- C. Dissolved and particulate metals;
- D. Radioactive materials.

ILLEGAL DISCHARGE

Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § 138-27.5 of this article.

ILLICIT CONNECTIONS

Either of the following:

- A. Any drain or conveyance, on or under the ground's surface, which allows an illegal discharge to enter the storm drain system, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY

Per New York State SPDES General Permit for Stormwater Discharges Associated with Industrial Activity GP-0-06-002, any facility used for manufacturing, processing or raw materials storage at an industrial plant, including, but not limited to:

- A. Industrial plant yards;
- B. Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
- C. Material-handling sites where materials are stored, loaded, unloaded, transported, and conveyed of any raw material, intermediate product, final product, by-product or waste product;
- D. Refuse sites;
- E. Sites used for the application or disposal of process wastewaters (as designated by 40 CFR Part 401 of GP-0-06-002);
- F. Sites used for the storage and maintenance of material-handling equipment;
- G. Sites used for residual treatment, storage, or disposal;
- H. Shipping and receiving areas;
- I. Manufacturing buildings;
- J. Storage areas, including tank farms or raw materials, and intermediate and final products;
- K. Areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.

MINING

The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use, exclusive of manufacturing processes, at the mine location; the removal of such material through sale or exchange, or for commercial industrial or municipal use; and the disposition of overburden; tailings and waste at the mine location. Mining shall not include

the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MS4

Municipal separate storm sewer system. (See Chapter 91 definitions.)

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 Ballston;
- 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.

NONPOINT SOURCE POLLUTION

Pollution affecting a water body from diffuse sources rather than a point source which discharges to a water body at a single location. Nonpoint source pollution may derive from different sources such as agriculture, silvicultural practices and land development and generally contains sediment, pathogens, bacteria, nitrogen and phosphorus.

NONSTORMWATER DISCHARGE

Any discharge to the storm drain system that is not composed entirely of stormwater.

POLLUTANT

Includes, but is not limited to, the following:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects;
- E. Sewage, fecal coliform and pathogens from human waste;
- F. Dissolved and particulate metals;
- G. Wastes and residues that result from constructing a building or structure;
- H. Sediments and aqueous suspended particulates originating from disturbed soil surfaces, often associated with construction and other land improvement activities.

SEPTAGE OR SEPTIC SLUDGE

Partially treated sanitary waste.

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 FACILITIES OR PRACTICES

Systems designed to treat, detain, infiltrate and/or convey stormwater runoff. Such systems include detention basins, infiltration basins, treatment basins or units, storm sewer pipes, catch basins and swales.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee, the Municipal Engineer or other public official(s) designated by the Town of Ballston 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.

§ 138-27.4. Applicability.

A. The Watershed Protection Overlay District is superimposed over the basic zoning districts as set forth on the Zoning Map of the Town of Ballston, which is on file in the office of the Town Clerk. Editor's Note: The official version of the Zoning Map is on file in the office of the Town Clerk or is available through eCode360. A copy of the map may be included in a pocket at the end of this volume. Proposed land uses in the Ballston Lake Overlay District are subject to the requirements set forth in this section, in addition to those requirements and standards ordinarily applicable to the underlying districts. In case of conflict, the more restrictive regulation requirements shall apply.

B. Within the Watershed Protection Overlay District, the minimum lot size for residential development in the underlying zoning districts as set forth in this chapter is amended for projects with water and sewer. The density bonus given for water or sewer in the underlying zoning districts does not apply in the Watershed Protection Overlay District. Density bonuses are only given for development with water and sewer in the Watershed Protection Overlay District. Refer to the zoning tables in Chapter 138 for the following zoning districts: Editor's Note: The Zoning tables are located at the end of this chapter.

- (1) Rural.
- (2) Hamlet Residential.
- (3) Ballston Lake Residential.
- (4) Ballston Lake Waterfront.
- (5) Mixed Use Center Ballston Lake.
- (6) Mixed Use South.
- (7) Business Highway 1.
- (8) Business Highway 2.

C. Illicit discharges into, and illicit connections into, the municipal separate storm sewer system ("MS4") shall be governed by Chapter 92 of the Ballston Town Code. This portion of the Code, and any amendments to it, are intended to apply to the Watershed Protection Overlay District and the MS4.

D. It is recognized that some properties included within the boundary of the Watershed Protection Overlay District as depicted on the official Zoning Map of the Town of Ballston may not contribute to discharges of pollutants into Ballston Lake. Accordingly, any owner of property situate within the Watershed Protection Overlay District who believes that his or her property, or a portion of his or her property, does not contribute to discharges of pollutants into Ballston Lake, may, within one year of the effective date of this Article XA, Watershed Protection Overlay District, apply to the Town Planning Board in writing as follows:

(1) At least 30 days before a regular meeting of the Town of Ballston Planning Board an applicant shall file with the Town Planning Board an application that sets forth in clear language the basis for the contention that the property identified in the application by street number and Tax Map identification should not be included in the Watershed Protection Overlay District. The burden of proof will be on the applicant.

(2) The application shall include actual proof that surface waters drain away from Ballston Lake and not into the Ballston Lake Watershed and that it is unlikely that discharges identified in § 138-27.2E of this article and controlled by Chapters 91 and 92 of the Town of Ballston Code are likely to flow towards Ballston Lake.

(3) If the application makes reference to surveys of whatever kind and to engineering studies, those studies must be clearly identified in the application. If an engineer has been retained by the landowner to support the application, the engineer's report and supporting documentation must also be made a part of the application filed at least 30 days before the hearing by the Planning Board. Materials not made a part of the application when originally filed will not be considered as outlined below.

(4) The Planning Board may schedule the hearing for the next meeting after the application is filed, but shall not be required to hear any applications in less than 30 days' time measured from the filing of the application.

(5) If the Planning Board determines that it needs to seek further information from the Town Engineer, it may at any point during its consideration adjourn the hearing and seek the advice and input from the Town Engineer. The cost of such review shall be borne by the applicant. The hearing on the application shall not be adjourned for more than 60 days, except in extraordinary circumstances.

(6) Members of the public shall have the right to participate in the hearing if at least seven days before the hearing a notice of intention to participate is filed with the Planning Board. Said notice shall indicate the nature of the participation and shall outline the evidence, if any, to be presented to the Planning Board. If the Planning Board deems it advisable, it may request that the actual evidence be supplied by the members of the public who have requested time to speak about the application in advance of the hearing. In addition, members of the public may comment briefly on the application at the hearing notwithstanding the above if the person is not intending to offer evidence.

(7) After consideration of the evidence presented by the applicant and after consideration of comment from the Town Engineer and members of the public, the Planning Board shall make a recommendation to the Town Board to remove the property in whole or in part from the official Watershed Overlay Protection District or that the property not be removed.

(8) The Town Board will thereafter hold a public hearing on the Planning Board's recommendation and make whatever change it deems appropriate based on the recommendation of the Planning Board and upon the information received at the public hearing. The applicant will be given at least 30 days' notice of said public hearing. The Town Board shall render its decision not more than 30 days after the hearing and shall vote in an open meeting on whether to accept, reject or modify the recommendation of the Planning Board.

§ 138-27.5. Exemptions.

A. The following discharges are exempt from the discharge prohibitions established by this article:

(1) Municipal waterline flushing of other potable water sources;

- (2) Landscape and agricultural irrigation or lawn watering;
- (3) Groundwater, including natural artesian springs, pumped water and potable well water;
- (4) Foundation or footing drains;
- (5) Crawl space pumps;
- (6) Air-conditioning condensation;
- (7) Noncommercial washing of vehicles;
- (8) Natural riparian habitat or wetland flows;
- (9) Ornamental or landscaped water basins;
- (10) Swimming pools (if dechlorinated — typically less than one PPM chlorine);
- (11) Fire-fighting activities;
- (12) Any other water source not containing pollutants, as defined herein.

B. Exempt discharges, as defined above, shall be disposed on site in a manner that minimizes or eliminates soil erosion into surface waters or the MS4. Fire-fighting activities are exempt from the conditions of this clause.

§ 138-27.6. Prohibited practices.

The following practices shall be specifically prohibited within the Ballston Lake Overlay District:

- A. Disposal of hazardous material or solid waste;
- B. Treatment of hazardous material, except rehabilitation programs authorized by a government agency for treating hazardous material;
- C. Dry cleaning, dyeing, printing, photo-processing, and any other business that stores, uses or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous material;
- D. Disposal of septage or septic sludge to include any point source discharge into Ballston Lake or into any waterway flowing into Ballston Lake;
- E. The bulk storage of coal and/or salt, except in Town-approved impervious structures. The impervious structure shall be submitted to the Town of Ballston Building Department for review and approval;
- F. The storage of hazardous material in an environment where weather, human activities, and other disturbances may reasonably be anticipated to cause such substances to spill, leak over time or otherwise be dispersed into the environment in a manner inconsistent with its intended use;
- G. All mining, unless permitted by the New York State Department of Environmental Conservation;

H. The disposal or discharge of any hazardous or radioactive material onto any lands, waters, stormwater conveyances, or disposal conveyances for subsequent treatment or otherwise within the Watershed Protection Overlay District is prohibited, except as allowed by a valid permit from the New York State Department of Environmental Conservation. Examples of prohibited disposal include, but are not limited to:

- (1) The disposal of hazardous materials by means of discharge to a septic system;
- (2) The use of septic system cleaners which contain hazardous materials;
- (3) Land spreading of septage or septic waste.

§ 138-27.7. Review and approval.

A. For any application for development within the Watershed Protection Overlay District that requires site plan approval or subdivision approval by the Town of Ballston Planning Board, in the underlying zoning district, the applicant shall include the following information, in addition to the site plan or subdivision approval requirements of the underlying district. The applicant shall review Chapter 91, Stormwater Management and Erosion and Sediment Control, for specific design requirements within the Watershed Protection Overlay District.

- (1) Topography and characteristics of the natural runoff on the site.
- (2) Clear indication of steep slopes (15% or greater), surface waters, and shorelines.
- (3) Description of the locations and general characteristics of soil types on the site (with particular reference to the soil's percolation).
- (4) Description of the locations, materials, dimensions, grades and flow directions of finished pavements and other impervious surfaces, including but not limited to streets, curbing, driveways, sidewalks, steps, paths, compacted earth, roofs, and decks.
- (5) The location, proximity to surface waters and steep slopes, and general characteristics of areas of existing vegetation including the identification of all individual trees with a diameter of eight inches or greater, measured at a height of four feet from the ground, as well as stands of trees and wooded areas, within areas of proposed disturbance.
- (6) A description of proposed measures to protect trees during construction, including but not limited to any of the following:
 - (a) Conspicuous marking that avoids damage to the tree bark;
 - (b) Fencing along the dripline.
- (7) A description of existing vegetation buffers within 50 feet of surface waters, which shall remain unaltered by construction activities.
- (8) Proposed vegetation buffers within 50 feet of surface waters, which shall reduce the impacts of stormwater runoff from the proposed site alterations.

(9) Proposed location, phasing, and type of construction and stormwater control practices to be implemented on site for proposed land disturbances greater than the square footage threshold for the underlying district which are designed to:

- (a) Ensure no increase in turbidity that will cause a substantial visible contrast to the natural condition of receiving surface waters;
- (b) Ensure no increase in suspended, colloidal and settleable solids that will cause deposition or impair receiving surface waters for their best usages as defined by New York State Water Quality Classifications;
- (c) Ensure no residue from oil and floating substances, no visible oil film, nor globules of grease.

(10) In the case where the applicant seeks to utilize existing or planned off-site stormwater management facilities, the applicant shall provide a written certification that the owner of the off-site facilities will accept the runoff and be responsible for its adequate treatment to a level acceptable to the Town of Ballston Planning Board.

(11) A certificate acceptable to the Town of Ballston Planning Board or designated official that all materials to be used in construction within the Ballston Lake Overlay District are free of leachable toxic substances. Pressure-treated lumber not containing chromated copper arsenate (CCA) shall be deemed to be free of leachable toxic substances.

(12) Waivers to the provisions of this section may be granted at the discretion of the Town of Ballston Planning Board if the Board is reasonably assured that the proposed site development activities and alterations will not result in stormwater runoff impacts on surface or groundwaters within the Watershed Protection Overlay District. If the Board finds that any of the information requirements are not necessary to conduct an informed review, it may waive such information requirements, as it deems appropriate. Waivers may be granted of the Board's own initiative or at the request of an applicant. Waivers shall be made in writing or in approved meeting minutes and shall state reasons why a waiver was granted.

B. In considering and approving a site plan within the Watershed Protection Overlay District, the Town of Ballston Planning Board shall consider the following matters as they relate to the proper protection of surface waters in the Watershed Protection Overlay District from erosion, increase pollutant load, flooding, and nonpoint sources of pollution. The Town of Ballston Town Board shall consider these matters when considering an application for creation of a planned unit development as they relate to the proper protection of surface waters in the Watershed Protection Overlay District from erosion, increase pollutant load, flooding, and nonpoint sources of pollution:

- (1) Whether the preservation of trees and vegetation on site is likely to reduce the impacts of stormwater runoff into surface waters;
- (2) Whether travel time to watercourses is sufficient for those pollutants whose potential impact is neutralized by delayed contact with Ballston Lake;
- (3) Whether development shall be prohibited on steep slopes (greater than or equal to 15%) to minimize erosion and associated impacts to Ballston Lake and its tributaries;
- (4) The size, appearance, character, suitability, and safety of proposed temporary or permanent stormwater control practices and facilities;

(5) The ability of off-site stormwater management facilities to receive, control, or otherwise treat stormwater runoff from the site;

(6) The minimization or elimination of potential flood damage to public utilities and facilities;

(7) The temporary or permanent use of specific materials on site and their likely contributions of pollutants to surface waters;

(8) Where two or more dwelling units share a common sewage disposal system, a perpetual maintenance contract enforceable by the Town shall be required;

(9) The Town of Ballston Town Board has the right, as a Board of Health, to grant waivers from New York State Department of Health standards for both new and replacement septic systems. If a waiver is granted, the Board shall consider whether the sewage disposal system shall be monitored, inspected and/or maintained regularly, to ensure proper functioning and protection of the water quality of Ballston Lake and its tributaries. If a septic system design is in conformance with Town and New York State Department of Health standards, monitoring, inspections and maintenance shall not be required as a condition of approval.

C. Before granting approval of any subdivision, special permit, site plan, variance or zoning amendment that includes property situate within the Watershed Protection Overlay District, the reviewing board may impose appropriate conditions as it deems necessary, and shall make a written finding of fact that the proposed development has been designed in a manner that minimizes damage to water resources consistent with this chapter.

D. New and replacement septic systems within the Watershed Protection Overlay District must be designed by a licensed professional engineer, or a person licensed or registered in the State of New York and authorized by the State Education Law to design the systems described in 10 NYCRR Appendix 75-A, as per Town Code Chapter 73, Health and Sanitation, § 73-2.

§ 138-27.8. Agricultural uses.

Agricultural uses are valued within the Town of Ballston. All agricultural uses within the Watershed Protection Overlay District shall strive to reduce impacts to water resources by minimizing soil erosion and nonpoint source pollution.

A. Agricultural uses as defined in § 301 of Article 25-AA of the NYS Agriculture and Markets Law, and farm conservation plans prepared by the Saratoga County Soil and Water Conservation District, the USDA Natural Resources and Conservation Service or a certified conservation planner, are exempt from the provisions of this article.

B. Agricultural uses exempt from the provisions of this article should strive to follow the recommendations in the Agriculture Management Practices Catalogue for Nonpoint Source Pollution and Prevention and Water Quality Protection in New York (1992) as published and amended by the Bureau of Water, New York Department of Environmental Conservation.

§ 138-27.9. Industrial uses.

Industrial uses shall be permitted in the Watershed Protection Overlay District in conformance with the underlying zoning district. All industrial uses within the Ballston Lake Overlay District shall provide supporting documentation to the Town of Ballston Stormwater Management Officer that the use conforms to the requirements of the New York State Department of Environmental Conservation (NYSDEC) under the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity,

Permit No. GP-0-06-002, and any subsequent revisions. The applicant shall submit the following documents:

- A. Copy of certificate of no exposure or notice of intent or termination (NOIT) form;
- B. Acknowledgement of permit coverage under GP-0-06-002, and copies of all required sampling results, annual certification reports, the project's stormwater pollution prevention plan (SWPPP) and performance standards established by NYSDEC;
- C. Acknowledgement of permit coverage under an individual SPDES permit by NYSDEC and all supporting documentation required by NYSDEC under that permit.

§ 138-27.10. Severability.

Should any section or provision of this article be declared, adjudged or ordered null, void, voidable, or invalid by a court of competent jurisdiction, such finding of invalidity shall not affect the validity of the remaining portions of this article.

§ 138-27.11. When effective.

This article shall take effect upon filing with the Secretary of State of the State of New York.

ARTICLE XI. Signs

§ 138-28. Exempt signs.

- A. All signs and billboards that are in compliance with the effective law in existence at the time of the enactment of this chapter shall be exempt from the restrictions of this chapter. However any alteration or reconstruction of such existing signs, other than minor repairs or refurbishment of existing display, shall comply with the provisions of this chapter.
- B. All official, municipal, traffic, school, public utility signs or other signs required by law or incidental to a legal proceeding shall be exempt.

§ 138-29. Permit required.

A permit shall be required prior to the erection, alteration or reconstruction of any sign unless otherwise exempted by this chapter. Alteration and reconstruction shall be considered any activity that changes the size or location of the sign.

§ 138-30. Directional signs.

- A. Permits are not required for the erection and maintenance of directional signs for the guidance of the public. Such signs shall not exceed two square feet in area, and the extreme top shall not exceed four feet in height above the ground. Such signs shall contain only the name of the establishment having goods and services for sale, the name of such goods and/or services and directional guidance.
- B. Directional signs must be placed within two highway miles of the establishment.
- C. Directional signs may not exceed four in number per establishment.

§ 138-31. Entrance and exit signs.

A. Signs bearing only the words "enter," "entrance" or "exit" or other similar words for the control of traffic shall not require a permit.

B. Such signs shall not exceed three square feet in area, and the extreme top of the sign shall not exceed four feet in height above the ground.

§ 138-32. Emergency signs.

All temporary emergency signs (e.g., caution, road closed, construction) shall not require a permit.

§ 138-33. Sign requirements.

A. Lighting and motion.

(1) Signs shall be nonflashing. Illumination shall not cause glare which adversely affects neighboring properties and traffic.

(2) Signs shall be nonanimated and nonrevolving.

B. Ground clearance.

(1) Freestanding signs larger than eight square feet in area must stand at least three feet above the ground over their entire length.

(2) Signs, freestanding, mounted or temporary, may not exceed 25 feet in height from the extreme top of the sign to the ground.

C. Setbacks. All signs, excluding temporary directional signs, shall comply with minimum setback requirement of 35 feet, measured from the center line of the roadway on which subject property fronts to that portion of the sign nearest the roadway center line. In addition, no sign shall be located, by measurement to the nearest portion of the sign, within 15 feet of the edge of the roadway pavement.

D. Physical composition. Signs shall be constructed of durable materials and shall be maintained in good condition. It shall be the duty of the owner and occupant of lands or buildings having signs thereon to maintain them free of faulty wires, loose fastenings and any other conditions that, in the opinion of the Zoning Enforcement Officer, would render such signs unsafe and hazardous to members of the public. The Building Inspector may cause dilapidated signs to be removed 60 days after written notification of the sign owner. The Building Inspector's decision may be appealed to the Zoning Board of Appeals during the above-described 60 days.

E. Location.

(1) Signs shall not obstruct vision at intersections, driveways or entrances and exits to establishments.

(2) Signs shall not project beyond property lines or over public roads or sidewalks.

(3) Signs shall not be attached to public utility poles.

(4) No sign shall be placed on the roof of any building.

F. Use. All signs, excluding directional and temporary, shall be accessory to the principal use where they are erected.

G. Message composition. Sign design and message shall be in keeping with the intent of this chapter to promote the health, safety, morals and general welfare of the town and its residents.

§ 138-34. Temporary signs.

A. Temporary signs shall not require a permit when in accordance with the requirements listed in Subsection B, C or D of this section and all other applicable requirements listed in this chapter.

B. Real estate signs. Unlit signs advertising sale, lease or construction of or on the premises shall be allowed without a permit and shall not exceed 12 square feet in area. One such sign is permitted per street frontage of the premises. Such signs must be located upon the immediate premises.

C. Political and campaign signs.

(1) Said signs may be erected not earlier than 45 days prior to said election and shall be removed within 15 days following said election.

(2) In any zone, only one stationary sign per candidate is permitted on any one parcel of land and shall not exceed six feet in height. The total number of signs on any one parcel shall not exceed a total area of 32 square feet.

D. Other temporary signs (i.e., those advertising a specific event with a predetermined beginning and ending date, such as garage sales, special business sales or community organization functions). Such temporary signs shall not be erected more than 14 days prior to the beginning of the event and they shall be removed within seven days following the termination of the event. If these restrictions are not obeyed, the Building Inspector may have such temporary signs removed at the property owner's expense.

§ 138-35. Billboards.

[Amended 9-30-2003 by L.L. No. 4-2003]

An overlay zone is hereby established for billboard signs within a portion of the Commercial Zone along Route 50, from Brookline Road to Mourningkill Drive.

A. A billboard may be illuminated, provided that all light sources shall be designed, shielded, arranged and installed to confine or direct all illumination to the surface of the billboard and away from adjoining properties. Light sources shall not be visible from any street or any adjoining properties. Billboards may contain or include such public service information as time, date, temperature, weather, or similar information.

B. No billboard shall be erected on or attached to any building.

C. No billboard or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices.

D. No billboard shall exceed 700 square feet total for both faces.

E. No billboard shall be in excess of 30 feet in height above the average existing grade level at the billboard.

F. A billboard and its structure shall be maintained, including the change of the advertising message, the repairing and replacing of component parts and the performance of other acts as incident to the upkeep of the billboard.

G. No billboards shall display advertising matter of an indecent or obscene nature.

H. No billboard shall confuse, mislead or resemble any government billboard.

I. Billboards shall be separated from each other by a distance of at least 300 feet, except that two such billboards may be arranged on an angle or back-to-back.

J. Only two billboard faces shall be permitted on any one structure or support.

K. All sign applications shall be allowable only by special use permit within the overlay zone. Application shall be made to the Planning Board for site plan review.

L. No billboard shall be erected within 25 feet of any building.

§ 138-35.1. Construction specifications.

[Added 9-30-2003 by L.L. No. 4-2003]

All electrical work shall be in accordance with Underwriter's Laboratories, Inc. (UL) standards.

§ 138-35.2. Building permit required for billboards; restoration.

[Added 9-30-2003 by L.L. No. 4-2003]

A. After the effective date of this article and except as otherwise herein provided, no person shall erect any billboards as defined herein without first obtaining a building permit from the Superintendent of the Building Department.

B. Nothing in this article shall prevent the replacement or restoration of an existing billboard or its supporting structure which has been destroyed or which has been deemed by the applicant to be in need of replacement. Such replacement or restoration shall be permitted, provided that the billboard face following the replacement or restoration is to the identical specifications, size, location and appearance as existed prior to said replacement or restoration.

§ 138-35.3. Revocation of billboard permits.

[Added 9-30-2003 by L.L. No. 4-2003]

The Superintendent of the Building Department shall revoke such billboard permit 14 days after written notice has been given to the owner on record of said billboard for any of the following conditions, provided that said condition has not been corrected within the fourteen-day period:

A. Failure to obtain permission from the Superintendent of the Building Department to structurally alter the billboard.

B. Failure to maintain any billboard in accordance with the judgment of the Superintendent of the Building Department. This would include but not be limited to the following:

- (1) That the structure be free from all hazards, such as faulty wiring, loose fastening or supports, etc.
- (2) That the structure remain safe, secure and in no way a menace to the public.
- (3) That the structure be maintained in a clean, neat condition.

§ 138-35.4. Removal of certain billboards.

[Added 9-30-2003 by L.L. No. 4-2003]

A. Any existing billboard not licensed or for which the permit has been revoked under § 138-35.3 of this article must be removed within 14 days after written notification to the billboard owner and/or landowner. In the event that said billboard is not removed within the specified time limit, the Town may remove said billboard and assess all costs and expenses incurred in said removal against the billboard owner and/or the owner of the land on which said billboard is located.

B. The Superintendent of the Building Department may cause any billboard which is a source of immediate peril to persons or property to be removed summarily and without notice.

§ 138-35.5. Nonconforming billboards.

[Added 9-30-2003 by L.L. No. 4-2003]

A. Any billboard in existence at the effective date of this article that does not comply with this article shall be deemed nonconforming and shall be allowed to remain as such.

B. No nonconforming billboard shall be reconstructed or structurally altered except as provided for in §§ 138-35.2 and 138-35.5C of this article.

C. Once a nonconforming billboard has been removed it cannot be replaced unless it is located in the overlay zone.

§ 138-36. Interior signs.

Signs contained wholly on the interior of a building and intended for exterior viewing shall not require a permit. Such signs shall be exempt from all other provisions of this chapter.

§ 138-37. Zoned district regulations.

A. Rural.

- (1) One customary professional and home occupation sign not exceeding two square feet in area shall be permitted.
- (2) One real estate sign not larger than 12 square feet is permitted when placed on the properties for sale, rent or lease.

(3) One sign for identifying each use permitted in this district by Article VII of this chapter, not larger than 20 square feet, is permitted.

B. Industrial: Signs permissible include those permissible for Rural Districts, plus those advertising a business or activity being conducted on the premises. A maximum of two signs, one of which may be freestanding, shall be permitted. No sign shall exceed 40 square feet in area and all signs shall be located on the premises.

[Amended 4-7-2009 by L.L. No. 6-2009]

C. Residential. All signs allowed in a Rural District shall be permitted, provided that the property use is permissible in a Residential District in accordance with the currently effective law.

D. Business Highway and Mixed-Use District signs are determined by the design standards. Editor's Note: The design standards are on file in the Town offices or available through eCode360™.

[Added 4-7-2009 by L.L. No. 6-2009 Editor's Note: This local law redesignated former Subsection D as Subsection E.]

E. Planned unit development. Only signs in accordance with the currently effective law and authorized by the Town Board are permissible.

§ 138-38. Administrative procedures.

A. Applications for sign permits shall be issued at the Town Clerk's and Building Inspector's offices. Sign permits shall be issued by the Building Inspector.

B. The applications shall include a description of the sign to be erected, altered or reconstructed, including the message to be displayed, physical composition and location of the sign. No permanent sign requiring a permit will be allowed to be placed on property not owned by the person seeking the permit without the express written consent of the property owner, his or her authorized agent or tenant upon whose property the sign is to be located.

C. A fee shall be payable at the time the permit is issued. No fee shall be levied if the sign is included in a Planning Board approved site plan.

D. The Building Inspector shall have the right to refuse any such permit application if, in his or her opinion, the application does not comply with the requirements of this chapter. If an application is refused, the applicant may apply to the Zoning Board of Appeals for the granting of a variance under this section.

[Amended 9-30-2003 by L.L. No. 4-2003]

§ 138-39. Conflict with other provisions.

When any provision of this article conflicts with the provisions in other sections of this chapter, the provisions of this article shall apply.

§ 138-40. Authority of Zoning Board of Appeals.

The Town of Ballston Zoning Board of Appeals shall have the authority to issue any and all required permits as required and to interpret this regulation.

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.

§ 138-47. Liquid or solid wastes.

No discharge into any present or future disposal system, public or private, or streams, or into the ground, of any materials of such nature or temperature as to contaminate groundwater supply or any natural body of water shall be permitted.

§ 138-48. Radioactivity.

No activities which emit hazardous radioactivity at point, as defined by federal and/or New York State government standards, shall be permitted.

§ 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.

§ 138-50. Fire and explosion hazard.

No process or storage of materials in such manner as to create undue hazard by reason of fire explosion shall be permitted.

§ 138-51. Unsanitary materials.

No material shall be stored either indoors or outdoor in a manner that facilitates the breeding of vermin.

§ 138-52. Electrical interference.

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

ARTICLE XIII. Lighting

§ 138-53. Regulation of use of lighting.

In addition to the regulations with respect to lights that create traffic hazards, as described in § 138-55, Distracting lights, the Zoning Board of Appeals will also be empowered to determine whether lights are being used in such a way that their direction or intensity is an abuse to those in the vicinity who are engaged in the lawful use of land. For example, it shall be considered unlawful to have a spotlight of substantial intensity directed at nearby residence. Editor's Note: The four articles which originally followed this section have been moved to individual chapters of the Code, as follows: Article 13, Electrical Code, is now Ch. 56, Electrical Standards; Article 14, Standards of Sanitation, is now Ch. 73, Health and Sanitation; Article 15, Unsafe Buildings, is now Ch. 52, Buildings, Unsafe; and Article 16, Dumping, Storing, Placing of Solid Waste, is now Ch. 96, Art. III.

ARTICLE XIV. Traffic Hazards

§ 138-54. Visibility at intersections.

[Amended 4-7-2009 by L.L. No. 6-2009]

A. On any corner lot, no obstruction higher than 2 1/2 feet above the center line of the street elevation shall be permitted to be planted, placed, erected, or maintained within the triangular area formed by the intersecting pavement lines, or their projections, where corners are rounded, and a straight line joining the pavement lines at points 50 feet distant from their point of intersection.

B. The minimum clear vision zone distance shall be 25 feet from the edge of the pavement at an intersection.

§ 138-55. Distracting lights.

No artificial lights or reflecting device shall be located or displayed where such lights or devices interfere with or compete for attention with traffic signals or divert the attention of operators of motor vehicles or otherwise create traffic hazards.

ARTICLE XV. Off-Street Parking and Loading

[Amended 9-30-2003 by L.L. No. 4-2003; 9-5-2006 by L.L. No. 6-2006]

§ 138-56. Off-street parking.

A. Intent.

(1) Off-street parking spaces shall be required for all structures and uses constructed, altered, or rebuilt after the effective date of this chapter, except that parking spaces shall not be required for

structures in existence on the effective date hereof that are rebuilt or repaired as a result of damage or destruction by causes beyond the control of the owner or lessee. This exception shall not permit the rebuilding or repair of a building having a greater number of stories or square feet of ground space than the building damaged or destroyed unless provision is made for off-street parking as provided in this chapter. All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Zoning Board of Appeals may issue special permits for parking spaces to be on any lot within 500 feet of the building, if it determines that it is impractical to provide parking on the same lot with the building.

(2) Off-street parking space shall be provided for all dwellings. No portion of the right-of-way of an existing or proposed street or highway shall be used for parking space(s) for a residential use unless it is part of a proposed development in the Mixed Use or Business Highway 1 and 2 Districts where on-street parking is encouraged on internal roads and secondary streets. A parking space may be fully enclosed (as a garage), covered (as a carport) or open. For any buildings having more than one use, parking space(s) shall be required for each use.

(3) The number, size and dimensions of parking spaces suitable for use by the physically handicapped shall comply with the requirements set forth in the New York State Uniform Fire Prevention and Building Code. Each area reserved for handicapped off-street parking shall consist of at least 320 square feet, with a minimum width of 16 feet. Spaces in a lot shall have a minimum clear width of eight feet zero inches and an adjoining access aisle having a minimum clear width of eight feet zero inches. Two accessible parking spaces are permitted to share a common access aisle.

B. Parking design standards. For all projects in the Mixed Use Districts and the Business Highway 1 and 2 Districts requiring site plan, special use permit or planned unit development approvals, the design standards, principals and procedures for on- and off-street parking established in Appendix 1, Section 19, of the Town of Ballston Zoning Code entitled "Mixed Use and Business Highway District Design Standards" Editor's Note: Appendix 1 is on file in the Town offices or is available through eCode360™. shall apply.

C. Schedule of off-street parking.

Use	Number of Parking Spaces Required
Banks	1 per 200 square feet of gross floor area, plus 2 stacking spaces for each drive-through lane, plus 10 additional stacking spaces
Business offices or professional offices	1 per 300 square feet of floor area
Beauty parlors, barbershops and similar personal services	3 per employee
Boarding, rooming or lodging homes	1 per rental unit, plus 1 space per employee
Bowling establishments	5 per lane
Car washes	1 per employee, plus 5 stacking spaces per self-wash bay, plus 10

Use	Number of Parking Spaces Required
	stacking spaces per automatic bay
Churches	1 per 3.5 seats
Colleges, universities and equivalent parochial schools	5 per classroom, plus 1 per faculty member, plus bus spaces equal to number of school buses
Commercial recreation	1 per 2 persons' maximum capacity
Convenience stores	1 per 100 square feet of gross floor area; minimum of 5
Convention halls	1 per 2 persons' maximum capacity
Convalescent, nursing and other health homes and institutions	1 per 4 beds, plus 1 per employee, plus 1 per staff doctor
Day-care centers or nursery schools	1 per employee, plus 1 per 20 children, plus 1 stacking space per 10 children for pickup and drop-off
Drive-through services	2 stacking spaces per drive-through lane, plus 10 additional stacking spaces
Private or parochial schools	2 per classroom, plus bus spaces equal to number of buses
Farm or nursery stands	1 per 100 square feet of gross floor area
Fast-food establishments	1 per every 2 seats, plus 1 per each employee in the maximum shift or 1 per 100 square feet of gross floor area
Home occupations	1 per 300 square feet of gross floor area. All off-street parking is to be located in the existing driveway of the home.
Hospitals	1 per 2 beds, plus 1 space per 2 employees, plus 1 space per staff doctor
Hotels	1 per room, plus 1 per employee in the maximum shift
Instructional facilities, seminars and/or training facilities alone or in conjunction	1 per instructor and 1 per every 2 students or participants

Use	Number of Parking Spaces Required
with another use	
Laundromats	1 per washing machine
Libraries	1 per 250 square feet of gross floor area
Manufacturing/industrial establishments	1 per each employee or 1 per 400 square feet of gross floor area, whichever is greater
Medical offices	1 per 175 square feet of floor area
Mortuaries or funeral parlors	6 per chapel or parlor room, plus 1 per funeral vehicle, plus 1 per employee
Motels and tourist courts	1 per rental unit, plus 1 per employee in the maximum shift
Multifamily residential structures	2 1/2 per dwelling unit
Multifamily senior citizen housing	1 per 2 dwelling units
Private clubs, lodge halls and union headquarters	1 per 2 persons maximum occupancy
Research and development laboratories	1 per 225 square feet of gross floor area of office space, plus 1 per employee in areas other than office space
Restaurant or other eating place (other than fast-food establishments)	1 per each 5 seats, plus 1 per each employee in the maximum shift
Retail stores	1 per 100 square feet of gross floor area
Single-family residential	2 per dwelling unit
Service stations (automobile)	2 per bay and 1 per employee
Theaters, auditoriums and places of assembly with fixed seats	1 per each 8 seats
Warehouse - distribution	1 per 500 square feet of gross floor space or 1 per each employee in the maximum shift
Wholesale businesses	1 per 200 square feet of customer sales and office area, plus 1 per

Use

**Number of Parking Spaces
Required**

employee in the maximum shift in
storage and service areas

D. Reserved/banked parking. If the Planning Board finds that compliance with the off-street parking requirements herein would have an adverse impact upon the physical environment or visual character of the area, and if the Board also finds that all of the parking required in the Schedule of Off-Street Parking will not be necessary for the anticipated use of the site, the Planning Board may reduce the amount of parking required to be constructed, provided that sufficient usable land is set aside to satisfy the prescribed parking requirements in the future should the need for such additional parking arise. The Planning Board shall, as a condition of any approval granted, retain the right to require the owner of the property to construct such additional parking whenever it finds that such parking is needed. If a proposed use is not listed in the Schedule of Off-Street Parking, the Planning Board shall use its discretion to determine the amount of parking to be required.

E. Shared parking.

(1) Nothing contained in this chapter shall be interpreted to prevent the Planning Board from requesting, in any Mixed Use or Business Highway District, the provision of shared parking lots for one or more uses located on separate lots or on common lots. Parking spaces located in a joint parking lot may be used to satisfy the off-street parking requirements of this article, provided said spaces are located within 500 feet walking distance of the lot containing the land use they are intended to serve, as measured along the public right-of-way. In no instance shall parking spaces in a joint parking lot that are devoted to meeting the parking requirements of one land use be used to meet the parking requirements of another land use.

(2) Application of shared parking. Applicants for new developments or redevelopment in the Mixed Use and Business Highway Districts are encouraged to examine the feasibility of using shared parking arrangements. Factors to be evaluated to establish shared parking arrangements should include operating hours, seasonal/daily peaks in parking demand, the site's orientation, location of access driveways, availability of transit service, accessibility to other nearby parking areas, pedestrian connections, distance to parking area, availability of parking spaces, and cooperation of adjacent owners.

(3) Calculation of parking spaces required with shared parking.

(a) The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute (ULI) Shared Parking Report, Institute of Transportation Engineer's (ITE) Shared Parking Guidelines, or other methodologies approved by the Planning Board. A formal parking study may be waived by the Planning Board for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based on well-recognized sources of parking data, such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.

(b) The applicant shall determine the minimum number of parking spaces required for shared parking arrangements or mixed use developments by utilizing the following example procedures:

[1] Step 1: Determine the number of parking spaces that should be provided for each land use separately in parking codes by multiplying the parking code requirements by the gross square feet (GSF) of each individual use and then sum the results. That is, parking required equals parking rate times GSF of development.

[2] Step 2: Based on the hourly variation in parking demand, determine the peak parking demand for the combined demand of all the uses in the development. Standardized data such as from the ULI Parking Report should be used to estimate hourly variations. Field studies can also be performed on similar land uses within the jurisdiction or adjacent municipalities to establish the hourly variation patterns. This analysis may be needed for both weekdays and weekends, depending on the type of uses involved, and may need to consider seasonal peak periods.

[3] Step 3: Compare the calculations of the two steps above, and the lesser of the two peak parking demands shall be used as the minimum number of parking spaces that need to be provided.

(4) Distance to parking spaces and pedestrian connection requirements. Shared spaces for residential units must be located within 300 feet of dwelling unit entrances they serve. Shared spaces at other uses must be located within 500 feet of the principal building entrances of all sharing uses. Clear, safe pedestrian connections must be provided.

(5) Agreement between sharing property owners. If a privately owned parking facility is to serve two or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces is required. Shared parking spaces shall be subject to appropriate deed restrictions (or other legal instrument), as approved by the Planning Board Attorney, binding the owner of the parking spaces and his/her heirs and assigns to provide and maintain the required number of spaces for the land use that they are intended to serve either throughout the existence of such land use, or until such spaces are provided elsewhere.

(6) Shared parking plan. The Planning Board, at its discretion, may require that a shared parking plan be submitted. Shared parking may be shown on the site plan, landscaping plan or as a separate document. The shared parking plan shall include one or more of the following:

(a) Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.

(b) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).

(c) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.

§ 138-57. Off-street loading.

A. Off-street loading facilities shall be provided for each nonresidential use and shall be so arranged as not to interfere with pedestrian or motor traffic on the public highway or any adjacent residential area. Such off-street loading facilities shall be confined to the side or rear yard, and screening shall be provided to minimize the view of any off-street loading or commercial use from any point along a property line common to any residential use or from any street. The number and dimension of the off-street loading spaces shall be determined by the Planning Board.

ARTICLE XVI. Space Regulations

§ 138-58. Existing small lots.

The Zoning Board of Appeals may issue a variance for the erection of a dwelling on any lot separately owned or under contract of sale and containing, at the time of passage of this chapter, an area or a width smaller than required for a one-family dwelling. The minimum side yard requirements are reduced in proportion to the reduction of lot width over the specific minimum lot width for the district. This provision applies only where the applicant owns one lot, not two or more.

§ 138-59. Reduced lot area.

No lot shall be so reduced in area that any required percentage open space will be less than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot area occurs, any building located on said lot shall not thereafter be used until such building is altered, reconstructed or relocated so as to comply with the area and yard requirements applicable thereto.

§ 138-60. Restoration of existing structures.

Editor's Note: Former § 138-60, Front yard depth, was repealed 9-30-2003 by L.L. No. 4-2003.

[Added 1-4-2005 by L.L. No. 1-2005]

Any building damaged by fire or other causes, situate on a lot existing at the effective date of this section and continuously thereafter in ownership separate from that of any adjacent land and notwithstanding that such lot does not conform to the requirements of this chapter, regarding minimum lot area and/or lot width, may be repaired or rebuilt without the issuance of an area variance from the Zoning Board of Appeals.

§ 138-61. (Reserved)

Editor's Note: Former § 138-61, Reduction in rear yards, was repealed 9-30-2003 by L.L. No. 4-2003.

§ 138-62. Corner lot transition.

On every corner lot, there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.

§ 138-63. Additions to existing structures; swimming pools; storage sheds.

Additions to existing structures, installation of swimming pools and construction of storage sheds up to 120 square feet on lots which do not comply with the existing space regulations under this chapter shall require a variance only in the event that the placement of such addition in and of itself creates a further violation of existing regulations.

ARTICLE XVII. Automobile Salvage Yards, Junkyards and Abandoned Vehicles

§ 138-64. Requirements for operation and maintenance.

No person shall operate, establish or maintain a motor vehicle junkyard until he or she has obtained a license to operate a junkyard business and has obtained a certificate of approval for the location of such junkyard.

A. Application for license and certificate of approval. Application for the license and the certificate of approval for the location shall be made, in writing, to the Town Board of the Town of Ballston. The application must be accompanied by a certificate of the Zoning Board of Appeals stating that the proposed location is not within an established district restricted against such uses; that it is not otherwise contrary to the prohibitions of this chapter, or if such be the case, that such location and such use constitutes an existing nonconforming use. The application shall contain a description of the land to be included within the motor vehicle junkyard. Notwithstanding any of the provisions of this chapter, no junkyard shall be licensed to operate if such yard or any part thereof shall be within 500 feet of a church, school, hospital, public building or place of public assembly.

B. Hearing. A hearing on the application shall be held within the town not less than two nor more than nine weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having circulation within the town, which publication shall be not less than seven days before the date of the hearing.

C. License requirements. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, the Town Board shall take into account the suitability of the applicant with reference to his or her ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this chapter.

D. Location requirements. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junkyard. In passing upon the same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, the proximity of churches, schools, hospitals, public buildings or other places of public gathering and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke or of other causes.

E. Aesthetic considerations. At the hearing regarding location of the junkyard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road servicing the junkyard or from which junk may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreation areas or main access route thereto, as well as the reasonable availability of any other suitable sites for the junkyard.

F. Grant or denial of application. After such hearing the Town Board shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall forthwith be issued effective the following January 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed annually as of January 1 in each year upon payment of the annual license fee, without hearing, provided that:

(1) All provisions of this chapter are complied with during the license period.

(2) The junkyard does not become a public nuisance under the common law.

(3) The applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Laws and Rules.

G. License fees. The annual license fee as determined by the Town Board shall be paid at the time the application is made and annually thereafter in the event of renewal. In the event that the application is not granted, the fee shall be returned to the applicant. The town, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto, and issuance of the license shall be conditional upon payment of the same.

H. Fencing.

(1) Before use, every junkyard shall be completely surrounded with a fence six feet in height that substantially screens the contents from public view and with a suitable gate which shall be closed and locked, except during the working hours of such junkyard or when the applicant or his or her agent shall be within. Such fence shall be erected not nearer than fifty feet to a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard, except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.

(2) When the topography, natural growth of timber or other consideration accomplish the purpose of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Town Board, upon granting the license; provided, however, that such natural barrier conforms to the purposes of this chapter.

§ 138-65. Abandoned vehicles.

No person shall abandon a motor vehicle or trailer on public property. In addition to all other penalties provided herein, the owner of a motor vehicle abandoned in violation of this section may be charged with the reasonable cost of removal and disposal thereof.

ARTICLE XVIII. Mobile Homes and Mobile Home Parks

§ 138-66. Licenses required for mobile home parks.

Any person, partnership, association or corporation being the owner or occupant of any land within the Town of Ballston shall not use or allow the use of such land for a mobile home park unless a license has been obtained as herein provided.

A. Issuance of licenses.

(1) The Town Clerk of the Town of Ballston shall issue a permit to be effective from the date of issuance to and including December 31 of that same year.

(2) This permit will not be issued until the Town Clerk has received each of the following:

(a) A written application from the applicant in triplicate.

(b) The required fee as herein provided.

(c) Approval of the application by Saratoga County Department of Health (or New York State Department of Health).

(d) Approval by the Town of Ballston Planning Board.

(e) A resolution from the Town Board approving issuance of the license.

(3) This permit shall not be transferable or assignable.

B. Supplemental license.

(1) Any person holding a permit for a mobile home park and desiring to add additional lots to such park shall file an application for a supplemental permit.

(2) The application for such supplemental permit must be accompanied by 21 complete sets of plans and specifications as required by § 138-68, Application data, of this chapter. The application for a supplemental permit shall be filed and handled according to the procedure established in this article.

[Amended 1-4-2005 by L.L. No. 1-2005]

(3) When approved and upon the receipt of the required fee, the Town Clerk shall issue a supplemental permit which will be effective from the date of issuance to and including December 31 of the same year.

C. License renewal.

(1) An application for the renewal of any mobile home park permit, which was issued in accordance with the provisions of this chapter, must be filed with the Town Clerk on or before the December 1 preceding the expiration of the permit.

(2) The renewal application need not be accompanied by a plan of the work unless changes have been made to it, nor is it necessary that the application be accompanied by a copy of the lease unless a new lease has been entered into, subsequent to the time of filing the previous application.

(3) Upon the approval of the Building Inspector and the resolution of the Town Board, the Town Clerk shall issue a renewal permit to be effective upon the expiration of the previous permit and continue in force for a period of one year.

(4) At the time the renewal permit is issued, the applicant shall pay the required fee.

(5) Such renewal permit shall not be transferable or assignable.

D. License fees. Applicants for regular or supplementary licenses shall pay the Town Clerk an annual fee as determined by the Town Board.

§ 138-67. Application procedures.

Each initial application for a mobile home park or extension thereof shall be in writing and signed by the applicant.

A. The application and related information shall be filed with the Town Clerk in triplicate.

B. The Town Clerk shall transmit one copy of the application to the Town Building Inspector. The Town Clerk shall refer one copy of the application to the Town Planning Board for review and report prior to final action by the Town Board in accordance with the provisions of § 271 of the Town Law.

C. Upon receipt of the application from the Town Clerk, the Planning Board shall review the general arrangement of the mobile home park.

(1) This shall include a review of the following:

- (a) The location and width of streets.
- (b) The location, size and arrangements of lots.
- (c) The location of other structures within the park.
- (d) The location of entrance and exits.
- (e) The location, type and extent of landscaping and screen materials.

(2) The Planning Board shall also check the minimum requirements as established by the rules and regulations of the New York State Department of Health and the Sanitary Code of the State of New York. The Planning Board shall transmit the application back to the Town Board within 65 days after it receives the application, together with necessary application data. Failure to act within said time period shall be deemed approval by the Planning Board.

D. The Town Board shall review the findings of the Planning Board and, after holding a public hearing, shall indicate by resolution its approval or disapproval of the application within 65 days after receipt from the Planning Board. The applicant shall be notified in writing by the Town Clerk of the decision rendered within five days of the date of such decision.

§ 138-68. Application data.

[Amended 1-4-2005 by L.L. No. 1-2005]

Each application shall be accompanied by 21 complete sets of plans prepared by a surveyor, engineer or other qualified person. The plans shall be drawn to a scale no greater than 100 feet to one inch; shall include the date, North point and scale; and shall furnish the following information:

A. Legal data.

- (1) The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.
- (2) The location and description of the land.
- (3) The number of lots.

B. Physical features.

- (1) Contours at two-foot intervals.

(2) Location of watercourses, marshes and areas subject to flooding.

(3) Wooded areas.

C. Existing development.

(1) A location map which shows all land within 300 feet of the park and all structures on the land which abuts the park.

(2) The location, names and widths of all adjacent streets.

(3) The location of all waterlines and utilities within and adjacent to the site.

D. Site development.

(1) The location and widths of all entrances, exits, streets and walkways.

(2) The location, size and arrangement of each lot within the park.

(3) The method and plan for electric lighting.

(4) The location and plan of all structures and improvements.

(5) Grading and landscaping.

(6) Stormwater drainage.

(7) Utilities.

(8) Off-street parking.

(9) Existing zoning.

§ 138-69. Requirements for mobile home parks.

A. Site.

(1) The park shall be located in areas where areas and soil conditions are suitable for use as mobile home sites.

(2) The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and shall be free at all times from stagnant pools of water.

(3) The park shall be free from heavy or dense growth of brush and woods.

(4) The park shall be at least 15 acres in size, including 140 feet continuous frontage on a public road.

B. Mobile home lot.

(1) Each mobile home park shall be marked off into mobile home lots conspicuously identified with consecutive numbers.

(2) No portion of any mobile home shall be within a distance of 200 feet of a right-of-way line or a public street or highway.

(3) Each mobile home lot shall have a total area of not less than 15,000 square feet with a lot width of not less than 100 feet at the mobile home front location and with dimensions such that the provisions contained in Subsection C. are met.

C. Mobile home.

(1) Only one mobile home shall be permitted to occupy any one mobile home lot, and no mobile home shall occupy any land area within the park not designated as a mobile home lot.

(2) No mobile home shall be parked or otherwise located:

(a) Less than 12 feet from the adjacent mobile home lot sideline.

(b) Less than 50 feet from any boundary of the mobile home park.

(c) Less than 15 feet from the rear lot line.

(d) Less than 40 feet from the nearest edge of any roadway location within the park.

D. Mobile home stand.

(1) Each mobile home lot shall have a mobile home stand that will provide for the practical placement on and removal from the lot of the mobile home.

(2) Stands shall be of sufficient size to fit the dimensions of the anticipated mobile homes and their appurtenant structures or appendages.

(3) Stands shall be constructed of an appropriate material which is durable and adequate for the support of the maximum anticipated loads.

(4) Stands shall be suitably graded to permit rapid surface drainage.

E. Stand clearances. Mobile home stands shall be located on the following minimum clearances:

(1) Sides: 25 feet from adjacent stands or access roads.

(2) Ends: 20 feet from adjacent stands and 15 feet from access roads.

(3) Lot lines: 30 feet from exterior lot lines of the park.

F. Accessibility.

(1) Street layout within the mobile home park shall conform to Chapter 104, Subdivision of Land, § 104-12, Streets, of the Code of the Town of Ballston.

(2) Each park shall have improved streets to provide for the convenient access to all mobile home lots and other important facilities within the park. Streets shall be improved to conform to Chapter 104, Subdivision of Land, of the Code of the Town of Ballston.

(3) An improved driveway shall be provided for each mobile home lot. This driveway shall have a minimum width of 12 feet.

G. Parking. Additional off-street parking spaces shall be provided at strategic and convenient locations.

H. Utilities and service facilities.

(1) The following utilities and service facilities shall be provided in each mobile home park, which shall be in accordance with the regulations and requirements of the New York State Department of Health and the Sanitary Code of New York State:

(a) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home lots and buildings within the park to meet the requirements of the park. Each mobile home lot shall be provided with proper water connections.

(b) Each mobile home lot shall be provided with a sewer, which shall be connected to the mobile home situated on the lot, to receive the waste from the shower, tub, flush toilets, washing machine, lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connection in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.

(c) Metal garbage cans with tight-fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish.

(2) Unless adequate laundry facilities are available within five miles of the park, laundry facilities shall be provided at strategic location or locations for the convenience of the occupants of the mobile homes. Such facilities shall be equipped with at least one washing machine and one dryer per 16 mobile homes. Such facilities shall be housed in a permanent structure or structures which shall be adequately lighted, heated, ventilated and maintained in a sanitary manner.

(3) Other service buildings shall be provided as deemed necessary for the normal operation of the park; however, such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.

(4) Each mobile home lot shall be provided with weatherproof electric service connections and outlets of a type approved by the New York State Board of Fire Underwriters.

I. Open space.

(1) Each mobile home park shall provide common open space for the use by the occupants of such park.

(2) Such open space shall be conveniently located in the park. Such space shall have a total continuous area equal to at least 5% of the gross land area of the park.

J. Landscaping.

(1) Lawn and ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways, roads and parking areas.

(2) Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and suitable setting for the mobile homes and other facilities.

(a) Screen planting shall be provided to screen objectionable views. Views which shall be screened include laundry facilities, other nonresidential uses, garbage storage and collection areas and all abutting yards of adjacent properties.

(b) Other planting shall be provided along those areas within the park which front existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.

K. Record of occupancy.

(1) The owner or operator of each mobile home park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least one year from date of occupancy.

(2) This record shall include:

(a) The names and addresses of the occupant of each mobile home.

(b) The names and addresses of the owner of each mobile home unoccupied by the owner.

§ 138-70. Existing mobile home parks.

A. The owner or operator of a mobile home park existing at the time of the enactment of this article must apply for a permit in accordance with § 138-66, Licenses required for mobile home parks, within 90 days after enactment of this article. The application shall be accompanied by three sets of plans and data as specified in § 138-68, Application data.

B. Any mobile home park existing at the time of enactment of this chapter may continue to exist, although it may not conform to all the provisions of this article. Any subsequent expansion must be done in conformance with all provisions of this chapter.

C. Existing mobile home parks shall comply with the recording provisions of § 138-69K.

§ 138-71. Enforcement.

The Building Inspector of the Town of Ballston shall enforce all of the provisions of this article. The Building Inspector shall have the right, at all times, to enter and inspect any mobile home park.

§ 138-72. Revocation of mobile home park license.

A. If the Town Zoning Enforcement Officer finds and reports to the Town Board that a mobile home park for which a permit has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this chapter, the Town Board may by resolution authorize the personal service upon the holder of the permit of a written order which will require the holder of the permit to correct the conditions specified in such order within 10 days after service of such order.

B. If the holder of such permit shall refuse or fail to correct the condition or conditions specified in such order within 10 days after the personal service of such order, the Town Board may by resolution revoke such permit, and the holder of the permit shall thereupon terminate the operation of such mobile home park.

C. If the owner or owners of such mobile home park should thereupon correct such conditions and bring the mobile home park into compliance with this chapter, such owner may then apply for the issuance of a new permit for such park, and if the application is approved and a permit is granted, the applicant shall pay to the Town Clerk the fee required by this chapter without any credit for the fee paid for the permit which was revoked.

§ 138-73. Individual mobile homes.

A. No mobile home shall be placed on any lot outside of a mobile home park other than in accordance with the provisions of this section.

B. An individual motor home, mobile home, travel trailer or similar type structure shall be permitted to be occupied in all districts only upon the issuance of a temporary certificate of occupancy, which shall be valid for six months and may be renewed for another three additional consecutive six months. The temporary certificate of occupancy will be issued only after a building permit has been issued. The site must meet all appropriate state and town requirements for health and sanitation. The purpose of permitting such motor homes, mobile homes and/or travel trailers shall be to permit temporary occupancy while the owner constructs a permanent dwelling on the same lot in accordance with this chapter. It must be shown that reasonable progress has been made upon such construction prior to renewal of the temporary certificate of occupancy. The determination is to be made by the Building Inspector.

C. Occasional overnight occupancy of an individual motor home, mobile home, travel trailer or similar type structure is permitted on a lot upon which a permanent dwelling exists, by the owner of such lot or such owner's guests. This type occupancy shall not exceed 72 hours in any thirty-day period.

ARTICLE XIX. Excavations for Soil Mining

§ 138-74. Special use permit required; procedures; regulations.

Excavation for the purpose of soil mining such as gravel pits, quarrying or any subsoil removal shall be allowed only by special use permit and shall be subject to any and all applicable New York State and/or federal regulations under the following regulations:

A. Site map. Before a special use permit is issued, the applicant shall submit to the Planning Board and the Zoning Board of Appeals 10 copies of a map with a scale of one inch equal to not more than 100 feet showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers, if any, and names of the landowners. Such map shall also show the present topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.

[Amended 1-4-2005 by L.L. No. 1-2005]

B. Excavation plan. The applicant shall also submit to the Planning Board and the Zoning Board of Appeals seven copies of the proposed plan of excavation, at the same scale as above, showing the proposed finished elevations at one-foot contour intervals and the proposed drainage plan.

[Amended 1-4-2005 by L.L. No. 1-2005]

C. Fence. During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least six feet in height that will effectively block access to the area, with suitable gates provided with locks. Top and/or toe of slope shall not be closer than 40 feet to a property line.

D. Prohibited machinery. No rock crusher, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted.

E. Finished grading. The proposed finished grading plan shall show the land to be smooth graded and topsoil respread to a minimum depth of four inches. Slope shall not exceed the normal angle of repose of the material removed.

F. Performance bond. A performance bond with adequate surety shall be required of the applicant in an amount determined by the Town Board upon the advice of the Town Engineer or an engineer appointed for such purpose. Said bond shall be conditioned upon the completion of the finished grading and drainage plan and shall be released upon certification by the Zoning Enforcement Officer and such engineer that the conditions of said bond have been fulfilled.

G. Length of permit. No special permit for excavation operations or soil mining shall be granted for a period of more than three years, but such permit may be extended for an additional two years upon approval of the Zoning Board of Appeals.

H. Fees. Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the Zoning Board of Appeals, together with the special use permit, upon the payment of a fee in accordance with the schedule of fees as promulgated from time to time by the Town Board to cover all engineering and other costs directly attributable to the approval and office and field checking of the proposed soil-mining operation.

ARTICLE XX. Swimming Pools

§ 138-75. Building permit required.

[Amended 4-7-2009 by L.L. No. 6-2009]

No swimming pool, as defined by the Residential Code of New York State, shall be built, assembled, erected or filled in the Town of Ballston without a building permit issued by the Building Inspector. Each application for a building permit shall include a plot plan of the lot upon which the swimming pool is to be built, and such plan shall include existing structures and lot lines.

§ 138-76. Location.

Private swimming pools may be erected or installed only as an accessory to a dwelling, private club, community building or commercial structure for the use of the owner(s) or occupant(s) and family(ies) guests and/or invitee. Such swimming pool shall not be erected nearer than 12 feet to the rear or 15 feet to the side property lines of the lot and shall not occupy more than 10% of the area of the lot on which same is located and shall in all other respects comply with this chapter.

§ 138-77. Fences.

[Amended 9-30-2003 by L.L. No. 4-2003]

Fences must comply with the Residential Code of New York State.

§ 138-78. Gates.

[Amended 9-30-2003 by L.L. No. 4-2003]

Gates must comply with the Residential Code of New York State.

§ 138-79. Plumbing and health regulations.

A. A filter-recirculating pump and purification system shall be provided so as to maintain the bacterial standard established by the provisions of the New York State Sanitary Code relating to public swimming pools.

B. If the water for a swimming pool is to be connected to a potable water system, either municipal or private, there shall be no watertight physical connection between the pool inlet and the water system. The pool inlet, in such instance, cannot be under water, but shall be above the overflow level of the pool by an air gap at least six inches.

C. In determining whether the inlet, filtration, recirculation and drainage requirements set forth herein are met, the Building Inspector shall be guided by the specifications furnished by the pool manufacturer or contractor. If no such specifications are available, the Building Inspector may require a certificate from a civil engineer licensed by the State of New York. Drainage must not be such so as to cause health, nuisance or other problems.

§ 138-80. Light and noise abatement.

A. No artificial lighting shall be maintained or operated in connection with any swimming pool presently constructed or installed or hereafter constructed or installed in such manner as to unreasonably interfere with the occupants of any neighboring property.

B. The use of megaphones, loud speakers or public-address systems is prohibited in connection with swimming pools herein regulated, and the use of any sound producing or reproducing devices, including human voices, shall not be such as to be objectionable to the occupants of any neighboring property.

ARTICLE XXI. Multiple Dwellings

§ 138-81. Existing multiple dwellings.

Any multiple dwelling that exists at the time of enactment of this chapter may continue to exist; however, any structural modifications, improvements or changes to that dwelling must conform to the provisions of this chapter and the New York State Uniform Fire Prevention and Building Code. Editor's Note: See Ch. 62, Fire Prevention and Building Construction.

§ 138-82. Special use permit required.

[Amended 9-30-2003 by L.L. No. 4-2003; 1-4-2005 by L.L. No. 1-2005; 6-12-2006 by L.L. No. 5-2006]

No new multiple-dwelling units or expansion of any existing unit shall be built in the Town of Ballston without obtaining a special use permit from the Town Planning Board. Said special use permit shall be contingent on, but not limited to, approval of a site plan review by the Town of Ballston Planning Board. The special use permit must be obtained prior to initiating the site plan review process. Depending on the size of the multiple dwelling or site and number of units, a site plan approval, special use permit or planned unit development may be required in the Mixed Use Center Districts and the Highway Business

Districts. In the Hamlet Residential and Ballston Lake Residential Districts multiple dwellings may also be allowed as part of a traditional neighborhood design subdivision or planned unit development.

§ 138-83. Required approvals prior to issuance of building permit.

[Amended 9-30-2003 by L.L. No. 4-2003]

The Building Inspector shall not issue any building permit for a multiple dwelling until he or she has received written confirmation that a special use permit has been granted by the Planning Board, and the site plan has been approved by the Planning Board.

§ 138-84. Construction standards.

Editor's Note: See also Ch. 62, Fire Prevention and Building Construction. All of the provisions of this chapter and of the New York State Uniform Fire Prevention and Building Code will apply to the construction or modification of any multiple dwelling in the Town of Ballston.

§ 138-85. Parking.

All multiple dwellings shall have no less than two parking spaces per dwelling unit. No front yard shall be used for open air parking or storage of any vehicle.

§ 138-86. Space regulations.

[Amended 6-12-2006 by L.L. No. 5-2006]

There are no space regulations applicable to multiple dwellings in the Mixed Use Center Districts, Business Highway, Ballston Lake Residential, and Hamlet Residential Districts where public water and sewer are not available. In Mixed Use Center Districts, the number of dwelling units in a multiple-dwelling building or on any site shall be determined by the design of the site and its ability to support the units and building size, including required parking, walkways, stormwater detention and drainage areas and other site features as may be applicable. For traditional neighborhood design subdivisions and/or planned unit developments, the density requirements set forth in § 104-14 of Chapter 104 of the Town Code (Subdivision of Land) and § 138-8.3 shall apply. In districts other than Mixed Use Center Districts and for projects other than traditional neighborhood design, space regulations for multiple dwellings shall conform to the Uses, Area, Frontage and Setback Requirements Table located at the end of this chapter.

ARTICLE XXII. Administration and Enforcement

§ 138-87. Interpretation.

A. In interpreting and applying the provisions of this chapter, provisions of this chapter shall be held to be the minimum requirement adopted for the promotion of health, safety, morals, comfort, convenience and/or the general welfare of the residents of the Town of Ballston.

B. This chapter shall not repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance, rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of building or premises, provided that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires larger lots or yards than are imposed or required by such existing provisions or regulations, the provisions of this chapter shall control.

C. The lot or yard areas required by this chapter for a particular building shall not be diminished and shall not be included as a part of the required lot or yard areas of any other building. If the lot or yard areas required by this chapter for a particular building are diminished, the continued existence of such building shall be deemed to be a violation of this chapter. The lot or yard areas of buildings existing at the time of passage of this chapter shall not be diminished below the requirements herein provided for buildings hereafter erected, and such required areas shall not be included as part of the required areas of any building hereafter erected.

§ 138-88. Enforcement officer.

A. Building Inspector. This chapter shall be enforced by the Building Inspector and by such other officers, agents and employees of the Town of Ballston as the Town Board may from time to time designate. Included in the duties of the Building Inspector shall be the responsibility to enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code Editor's Note: See Ch. 62, Fire Prevention and Building Construction. and other laws, ordinances, rules and regulations applicable to plans, specifications or permits for the construction, alteration and repair of buildings and structures.

(1) In any case where a building or use requires site plan review, the Building Inspector shall refer the site plan to the Planning Board for review before issuing a building permit.

(2) In any case where a building or use requires a special use permit, no building permit shall be issued therefor unless such special use permit shall have been issued and shall be in effect.

(3) In any case where the alteration or construction to an existing building materially affects structural features, firesafety features, such as smoke detectors, sprinklers, required fire separations and exits, solid-fuel-burning heating appliances and associated chimneys and flues shall be installed as required by applicable codes and provision therefor shall be required for issuance of a building permit.

[Amended 4-7-2009 by L.L. No. 6-2009]

(4) A building permit not exercised within 12 months of the date of issuance shall be deemed revoked, null and void; provided, however, that the Building Inspector may, upon good cause shown, extend the period of exercising such building permit an additional six months.

(5) The Building Inspector shall require that the application for a building permit shall be accompanied by a plot plan, building plans and specifications, which shall contain all the information necessary to enable the Building Inspector to ascertain whether the proposed building complies with the provisions of this chapter.

(6) In the event that a building permit is refused, the Building Inspector shall state such refusal in writing with the cause identified and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.

[Amended 4-7-2009 by L.L. No. 6-2009]

(7) There shall be paid to the Building Inspector, prior to the issuance of any building permit, a building permit fee as set forth in the fee schedule as established by the Town Board.

(8) Storage sheds under 120 square feet will not require a building permit. All structures must comply with setback requirements as set for the zone.

[Added 4-7-2009 by L.L. No. 6-2009]

B. Building permit. No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any commercial building or structure, except a nonresidential farm building, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes, nor install heating equipment, nor shall any excavation be made or footing or foundation be constructed without having applied and obtained a permit from the Building Inspector. However, no permit shall be required for the performance of necessary repairs which are not of a structural nature and which are done in conformance with the Uniform Code identified in Chapter 62 of the Town of Ballston Town Code. A nonresidential farm building only includes buildings and property which meet the requirements for an agriculture assessment and the eligibility requirements as defined in the Assessor's Manual Section 305. Site plan review is required whenever a use requires site plan review as described in § 138-104 of the Town of Ballston Town Code. The Building Inspector shall not issue a building permit until site plan review has been completed by the Town Planning Board. The Building Inspector shall refer all applications for a building permit to the Planning Board for site plan review if it appears to the Building Inspector that the proposed construction, alteration or repair meets the criteria for site plan review. Site plan review under § 138-104 of the Town of Ballston Town Code shall be required before the issuance of a building permit for any building proposed to be placed on any new or existing commercial site.

[Amended 9-30-2003 by L.L. No. 4-2003; 4-7-2009 by L.L. No. 6-2009]

§ 138-89. Certificate of occupancy.

A. No land shall be used or occupied, and no building or structure thereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy shall have been issued by the Building Inspector.

B. The Building Inspector shall be authorized to make periodic inspections during construction or alteration of buildings or structures in order to determine compliance with the New York State Uniform Fire Prevention and Building Code Editor's Note: See Ch. 62, Fire Prevention and Building Construction. and other laws, ordinances and/or rules or regulations applicable to the construction of buildings or structures requiring a certificate of occupancy.

C. Within five days after notification that a building or structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform to the provisions of this chapter and other applicable local laws and ordinances.

D. If the Building Inspector, after such final inspection, refuses to issue a certificate of occupancy, he or she shall state such refusal in writing, with the cause, and immediately mail notice of such refusal to the applicant at the address indicated on the application.

E. Records. Whenever a building permit, certificate of occupancy or other special permit is issued by the Town of Ballston, it shall be the responsibility of the office of the Building Inspector to see that proper records are kept reflecting the issuance of said permits and/or certificates.

§ 138-90. Temporary certificate of occupancy.

Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued by the Building Inspector for a period not to exceed six months. Temporary certificates of occupancy may be renewed by the Building Inspector for additional six-month periods. Such renewals shall not exceed a total of three in number. Such temporary certificates of occupancy shall be issued only in case of emergency or hardship and only for the following purposes:

A. Temporary use of a building as a dwelling while a permanent dwelling is under construction or alteration on the same lot; or

B. The use of an uncompleted dwelling under construction. A building shall be considered under construction and uncompleted until there is a complete exterior of a story other than a basement.

§ 138-91. Penalties for offenses.

A. Unless otherwise stated in specific articles of this chapter, a violation of this chapter is an offense punishable as provided in § 268 of the Town Law. Each week's continued violation shall constitute a separate additional violation. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of any provision of this chapter, the Town of Ballston acting by and through its proper officers, agents or employees may institute any appropriate action as provided in § 268 of the Town Law. Any person who violates any provision of this chapter shall also be subject to a civil penalty enforceable and collectible by the Town of Ballston in the amount of \$50 for each such violation, said penalty to be recovered by the Town of Ballston in a civil action. In addition to the foregoing, the Building Inspector may maintain an action of injunction to restrain any violation of this chapter as provided by Subdivision 2 of § 268 of the Town Law.

B. Notification of violation. Written notice of violation signed by the Zoning Enforcement Officer shall be served upon the person or persons committing such violation either personally or by mail addressed to such person or persons at his or her last known address.

C. Complaints of violation. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon. All such complaints shall be signed by and bear the address of the complainant.

ARTICLE XXIII. Zoning Board of Appeals

§ 138-92. Organization.

There shall be a Zoning Board of Appeals consisting of seven members, created pursuant to and having the power and duties prescribed by § 267 of Town Law, as amended. The Zoning Board of Appeals may determine its own rules and procedures consistent with the provisions of § 267 of the Town Law.

§ 138-93. Variances.

A. Permitted action by Zoning Board of Appeals regarding orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

B. Subdivision 2 of § 267-b of the Town Law of the State of New York governing use variances and Subdivision 3 of § 267-b of the Town Law of the State of New York governing area variances are adopted by the Town of Ballston as superseding any local legislation governing the issuance of variances.

§ 138-94. Special use permits.

Editor's Note: Former § 138-94, Special use permits, was repealed 9-30-2003 by L.L. No. 4-2003.

[Added 7-6-2004 by L.L. No. 4-2004]

A. The Zoning Board of Appeals and Planning Board are hereby empowered to issue special use permits in accordance with the provisions of this chapter. Refer to Chapter 138, Zoning, which outlines the appropriate review board for requests for special permits. The Zoning Board of Appeals and Planning Board shall act in accordance with § 274-b of the Town Law in reviewing applications for special use permits. The Boards shall hold a hearing on any such application prior to acting thereon. In reaching a decision on the application, the Board shall consider each of the following:

(1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.

(2) The location and size of the use, the nature and intensity of the operations involved or conducted in connection therewith, its site layout and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

(3) The location and height of building, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

(4) The public convenience and welfare will be substantially served, and appropriate use of neighboring property will not be substantially or permanently injured, subject to appropriate conditions and safeguards, as determined necessary to promote the public health, safety and welfare.

B. Each zoning district has a list of uses that require a special permit prior to instituting the use. These uses are not exceptions to the Zoning Ordinance, but instead are uses to which certain conditions may be attached. The review board, which shall be the Town of Ballston Zoning Board of Appeals or the Town of Ballston Planning Board as hereinafter set forth, after due public notice and hearing, can impose conditions to mitigate items that could be detrimental to the health, safety and welfare of neighbors and the community. Depending upon the use being requested, the appeal will be heard by either the Zoning Board of Appeals or the Planning Board.

C. The review board shall set a reasonable time for the public hearing of a request for a special permit and shall give notice in the Town's official newspaper of such hearing at least five days prior to the date of such hearing, and with respect to any applications as herein set forth, notice shall be given at least 10 days prior to such hearing by certified or registered mail to certain officials, persons and owners of properties involved in accordance with requirements of § 267 of the Town Law as follows:

(1) Notification requirements. All owners of property which is contiguous, abutting or adjacent to or which is situated across an established road from the actual or proposed boundary lines of the property which is the subject of the application and to such other property owners as the review board may direct. The applicant shall be required to determine the names and addresses of such owners, and the applicant shall thereupon advise the Town Clerk, who shall notify such persons of the application by certified or registered mail.

(2) Adjournment of hearing. The review board may, in its discretion, adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as determined by the review board.

D. Any special use permit not exercised within one year from the date of its issuance or where the recipient has not complied with specified conditions shall be deemed revoked, null and void.

E. Any lapse in use of a special permit which exceeds two years shall act as a revocation of said special use permit. The owner of property so affected may reapply for a special use permit, subject to all applicable conditions of this chapter in effect at the time of such reapplication.

§ 138-95. Interpretation authority.

Upon appeal from a decision of the Building Inspector or upon any other proceeding properly before the Zoning Board of Appeal, such Board shall have the power to determine any question involving an interpretation of any provision of this chapter, including the determination of the location of any zoning district boundary where such Board finds that an uncertainty exists with respect thereto.

ARTICLE XXIV. Amendments

§ 138-96. Amendments authorized; procedures.

The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Zoning Board of Appeals, after public notice and hearing, amend, supplement, change, modify or repeal this chapter, pursuant to the provisions of the Town Law applicable thereto. Every such proposed amendment shall be referred to the Zoning Board of Appeals for report prior to public hearing thereon.

ARTICLE XXV. Alternate Members of Planning Board and Zoning Board of Appeals

[Added 8-3-1999 by L.L. No. 4-1999]

§ 138-97. Title and applicability.

This article may be known and cited as the "Alternate Planning Board and Zoning Board of Appeals Members Act." This article shall apply to the appointment, terms, functions and powers of alternate members appointed to serve on the Planning Board/Zoning Board of Appeals in the Town of Ballston.

§ 138-98. Declaration of policy.

It is sometimes difficult to maintain a quorum on the Planning Board/Zoning Board of Appeals because members are ill, on extended vacation, absent resulting from employment-related travel or find they have a conflict of interest situation on a specific matter before such board. In such instances, official business cannot be conducted, which may delay or impede adherence to required time lines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this article.

§ 138-99. Definitions.

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

ALTERNATE MEMBER

An individual appointed by the Town Board to serve on the Town Planning Board or the Zoning Board of Appeals when a regular member is unable to participate on an application or matter before the respective board, as provided herein.

MEMBER

An individual appointed by the Town Board to serve on the Town Planning Board, or the Town Zoning Board of Appeals, pursuant to the provisions of the local law or ordinance which first established such Planning Board/Zoning Board of Appeals.

PLANNING BOARD

The Planning Board of the Town of Ballston as established by the Town Board, pursuant to the provisions of § 271 of the Town Law.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Ballston as established by the Town Board, pursuant to the provisions of § 267 of the Town Law.

§ 138-100. Authorization/effect.

A. The Town Board of the Town of Ballston hereby enacts this article to provide a process for appointing alternate members of the Planning Board/Zoning Board of Appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the respective boards.

B. Alternate members of the Planning Board/Zoning Board of Appeals shall be appointed by the Town Board or other duly authorized appointing authority for a term of one year.

C. The Town Board shall appoint a maximum of two alternate members to the Planning Board and two alternate members to the Zoning Board of Appeals. Editor's Note: L.L. No. 6-2007, adopted 5-1-2007, established a second alternate position for the Planning Board pursuant to Town Law § 271 and established a second alternate position for the Zoning Board of Appeals pursuant to Town Law § 267.

D. The Chairperson of the Planning Board/Zoning Board of Appeals may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board/Zoning Board of Appeals meeting at which the substitution is made.

E. All provisions of state law relating to Planning Board/Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

§ 138-101. Supersession of Town Law.

This article is hereby adopted pursuant to the provisions of § 10 of the New York State Municipal Home Rule Law and § 10 of the New York State Statute of Local Governments. It is the intent of the Town Board, pursuant to § 10 of the New York State Municipal Home Rule Law, to supersede the provisions of:

A. Section 271 of the Town Law relating to the appointment of members to town planning boards; and/or

B. Section 267 of the Town Law relating to the appointment of members to town zoning boards of appeals.

ARTICLE XXVI. Site Plan Review

[Added 6-12-2006 by L.L. No. 5-2006]

§ 138-102. Applicability.

Site plan review and approval is required for certain uses as indicated on the use tables set forth at the end of this chapter or where site plan approval is required as part of the criteria for a special permit. In

such cases, the site plan approval must be obtained prior to the issuance of a building permit for construction.

§ 138-103. Sketch plan.

A. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. No fee is required to schedule a sketch plan conference but a written request for such a conference must be made in writing to the Planning Board Chairman and delivered to the Building Department at least three weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. As such, an applicant is strongly encouraged to schedule and attend the sketch plan conference. In order to accomplish these objectives, the applicant should provide the Planning Board with as much information or detail as is practicable. In this regard, the following is suggested:

- (1) A sketch or map of the area which shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features; and
- (2) A sketch plan showing proposed site improvements, including the locations and dimensions of proposed structures, parking areas, water service, wastewater disposal, conceptual stormwater management, anticipated changes in the existing topography and other natural features; and
- (3) A topographic or contour map of adequate scale and detail to show site topography and significant site features, such as wetlands, surface waters, existing structures or improvements on the site and any other information that may be pertinent to the design and layout of the site.

B. At the option of the applicant, more than one sketch plan conference may be scheduled in order to have sufficient opportunity to exchange ideas, provide recommendations, if any, and further develop the proposal.

§ 138-104. Conceptual site plan.

At the option of the applicant, a conceptual site plan may be submitted for preliminary review and analysis by the Planning Board. This conceptual review process is intended to afford the applicant another opportunity to fine-tune the proposal prior to submission of a formal site plan. It is an optional, voluntary process that may be appropriate with certain applications, particularly those that may involve a large-scale or complex development proposal. The purpose of the concept plan is to provide the Planning Board with more detailed information and a fuller understanding of the proposal so that a more detailed recommendation can be provided by the Planning Board. It is the goal of this review stage, that the applicant and the Planning Board can reach a consensus on exactly what will be required with the submission of a formal site plan application and what is acceptable regarding the conceptual features of the proposal, thereby streamlining the process for the formal site plan review.

A. Submission for conceptual site plan review. An application for conceptual site plan shall be made in writing to the Planning Board Chairman and delivered to the Building Department at least three weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. The application shall include the following:

- (1) A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the Town in general (traffic generation, population, utilities aesthetics and land use compatibility) and including the following:

- (a) Address of site (street and number).
- (b) Name of applicant.
- (c) Name of proposed tenant/business.
- (d) Site zoning.
- (e) Description of existing site and use.
- (f) Description of intended site development and use.
- (g) Proposed gross floor area.
- (h) Building height and number of floors.
- (i) Number of guest rooms or dwelling units where applicable.
- (j) Number of employees.
- (k) Hours and days of operation.
- (l) Proposed number of parking spaces.
- (m) Site coverage statistics (building coverage, paved areas, green area, by percentage of site and square footage).
- (n) Impact on adjoining property: noise, visual, drainage, other.
- (o) Anticipated impact on services (quantify and discuss impacts): traffic, sewer, water, solid waste.
- (p) Storage and disposal method of chemicals used (solvents, soaps, etc.).

(2) A conceptual site plan should contain the following:

- (a) Title block with names of projects, applicant, and map preparer; address of site; date of map; and work record with revision dates.
- (b) Proposed buildings, other improvements (with building and setback dimensions).
- (c) Proposed utilities, including lateral locations, sizes and connection points.
- (d) Proposed landscaping.
- (e) Proposed parking, circulation, storage, service, display areas, solid waste containment/recycling areas; label minimum parking setbacks from lot lines and buildings.
- (f) Number of parking spaces, including handicapped spaces as required by NYS Uniform Fire Prevention and Building Code.

(g) Analysis of parking requirement.

(h) Access location.

(i) Proposed drainage concept.

(j) Approximate limits of clearing and grading.

(k) Existing/proposed easements.

(l) Site coverage statistics (building coverage, green area, and paved areas by percentage of site and square footage).

(m) Building height and number of floors.

(3) Environmental assessment form (optional at this stage).

B. Review and conceptual determination. The applicant shall attend the Planning Board meeting at which the concept plan is to be discussed. With the consent of the applicant, more than one meeting may be held on the conceptual site plan and public input may be invited. The conceptual determination is not binding on the applicant nor does it commit the Planning Board to a definite course of future action on the proposal. In other words, the applicant is still entitled to submit a formal site plan that may not be consistent with the accepted conceptual plan and the Planning Board's final decision on the formal site plan submission will be based on the content, record and review of the formal site plan. However, the intent is that after the conceptual plan stage of review, the proposal will be sufficiently reviewed and discussed to afford the applicant with insight as to how to proceed in the formal site plan review stage.

§ 138-105. Application for approval.

An application for site plan approval shall be made in writing to the Chairman of the Planning Board and delivered to the Building Department in accordance with the following requirements. It shall be accompanied by information and documentation contained on the following checklist. Where the sketch plan conference was held or the conceptual site plan review process was initiated, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board pursuant to such sketch plan conference or conceptual plan review.

A. Site plan submissions checklist.

(1) Title of drawing, including name and address of the applicant and person responsible for preparation of such drawing.

(2) North arrow, scale and date and location map.

(3) Boundaries of the property plotted to scale.

(4) Existing watercourses.

(5) Owners and use of adjacent lands.

(6) Existing zoning and zoning district requirements.

- (7) Site area in acres and square feet.
- (8) Existing utilities (location and size).
- (9) Location of all easements.
- (10) Site coverage statistics.
- (11) Proposed finished floor elevations.
- (12) Limits of grading and clearing.
- (13) Grading and drainage plan, showing existing and proposed topography at minimum two-foot contour intervals, extending 50 feet from the site, and based on a NAVD 1929 benchmark (shown on plans).
- (14) Location, proposed use, dimensions and height of all buildings, including building setback dimensions to each lot line.
- (15) Location, design and construction materials of all parking and truck loading areas, number of parking spaces and showing ingress and egress.
- (16) Provision for pedestrian access/parking for handicapped.
- (17) Location of outdoor storage, if any.
- (18) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, surface treatments and fences.
- (19) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (20) Description of the method of stormwater collection and location, design and construction materials of such facilities.
- (21) Description of the method of securing public or private water and location, design and construction materials of such facilities.
- (22) Location of fire and other emergency zones, including the location of fire hydrants.
- (23) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (24) Location, size and design and construction materials of all proposed signs.
- (25) Location and proposed development of all buffer areas, including existing vegetative cover.
- (26) Location and design of outdoor lighting facilities.
- (27) Location of service and equipment, HVAC, refuse, loading, recycling.

(28) Designation of the amount of building area proposed for retail sales or similar commercial activity.

(29) General landscaping plan and planting schedule.

(30) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution.

(31) Completed and signed application form.

(32) Required application fee.

(33) Environmental assessment form, with Part 1 completed and signed by applicant.

(34) Site photographs showing existing conditions.

B. Additional submission requirements.

(1) Stormwater. The submission requirements and standards set forth in Chapter 91 (entitled, "Stormwater Management") of the Town Code shall apply and be adhered to by the applicant.

(2) The applicant shall submit an existing conditions diagram showing relevant features including but not limited to those identified in § 138-105A(1) through (9). This diagram should also be used to identify the location and direction of the site photographs.

C. Waivers: On its own initiative or at the request of the applicant, one or more of the above submission requirements may be waived. The intent is not to require information that is not relevant for the purpose of making an informed decision or to become unduly burdensome on those projects where the level of detail is not warranted. As such, the Planning Board has flexibility in its discretion to determine what shall be required as part of the application submissions. Thus, if the Planning Board finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information requirements as it deems appropriate. Any such waiver shall be made in writing, and shall contain statements of the reasons why the waived information requirements are not necessary for an informed review under the circumstances. The Planning Board may grant such waivers on its own initiative or at the written request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.

§ 138-106. Review of site plan.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the design standards set forth in this chapter as applicable to the zoning district where the site is located and the specific use being proposed, as well as the following:

A. General considerations:

(1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

(2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (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 buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for plan 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 the provision of fire hydrants.
- (11) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- (12) Where required by specific design standards or guidelines or where otherwise warranted, the appearance and design of buildings and structures, including but not limited to architectural features, building materials and colors.

B. Consultant review. The Planning Board may consult with the Town staff, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation. If the Planning Board determines that the site plan application requires the use of its own consultants (such as professional engineer, planner or attorney), it shall require as part of the application fee a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s). The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time period billed, and the Town shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues.

C. Required referral. Prior to taking action on the site plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report as applicable and in accordance with § 239-m of the General Municipal Law Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Saratoga County Planning Department any application for a site plan affecting real property within 500 feet of the boundary of the Town of Ballston, the boundary of any existing or proposed county or state park or other recreational area, the boundary of any existing or proposed county or state roadway, the boundary of any existing or proposed right of way for a stream or drainage channel owned by the county for which the county has established channel lines, the boundary of any existing or proposed county- or state-owned land on which a public building or

institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, §§ 239-l and 239-m, as amended.

(1) No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the county and Town agree to an extension beyond the thirty-day requirement for the County Planning Department's review.

(2) County disapproval. A majority-plus-one vote of the Planning Board shall be required to grant any special permit which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

(3) In the case of a project proposal which also requires a special permit, every effort shall be made by the Planning Board to avoid duplication of the County referral process. However, such determination shall be made by the Planning Board in cooperation with the Saratoga County Planning Department, since the site plan application may contain issues not addressed in the special permit process.

D. Compliance with SEQRA. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations and shall not make a binding decision on the site plan until the SEQRA process has been completed. Upon receipt of application materials it deems complete, the Planning Board shall initiate the SEQRA process unless the process has been already commenced pursuant to another approval process for the same project. No time periods for decisionmaking in this chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

E. Agriculture data statement. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the site plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

F. Application for area variance. Where a proposed site plan contains one or more features that do not comply with the dimensional zoning regulations of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XXIII without a decision or determination by the Zoning Enforcement Officer.

§ 138-107. Planning Board action.

A. Determination that application is complete. The site plan application, together with all of the required submissions outlined in the § 138-106 above, shall be submitted to the Building Department at least three weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. At the first meeting upon which the application is on the agenda, the Planning Board shall review the application, including the site plan and the supporting documents and information, for purposes of determining whether the application is complete for purposes of commencing review. The Planning Board shall make this determination within 31 days from the first meeting date where the application is on the meeting agenda. If the application is not complete, the Planning Board shall specify to the applicant what omissions or deficiencies there are in the application submissions. The applicant will then have to submit the missing documentation or information until the Planning Board determines that the application is complete.

B. Decision/hearing: Within 62 days of the acceptance of a complete application for site plan approval, the Planning Board shall either render a decision on the site plan, or schedule and hold a public hearing if, in the Planning Board's discretion there are factors present (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing. If the Planning Board determines to hold a hearing, it must be held within 62 days of the receipt of a complete application, and the decision on the site plan must be made within 62 days from the close of the public hearing. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.

C. Content of decision. The Planning Board has the authority to approve the site plan, approve the site plan with modifications, or disapprove the site plan. The Planning Board also has authority to impose such reasonable conditions and restrictions on the site plan approval as are related to and incidental to the site plan. The Planning Board shall make its decision in writing and shall file said decision with the Town Clerk, and mail or hand deliver such decision to the applicant within seven days of the date that the decision is rendered with a copy to the Building Department. The Planning Board's decision may include specifications for the required modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's statement will contain the reasons for such findings.

D. Procedures after decision.

(1) If the site plan is approved without modifications, the approved site plan with any conditions will be the final site plan and will be endorsed accordingly. If conditions are attached to the approval, the site plan will be endorsed as conditionally approved. All conditions must be complied with before occupancy or commencement of the use is allowed.

(2) If the site plan is approved with modifications, the applicant must submit a final site plan that incorporates said modifications for the Planning Board review and approval. The Planning Board shall act on the final site plan within 62 days after the final site plan is presented to the Planning Board at its regularly scheduled meeting. If the Planning Board's decision was complied with and the modifications are incorporated in the final site plan, the site plan shall be approved as final and endorsed accordingly. Such modifications or conditions that may require the submission and review of a final site plan include, but are not limited to, the following:

(a) Record of application for and approval status of all necessary permits from state and county officials.

(b) Detailed sizing and final material specification of all required improvements.

(c) An estimated project construction schedule.

(3) If the site plan was disapproved, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The full review process is to recommence.

(4) Upon approval of the site plan, the Building Department has the authority to issue a building permit and/or certificate of occupancy or compliance upon completion of the development of the site in strict accordance with the approved site plan and any conditions attached thereto.

(5) If, after two years from the date when site plan review was concluded and approval of the proposed construction, alteration or change of use was given by the Planning Board, there have not been substantial steps taken to construct, alter or change the use of the property or building subject to site plan review, then the Planning Board shall consider whether to rescind its approval and

request that the proposed construction, alteration or change in use be resubmitted to the Planning Board for further site plan.

[Added 4-7-2009 by L.L. No. 6-2009]

§ 138-108. Engineering data.

The applicant shall provide, at the applicant's expense, all data requested by the Planning Board. Such data may include but is not limited to surveys, detailed soil topography maps, soil composition testing, water percolation testing, drainage information, data regarding the impact of the construction on the surrounding environment and other issues of consideration as set forth in the Town of Ballston Site Plan Review Manual. The Planning Board may request that such engineering data be provided only by a licensed engineer. Failure to provide such data will result in termination of the site plan review process.

§ 138-109. 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. The sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Zoning Enforcement Officer or other competent persons.

§ 138-110. Inspection of improvements.

The Building Department shall be responsible for the overall inspection of site improvements, including coordination with other officials and agencies, as appropriate. A professional engineer may be designated by the Town Board to assist the Building Department in performing inspections while construction is on-going. If the site is not being developed in strict compliance with the approved site plan and any conditions attached thereto, the Code Enforcement Officer shall issue a stop-work order and demand compliance with the approved site plan and any conditions attached thereto. An approved site plan may not be modified except by the Planning Board upon application for such modification from the applicant. Cost of inspections and consultation shall be borne by the applicant. Funds will be deposited in escrow before issuance of a building permit.

§ 138-111. Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in Chapter 138, Zoning, of the Code of the Town of Ballston or the requirements of Chapter 104, Subdivision of Land, of the Code of the Town of Ballston, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

§ 138-112. Reimbursable costs.

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

ARTICLE XXVII. General Requirements

[Added 6-12-2006 by L.L. No. 5-2006]

§ 138-113. One use per lot.

Except in the Mixed Use Center Districts, Business Highway Districts 1 and 2, TND, or in Planned Development Districts, only one principal use per lot shall be allowed. For residential lots, no more than one single-family detached dwelling shall be allowed on any one lot.

§ 138-114. Change of occupancy.

Generally, a zoning permit or approval runs with the land and not with the individual or entity to which such permit or approval was issued. A change of occupancy or tenancy does not require a new permit or approval as long as the use continues to meet the requirements of this chapter and is not otherwise changed, enlarged or expanded. At the Code Officer's discretion, application for change of occupancy may be referred to the Planning Board.

§ 138-115. Outdoor storage containers.

The use of outdoor storage containers, other than a shed or outbuilding or refuse receptacle, shall be prohibited for a period of greater than four weeks if such storage container can be seen from neighboring properties or frontage roads except where such containers are present during ongoing construction activities under a valid building permit.

§ 138-116. Minimum dwelling size.

The livable space footprint of all dwelling units shall be a minimum of 720 square feet.

Attachments:

[138 EPUD H.R.Schultz](#)
[138 Corporate Technology Park Appendix A](#)
[138 Corporate Technology Park Appendix B](#)
[138 Corporate Technology Park Appendix C](#)
[138 Katz Corporate Park](#)
[138 Beacon Hill Planned Unit Dev](#)
[138 Hamlet Residential District](#)
[138 Mixed Use Center North District](#)
[138 Mixed Use Center South District](#)
[138 Mixed Use Center Ballston Lake District](#)
[138 Rural District](#)
[138 Ballston Lake Waterfront District](#)
[138 Business Highway 1 District](#)
[138 Business Highway 2 District](#)
[138 Industrial District](#)
[138 Ballston Lake Residential District](#)
[138 Ballston Lake Neighborhood Commerical District](#)
[138 Design Standards](#)
[Zoning Map 2009](#)

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 Ballston adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the original

publication of the Code was Local Law No. 6-1998, adopted 9-1-1998. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Town Clerk.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1999	1-5-1999	Town Clerk salary	NCM
L.L. No. 2-1999	3-2-1999	Zoning amendment (Corporate Technology Park)	Ch. <u>138</u> , Appendix
L.L. No. 3-1999	3-2-1999	Zoning amendment (Katz Corporate Park)	Ch. <u>138</u> , Appendix
L.L. No. 4-1999	8-3-1999	Zoning amendment	Ch. <u>138</u>
L.L. No. 5-1999	11-4-1999	Mass gatherings	Ch. <u>81</u>
L.L. No. 6-1999	11-4-1999	Zoning amendment	Ch. <u>138</u>
	1-4-2000	Personnel policies	Ch. <u>28</u>
L.L. No. 1-2000	3-9-2000	Zoning amendment	Ch. <u>138</u>
L.L. No. 2-2000	9-5-2000	Readoption of zoning	Ch. <u>138</u>
L.L. No. 3-2000	9-5-2000	Adoption of Code	Ch. <u>1</u> , Art. <u>I</u>
L.L. No. 1-2001	6-5-2001	Zoning amendment	Ch. <u>138</u>
L.L. No. 2-2001	6-5-2001	Zoning amendment	Ch. <u>138</u>
L.L. No. 3-2001	1-3-2002	Zoning amendment (Corporate Technology Park)	Ch. <u>138</u> , Appendix
L.L. No. 4-2001	1-3-2002	Zoning amendment (Corporate Technology Park)	Ch. <u>138</u> , Appendix
L.L. No. 1-2002	3-5-2002	Personnel policies amendment	Ch. <u>28</u>
L.L. No. 2-	3-5-2002	Idling of large machinery, equipment	Ch. <u>80</u> , Art. <u>I</u>

Enactment	Adoption Date	Subject	Disposition
2002		and vehicles	
L.L. No. 3-2002	5-7-2002	Idling of large machinery, equipment and vehicles amendment	Ch. <u>80</u> , Art. I
L.L. No. 4-2002	12-3-2002	Zoning amendment (Beacon Hill)	Ch. <u>138</u> , Appendix
L.L. No. 5-2002	11-7-2002	Sanitation standards amendment	Ch. <u>73</u> , Art. I
L.L. No. 6-2002	12-3-2002	Personnel policies amendment	Ch. <u>28</u>
L.L. No. 1-2003		Moratorium	NCM
L.L. No. 2-2003		Moratorium	NCM
L.L. No. 3-2003	9-2-2003	Personnel policies amendment	Ch. <u>28</u>
L.L. No. 4-2003	9-30-2003	Unsafe buildings amendment; fire prevention and building construction amendment; health and sanitation amendment; site plan review amendment; subdivision of land amendment; zoning amendment	Chs. 52, 62, 73, 91, 104 and 138
L.L. No. 1-2004	3-4-2004	Personnel policies amendment	Ch. <u>28</u>
L.L. No. 2-2004	4-6-2004	Subdivision of land amendment	Ch. <u>104</u>
L.L. No. 3-2004	6-1-2004	Personnel policies amendment; subdivision of land amendment; senior citizens tax exemption amendment; zoning amendment	Chs. 28, 104, 110, Art. III, and 138
L.L. No. 4-2004	7-6-2004	Zoning amendment	Ch. <u>138</u>
L.L. No. 5-2004	8-3-2004	Zoning amendment	Ch. <u>138</u>
L.L. No. 6-2004	9-7-2004	Subdivision of land amendment	Ch. <u>104</u>
L.L. No. 7-	10-5-	Moratorium	NCM

Enactment	Adoption Date	Subject	Disposition
2004	2004		
L.L. No. 1-2005	1-4-2005	Site plan review amendment, subdivision of land amendment; zoning amendment	Chs. 91, 104, and 138
Ord.	2-1-2005	Vendors	Ch. <u>127</u>
L.L. No. 2-2005	3-1-2005	Moratorium	NCM
L.L. No. 3-2005	5-3-2005	Personnel policies amendment	Ch. <u>28</u>
L.L. No. 4-2005	5-3-2005	Subdivision of land	Ch. <u>104</u>
L.L. No. 5-2005	5-3-2005	Zoning Map amendment	NCM
L.L. No. 6-2005	5-3-2005	Subdivision of land amendment	Ch. <u>104</u>
L.L. No. 7-2005	12-6-2005	Zoning amendment (Beacon Hill)	Ch. <u>138</u> , Appendix
L.L. No. 1-2006	1-3-2006	Moratorium	NCM
L.L. No. 2-2006	1-3-2006	Taxation: alternative veterans exemption	Ch. <u>110</u> , Art. <u>IV</u>
L.L. No. 3-2006	2-7-2006	Personnel policy amendment	Ch. <u>28</u>
L.L. No. 4-2006	4-25-2006	Moratorium	NCM
L.L. No. 5-2006	6-12-2006	Site plan review repealer; zoning amendment; subdivision of land amendment	Chs. 91 (reference only) 104; 138
L.L. No. 6-2006	9-5-2006	Zoning amendment	Ch. <u>138</u>
L.L. No. 1-2007	3-6-2007	Administration and enforcement of Uniform Construction Code	Ch. <u>62</u> , Art. <u>II</u>
L.L. No. 2-2007	3-6-2007	Zoning amendment (Eastline Commons)	Ch. <u>138</u> , Appendix

Enactment	Adoption Date	Subject	Disposition
L.L. No. 3-2007	3-6-2007	Zoning amendment (Corporate Technology Park)	Ch. <u>138</u> , Appendix
L.L. No. 4-2007	5-1-2007	Subdivision of land amendment	Ch. <u>104</u>
L.L. No. 5-2007	5-1-2007	Health and sanitation: sanitation standards amendment	Ch. <u>73</u> , Art. I
L.L. No. 6-2007	5-1-2007	Alternate positions for Planning Board and Zoning Board of Appeals	Ch. <u>138</u> (footnote only)
L.L. No. 7-2007	6-5-2007	Zoning amendment	Ch. <u>138</u>
L.L. No. 8-2007	8-7-2007	Subdivision of land amendment	Ch. <u>104</u>
L.L. No. 1-2008	12-4-2007	Zoning amendment	Ch. <u>138</u>
L.L. No. 2-2008	1-3-2008	Stormwater management and erosion and sediment control	Ch. <u>91</u>
L.L. No. 3-2008	1-3-2008	Storm sewers: illicit discharges, activities and connections	Ch. <u>92</u>
L.L. No. 4-2008	1-3-2008	Zoning amendment (Watershed Protection Overlay District Map)	NCM
L.L. No. 5-2008	10-7-2009	Taxation: Cold War veterans exemption	Ch. <u>110</u> , Art. VI
L.L. No. 6-2008	10-7-2008	Zoning Map amendment	NCM
L.L. No. 1-2009	2-3-2009	Stormwater management and erosion and sediment control amendment	Ch. <u>91</u>
L.L. No. 2-2009	2-3-2009	Storm sewers: illicit discharges, activities and connections amendment	Ch. <u>92</u> , Art. I
L.L. No. 3-2009	2-3-2009	Zoning amendment	Ch. <u>138</u>
L.L. No. 4-2009	4-7-2009	Fire prevention and building construction amendment	Ch. <u>62</u>
L.L. No. 5-2009	4-7-2009	Vendors amendment	Ch. <u>127</u>

Enactment	Adoption Date	Subject	Disposition
L.L. No. 6- 2009	4-7-2009	Zoning amendment	Ch. <u>138</u>
L.L. No. 7- 2009	4-7-2009	Zoning amendment (Mixed Use and Business Highway District Design Standards)	See §§ <u>138- 10.3</u> and <u>138- 12.3</u>
L.L. No. 8- 2009	4-7-2009		